

NEW JERSEY REGISTER



0330 010 9
HIST.
Interoffice
DIV. LIB., ARCH. & HIST.
DEPT. OF EDUCATION
CN 520
TRENTON NJ 08625

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS*, PAGE 1685.

VOLUME 17 NUMBER 13
July 1, 1985 Indexed 17 N.J.R. 1609-1700
(Includes rules filed through June 10, 1985)

* The New Jersey Register supplements the New Jersey Administrative Code. To complete your research of the latest State Agency rule changes, see the Register Index of Rule Proposals and Adoptions in this issue.

TABLE OF RULES IN THIS ISSUE

RULE PROPOSALS

Interested persons comment deadline 1610

ADMINISTRATIVE LAW
Inmate discipline cases 1610(a)

AGRICULTURE
Department organization 1614(a)
Control of veterinary biologicals 1617(a)

BANKING
Savings and loan associations: asset limitation; service corporations 1619(a)

COMMUNITY AFFAIRS
Housing and Mortgage Finance Agency: housing project occupancy requirements 1620(a)

ENVIRONMENTAL PROTECTION
Solid Waste Flow: Atlantic County (See June 17 Register) 1560(a)
Fee schedule for Environmental Cleanup Responsibility Act 1622(a)
Surface water classifications: Hackensack and Hudson rivers 1625(a)
Industrial and nonmedical radiology 1626(a)
Podiatric x-ray technology 1632(a)

HEALTH
Local boards: recognized public health activities and minimum standards 1633(a)

HIGHER EDUCATION
Eligibility for Alternate Benefit Program 1635(a)

HUMAN SERVICES
Reimbursement for ambulance and invalid coach services 1637(a)

LAW AND PUBLIC SAFETY
Board of Beauty Culture Control fee schedule ... 1638(a)
Change of address by licensed accountants 1639(a)
Reexamination for optometry licensure 1639(b)
Thoroughbred racing: urine testing of track personnel 1640(a)
Harness racing: urine testing of track personnel .. 1641(a)

TRANSPORTATION
Parking on Route 27 in Metuchen 1642(a)

TREASURY-GENERAL
Minimum adjustments to pension accounts 1642(b)

TREASURY-TAXATION
Extension of time to file Gross Income Tax Return 1643(a)

RULE ADOPTIONS

AGRICULTURE
Readopted rules concerning milk processors, dealers and subdealers 1645(a)
Sale of yogurt 1645(b)

CIVIL SERVICE
Ninth step salary maximum 1645(c)

COMMUNITY AFFAIRS
One and two-family dwelling construction subcode 1646(a)

EDUCATION
Asbestos removal and encapsulation reimbursement 1648(a)

(Continued on Back Cover)

RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **July 31, 1985**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice.

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Rules of Practice

Rules of Special Applicability

Department of Corrections Inmate Discipline Cases

Proposed New Rule: N.J.A.C. 1:10A

Authorized By: Ronald I. Parker, Acting Director,

Office of Administrative Law

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

Proposal Number: PRN 1985-37.8.

Submit comments by July 31, 1985 to:

Steven L. Lefelt, Deputy Director

Office of Administrative Law

Quakerbridge Plaza, Bldg. 9

Quakerbridge Road

CN 049

Trenton, N.J. 08625

The agency proposal follows:

Summary

N.J.S.A. 52:14F-8(a) was recently amended by P.L. 1985, c.94 to permit certain inmates at state custodial, penal or correctional institutions to have hearings before the Office of Administrative Law. Contested case hearings before administrative law judges are provided, under the amendment, for inmates appealing from a sanction arising from a single incident, which imposes the loss of 365 days or more of commutation time credits awarded pursuant to N.J.S.A. 30:4-140. These proposed new rules create special procedures for these cases.

The rules provide that the parties to these hearings shall be the inmate who allegedly committed the offense and the superintendent of the institution where the alleged offense occurred.

OAL shall begin the proceedings by forwarding to all parties a Notice of Filing and Hearing, scheduling the hearing, whenever possible, within 60 days. All hearings under these rules shall be held at the institution where the charged inmate is confined. Within 25 days of the Notice of Filing and Hearing, the parties must exchange evidence lists.

Also, if a party believes that divulgence of the identity of a witness or document presents a bona fide risk of physical violence or significant harmful retaliation to any person or to the security of the institution, a written claim of confidentiality may be submitted to the judge. The party seeking a confidentiality determination must take a position on whether the confidential information could be disclosed to the other party's representative and whether a summary of the proposed evidence could be disclosed to the other party without revealing the informant's identity. The making of a request for interlocutory review of an

NEW JERSEY REGISTER

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

Material published in the New Jersey Register is the property of the State of New Jersey. However, it may be copied, reproduced or republished by any person for any purpose whatsoever without permission, providing that no such reproduction or republication shall bear the title "New Jersey Register" or "Official Rules Publication" without the written permission of the Director, Office of Administrative Law.

The New Jersey Register (ISSN 0300-6069) is published the first and third Monday of each month by Administrative Publications of the Office of Administrative Law, CN 301, Trenton, New Jersey 08625. Telephone: (609) 588-6601. Subscriptions, payable in advance, are one year, \$75 (\$150 by First Class Mail); back issues when available, \$8 each. Make checks payable to Administrative Publications.

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

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

order denying a confidentiality claim shall automatically stay the effect of the judge's order pending the review. A party's representative who discloses confidential information to any person is subject to revocation of his or her right to appear at OAL and the filing of a complaint with the New Jersey Supreme Court or appropriate ethics office.

The institution is also required to provide the inmate with copies of any reports or documents, including exculpatory material, concerning the charge. Additionally, the parties may serve 10 single part interrogatories, which may not request information that has already been provided. Objections to any interrogatory must be made, and will be resolved, by telephone conference call to the judge. Objections not made within five days are deemed to have been waived. No other discovery is provided.

Except on motion for good cause shown, subpoenas will not be issued for individuals employed by or confined at any State institution. If those individuals are included on the evidence list, the Department will use its best efforts to insure the presence of the witness at the hearing. Subpoenas for other individuals must be requested from the judge.

Prehearing conferences will not be scheduled in these cases. Because of the special security interests present, all proceedings conducted at an institution will be closed. Any member of the public who wishes to attend must apply directly to the Commissioner of the Department.

The hearings shall be conducted de novo with evidence and testimony being presented. The record of all hearings is open to the public, with the exception of that part of the record wherein confidential testimony or evidence was presented. Prior to the issuance of an initial decision, all transcript requests shall be made to the judge who shall determine whether the individual may receive all or part of the transcript. After issuance of the initial decision, all transcript requests are made to the Department.

In addition to appearing pro se, or being represented by an attorney, the parties may be represented by a law student or law assistant who is permitted to appear under R. 1:21-3(c).

The initial decision may be rendered in writing or orally either at the hearing or after the hearing is concluded. If confidential information has been presented, the judge must determine from underlying factual information present in the record that the informant was credible or reliable and that the informant's statement was presented in factual language which is sufficiently specific to conclude that the informant spoke with personal knowledge.

Within 10 days after the initial decision, the entire record shall be returned to the Department.

Social Impact

The rules attempt to balance the inmate's right to fully prepare for a hearing with the bona fide security needs of the institution.

Economic Impact

Other than costs associated with the hearing, there is no economic impact.

Full text of the proposed new rule follows.

**CHAPTER 10A
DEPARTMENT OF CORRECTIONS
INMATE DISCIPLINE CASES**

SUBCHAPTER 1. APPLICABILITY

1:10A-1.1 Applicability

The rules in this chapter shall apply to Department of Corrections (Department) matters wherein an inmate of a State custodial, penal or correctional institution or program appeals from a sanction, arising from a single incident, which imposes the loss of 365 days or more of commutation time credits awarded pursuant to N.J.S.A. 30:4-140. To the extent that these Rules of Special Applicability are inconsistent with the Uniform Administrative Procedure Rules (UAPR) contained in N.J.A.C. 1:1-1 et seq., these rules shall apply.

SUBCHAPTER 2. DEFINITIONS

1:10A-2.1 Parties; representatives

(a) The parties to inmate discipline cases shall be the inmate who allegedly committed the offense for which a sanction is being sought and the superintendent of the institution where the alleged offense occurred.

(b) A representative of a party is a person who is authorized to represent a party by these rules of special applicability.

SUBCHAPTER 3. (RESERVED)

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. (RESERVED)

SUBCHAPTER 7. FILING AND TRANSMISSION

1:10A-7.1 Transmission of discipline cases by the Department of Corrections to the Office of Administrative Law

(a) The Department shall attach to a completed transmittal form, described in N.J.A.C. 1:1-5.2(a), a copy of the charge, the hearing officer's and superintendent's adjudications, the inmate's appeal to the superintendent containing exceptions to the hearing officer's adjudication and any documents relating to an application for a stay of administrative sanctions.

(b) In addition to the information required by N.J.A.C. 1:1-5.2(a), the Department shall ensure that the transmittal provides the names and addresses of the inmate's representative and the superintendent's representative, if known; and the current location of the inmate.

SUBCHAPTER 8. SCHEDULING: CLERK'S NOTICES

1:10A-8.1 Scheduling of proceeding; notice

(a) After consulting with the representatives in the case and the Department, the Clerk shall send to all parties and to the Department, a Notice of Filing and Hearing, assigning a judge to the matter and setting the time, date and place of hearing. Whenever possible, the hearing date shall be scheduled approximately 60 days after the date of the Notice of Filing and Hearing.

(b) The hearing shall be scheduled at the institution in which the inmate is confined.

SUBCHAPTER 9. DISCOVERY

1:10A-9.1 Exchange of evidence lists

(a) Within 25 days of receipt of the Notice of Filing and Hearing, each party shall serve on each other party an evidence list containing the following information:

1. The name of each proposed witness;
2. A summary of the witness' testimony;
3. An indication of whether the testimony will be live or will be presented through affidavits or other written documents;
4. A description and copy of each document to be offered into evidence at the hearing;
5. A description of all physical evidence to be offered; and
6. A statement indicating whether a confidentiality request has been or will be made pursuant to N.J.A.C. 1:10A-9.2.

(b) Within 10 days of receipt of a party's evidence list, another party may object to the admissibility of a proposed witness, to the form of a witness' testimony, to a proposed document or to any other matter contained within the list. Each objection must specify in writing the reasons for the objection and be filed with the judge and served upon the other party. Replies to each objection may be made in writing within five days of receiving the objection. Each reply must be filed with the judge and served on each party. The judge shall determine all such objections within 10 days of the filing of the reply and no later than the day of the hearing.

1:10A-9.2 Claims of confidentiality

(a) Where a party is asserting that it is necessary to maintain the confidentiality of the identity of a witness, contents of a document or physical evidence, a written claim of confidentiality must be forwarded to the judge within 25 days of receipt of the Notice of Filing and Hearing. This claim shall not be served on the other parties.

(b) The claim must contain the following:

1. A clear specification of the evidence for which the claim is asserted. If the claim relates to a document, the claimant shall attach a copy of the document in question to the claim;
2. Facts and argument demonstrating that divulgence of the identity of a witness or disclosure of documentary or physical evidence to the other party presents a bona fide risk of physical violence or significant harmful retaliation to that individual, to any other individual or to the security of the institution;
3. A statement as to whether or not the requesting party believes that the confidential information could be disclosed to the representative of the other party. If the requesting party believes that the information should not be disclosed to the representative, the party must explain why the representative cannot be present and participate without creating a substantial risk that the informant's identity will be revealed;
4. A summary of the confidential information in sufficient detail to permit the other party to rebut it, without disclosing the identity of the individual or materials. If the requesting party believes that there is a substantial risk that disclosure of the summary will disclose the identity of the individual or materials, the requesting party shall also include a request that the summary not be disclosed to the other party and an explanation of the risk.

(c) The judge shall decide in writing each confidentiality request within 10 days of receipt of the request.

(d) If the claim of confidentiality is denied, and a request for interlocutory review is not being made, the party who made the request shall immediately serve on each other party the information required in N.J.A.C. 1:10A-9.1(a) concerning the witness or item for which confidentiality was denied.

(e) The making of a request for interlocutory review of an order denying a confidentiality claim shall automatically stay the effect of the judge's order pending the review.

(f) If a claim of confidentiality is upheld, the order shall include:

1. A finding explaining why confidentiality is required;

2. A determination of whether the confidential information can be disclosed to the representative of the other party. In making such determination, the judge shall consider:

- i. The seriousness of the potential risk involved; and
- ii. Whether the hearing can be structured to minimize the possibility of disclosure of confidential information to the other party.

3. If the confidential information cannot be disclosed to the representative of the other party, a determination of whether the confidential information can be summarized in sufficient detail to permit the other party to rebut it without disclosing the identity of the individual or materials. If so, the judge shall direct the applicant to provide the summary to the other party.

1:10A-9.3 Breach of confidentiality

(a) If the representative of a party who received confidential information pursuant to N.J.A.C. 1:10A-9.2(b)2 discloses any part of that confidential information to any individual, the judge may order one or more of the following:

1. Revocation of the individual's right to appear in any case before the Office of Administrative Law;
2. The filing of a complaint with the New Jersey Supreme Court or with an appropriate Ethics Committee for disciplinary action;
3. Such other action as the judge deems appropriate.

1:10A-9.4 Additional discovery

(a) Within 10 days after receiving the Notice of Filing and Hearing, the institution shall provide the inmate with copies of any reports or other materials in the institution's possession, including exculpatory matter, concerning the charge.

(b) Within 10 days of receipt of the other party's witness list, a party may serve no more than 10 single part written interrogatories which shall not request information which has already been provided.

(c) Answers to interrogatories are due within 10 days after receiving the written interrogatories. A party who wishes to object to an interrogatory or who wishes to object to the answer to an interrogatory or to compel an answer to an interrogatory shall place a telephone conference call to the judge and the other parties for resolution of the matter. A party objecting to an interrogatory shall place the telephone call within five days of receipt of the interrogatory. A party objecting to a response or seeking to compel a response shall place the telephone call within five days of the due date for the response to the interrogatory. If a party fails without good reason to place a timely telephone call, the judge shall deny that party's objection or motion to compel.

(d) No other discovery shall be provided except on motion for good cause shown.

SUBCHAPTER 10. SUBPOENAS

1:10A-10.1 Subpoenas

(a) Except on motion for good cause shown, no subpoenas shall be issued for any individual who is employed by or confined at any State institution. If such individual is listed on a properly served evidence list, pursuant to N.J.A.C. 1:10A-9.1, as a witness who will present live testimony and the judge has not sustained an objection to the witness' testimony, the Department shall use its best efforts to ensure the presence of the witness at the time and place of hearing.

(b) No subpoena shall be issued for any other individual except pursuant to the procedure set forth herein. Any requests for subpoenas for an individual who is not employed by or confined at a State institution shall be in writing and shall be

PROPOSALS

Interested Persons see Inside Front Cover

ADMINISTRATIVE LAW

filed with the judge. The request must be made within 35 days of receipt of the Notice of Filing and Hearing and shall explain the necessity of the individual's testimony, shall summarize the individual's anticipated testimony and shall state the individual's current location. The judge shall decide all subpoena requests within 10 days of the date of the subpoena request.

SUBCHAPTER 11. MOTIONS

1:10A-11.1 Limitations on prehearing motions

Except for motions specifically permitted by this chapter and motions for emergent relief, a party may not file a motion in advance of the scheduled date of hearing.

SUBCHAPTER 12. PREHEARING CONFERENCES AND PROCEDURES

1:10A-12.1 Prehearing conferences

Except for good cause shown, prehearing conferences shall not be scheduled in any proceeding conducted under this chapter.

SUBCHAPTER 13. CONDUCT OF CASES

1:10A-13.1 De novo hearings

Hearings conducted pursuant to this chapter shall be de novo. The hearing shall not be "on the record" below, but shall be a plenary hearing at which evidence and testimony are presented.

1:10A-13.2 Closed hearings

(a) Because of the security which must be provided each hearing participant, all evidentiary hearings or any other proceeding conducted at an institution pursuant to this chapter will be conducted in closed session.

(b) Applications by any member of the public seeking permission to attend any hearing shall be made to the Commissioner of the Department of Corrections and shall not be made to the judge.

1:10A-13.3 Sealing the record

(a) The record of all hearings shall be open to public inspection, but the judge may, for good cause shown, order the sealing of that part of any record wherein confidential testimony or evidence was presented.

(b) When sealing a portion of the record, the judge must specify the consequences of such an order to all confidential material in the case file including any evidence, the tapes and the initial decision. The judge shall also indicate what safeguards shall be imposed upon the preparation and disclosure of any transcript of the proceeding.

(c) No duplicate copy of any sealed material shall be permitted.

(d) That part of any record that has been sealed shall be safeguarded by the judge and/or the Clerk until the Clerk, after the initial decision, can deliver the sealed material to an authorized representative of the Department.

1:10A-13.4 Verbatim record of proceedings; sound recordings; requesting transcript

(a) All proceedings shall be recorded verbatim by sound recording.

(b) In any case in which a claim of confidentiality has been upheld, prior to the issuance of an initial decision, all requests for transcripts shall be made to the judge. The judge shall determine whether the individual requesting the transcript may receive a transcript of all or of any part of the tapes.

(c) Subsequent to the issuance of the initial decision and upon return of the case to the Department, all requests for transcripts must be directed to the Department.

1:10A-13.5 Representation; entry of appearance

(a) The inmate may represent him or herself or may be represented by an attorney authorized to practice law in this State, including a Public Defender, or by a law student pursuant to R. 1:21-3(c). The Superintendent may be represented pursuant to N.J.A.C. 1:1-3.12(a)2 or by a Deputy Attorney General or by a law assistant pursuant to R. 1:21-3(c).

(b) Any lawyer agreeing to represent a party shall promptly file an entry of appearance with the Clerk and notify the other party and the judge, if one has been assigned to the matter.

1:10A-13.6 Failure to appear

(a) If the inmate refuses to appear at the hearing, the judge shall prepare an initial decision dismissing the appeal and affirming the sanction.

(b) If the institution is unable to proceed at the hearing, the judge shall prepare an initial decision dismissing the charges and penalty.

SUBCHAPTER 14. EVIDENCE

1:10A-14.1 Testimony of witnesses; confidentiality; non-contested facts

(a) Live testimony shall be presented by witnesses under oath.

(b) A party shall be permitted cross-examination of any witness testifying in person for whom a claim of confidentiality has not been upheld.

(c) Where a claim of confidentiality for a witness has been upheld, the testimony of that witness shall be taken in the presence of the judge, the party presenting the confidential witness, any necessary security personnel and, if permitted by the judge's order, the representative of the other party. No other party nor representatives of any other party, nor any person permitted by the Commissioner to attend under N.J.A.C. 1:10-13.2(b) may be present during this testimony.

1. The judge may schedule a time and date other than the scheduled hearing date for taking the testimony of a confidential witness and need not disclose this schedule to the other party or his or her representative.

2. If the confidential information presented at the hearing significantly varies from the summary presented, the judge shall determine how most appropriately to proceed in order to adequately safeguard the interests of the absent party.

(d) Where a claim of confidentiality for a document or physical evidence has been upheld, the party and/or representative of the party offering the evidence shall present the evidence to the judge in the presence of any necessary security personnel, and if permitted by the judge's order, the representative of the other party. No other persons may be present.

(e) Evidence to prove noncontested facts may be presented by affidavit or other writing and by written or oral stipulations.

(f) Any inmate testifying shall be accorded use immunity in subsequent criminal prosecutions to the extent that his or her statements shall not be used affirmatively against him or her. Such use immunity extends to evidence derived directly or indirectly from the prisoner's statement, but shall not prevent prosecution for perjury relating to the immunized statement.

AGRICULTURE

PROPOSALS

SUBCHAPTER 15. (RESERVED)

SUBCHAPTER 16. (RESERVED)

SUBCHAPTER 17. DECISION

1:10A-17.1 Initial decision

The initial decision may be rendered in writing or orally either on the record at the hearing before the parties or after the hearing is concluded. If the initial decision is rendered orally, it shall be transcribed and filed with the Department and mailed to each party.

1:10A-17.2 Findings based upon confidential informant

Each factual finding which is based upon confidential testimony shall be supported by evidence present in the record from which it can reasonably be determined that the informant was credible or that the information presented was reliable. In addition, the informant's statement must be factual, rather than conclusory and be sufficiently specific to establish that the informant spoke with personal knowledge.

1:10A-17.3 Delivering the record to the Department

Within 10 days after the initial decision is filed with the Department, the Clerk shall deliver along with the record to the Department the audio tapes of the hearing.

SUBCHAPTER 18. (RESERVED)

The proposed amendments are not substantive but merely organizational and procedural. The rules, as proposed, more accurately reflect the duties of the Secretary and the Department. The Administrative Practice Rules have been redrafted in clearer and more concise terms. The Tables of Organization referred to in N.J.A.C. 2:1-2.2 have been changed to reflect the current structure of the Department.

Social Impact

The social impact of the proposed amendments will be beneficial. The rules will provide a clearer understanding of the Department, its function and structure while clearly delineating the duties of the Secretary.

Economic Impact

The Department sees no economic impact from the proposed amendments either to the Department or to the public since the rules simply detail departmental organization, structure and practice.

Full text of the proposal follows (additions indicated in bold-face, thus; deletions indicated in brackets [thus]).

2:1-2.3 Functions of departmental units

(a) (No change.)

1. (No change.)

2. (No change.)

3. Office of the Secretary is [the executive planning and operation unit for the entire Department responsible for all policies, programs, regulations, public hearings, administrative procedures and provides services to the State Board of Agriculture and eight Divisions. All matters coming to the Department that are department-wide in nature are handled by this office. Information activities are handled by an employee of the Office of Public Communications, Department of the Treasury, assigned to the Office of the Secretary by the Press Secretary.] **responsible for the executive management policy, public information programs, regulations and public hearings for the Department and the State Board of Agriculture.**

4. The Division of Administration provides personnel, budget, accounting, [program improvement], training, and [other] administrative support services to [all units of the Department.] **the Divisions.**

5. The Division of Animal Health [administers programs relating to the prevention, control and eradication of livestock and poultry diseases and provides supporting laboratory diagnostic services.] **is responsible for programs for the prevention, control and eradication of livestock and poultry diseases.**

6. The Division of [Markets serves farmers and all citizens of the State in four main areas which include, but are not limited to, market development services, cooperatives, and market news, equine programs, and Federal Food Distribution to schools and institutions. Considerable emphasis is placed on the promotion of New Jersey farm products through seven commodity promotion councils and one commodity promotion commission and the Sire Stakes Board, and also fairs and shows.] **of Dairy Industry is responsible for fostering a stable and competitive dairy industry, including the regulation and enforcement of the production and distribution of dairy products.**

7. The Division of [Plant Industry is responsible for programs related to entomology, pathology, seed certification, seed analysis and control, and supporting laboratory services. The Division's major regulatory responsibilities are designed to:

i. Protect New Jersey's horticultural, natural and imported resources in agriculture, forests and residential properties from invasion of destructive insects and diseases; and

AGRICULTURE

(a)

DIVISION OF ADMINISTRATION

Organization

Rules of Practice

Proposed Amendments: N.J.A.C. 2:1-2.3, 3.1, 3.2, 3.4, 3.7, 3.8

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

Authority: N.J.S.A. 52:14B-3(1) and (2) and 52:14B-4(b).

Proposal Number: PRN 1985-353.

Submit comments by July 31, 1985 to:
John J. Gallagher, Director
Division of Administration
Department of Agriculture
CN 330
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 2:1-2.1 through 2:1-3.11 reflect the structure and functions of the Department of Agriculture, in accordance with the legislative changes in the duties of the Department and implementation of the Governor's Management Improvement Plan since the original rules were adopted.

ii. Regulate the production of seed for genetic quality factors, as well as freedom from disease and insects; and

iii. To regulate the sale and distribution of seeds by truthful labeling which gives basic aid to agriculture and homeowners through ethical marketing.] Markets provides market development services, support for agricultural cooperatives, equine programs, product promotion and distributes Federal food to schools, institutions and individuals.

8. The Division of [Regulatory Services is designed to protect the consuming public, both from farm and non-farm, through the registration and routine testing of animal feeds, fertilizers, and agricultural liming materials. Supporting laboratory facilities are maintained at all times so that accurate determinations can be made to insure that the public is receiving proper value for all products registered with and analyzed by the Division. The Division also is charged with the responsibility for enforcing the regulations pertaining to the New Jersey Egg Marketing Law, the State Seal of Quality, Use of Outline of the State, the Potato Labeling Law, and the Controlled Atmosphere Storage Law. In addition, inspection and grading are performed that relate to the cooperative agreements in effect with the United States Department of Agriculture covering eggs and poultry and fruits and vegetables.

i. The Division also administers the New Jersey Licensing and Bonding Law to insure that producers are justly compensated for their sales of perishable agricultural commodities to properly licensed and bonded Dealers, Commission Merchants, and Agents.] **Plant Industry is responsible for programs to prevent, control and eradicate pests and diseases of plants, beneficial insect development and production, seed certification and control.**

9. The Division of [Dairy Industry is responsible for programs related to the dairy industry. Its major responsibilities are:

i. To retain a viable and competitive milk processing and distribution industry for consumer benefit through the enforcement;

ii. To assure a fair return to dairy farmers through the enforcement of the Milk Dealer Licensing and Bonding Act and the Butterfat Testing Law;

iii. To assure that milk dealers selling to New Jersey schools purchase fresh New Jersey produced milk in accordance with the school Milk Purchase Act; and

iv. To provide services to the industry and the public including statistical information concerning milk production and the consumption of milk and dairy products.] **Regulatory Services is responsible for the quality assurance of animal feeds, fertilizers, agricultural liming materials, agricultural product grading and inspection, and the regulation or credit buyers of perishable agricultural products.**

10. The Division of Rural Resources [is given the responsibility to maintain, conserve and develop the agricultural and natural resources of the State. Through the State Soil Conservation Committee, it provides for the control of soil erosion and sedimentation from all land disturbance activities; the control of non-point sources of water pollution, the prevention of flood and storm water damages; and the conservation, protection and development of soil, water and related renewable natural resources throughout the State. The Agricultural Retention, Right to Farm and the Farmland Preservation Bond statutes are administered through the division. Agricultural statistics are collected, analyzed and published in cooperation with the Federal Crop Reporting Service.] **provides services to support farming, agricultural development, fisheries development and implements programs to enhance agriculture through:**

**Soil and Water Conservation Programs,
Rural Studies,
Agricultural Statistics,
Farmland Preservation and Agricultural Development.**

2:1-3.1 Purpose of rules of practice

[The rules of practice of the New Jersey Department of Agriculture are designed to keep all citizens informed of departmental activities.] **The State Board of Agriculture and the New Jersey Department of Agriculture, in order to more fully represent and carry-out their duties and functions, adopts this subchapter as its rules of practice.**

2:1-3.2 State Board of Agriculture

(a) The State Board of Agriculture is the head of the Department and consists of eight citizens of the State engaged in the production of farm crops or livestock. **It is referred to herein as the Board.**

(b) (No change.)

(c) (No change.)

2:1-3.4 Rules and regulations

[(a) Rules and regulations may be established by the Board for its own proceedings and for the government and control of the Department, the officers and employees therein and the performance by them of their duties.

(b) These rules and regulations are filed in the office of the Secretary of State.]

(a) The Board believes that regulations should be clear and concise to encourage the maximum amount of voluntary compliance by those who are regulated.

(b) Regulations may be established by the Board for its own proceedings, for the governing and control of the Department, and the officers and employees of the Department, and for the enhancement of agriculture in New Jersey.

2:1-3.7 [Procedure for performing Departmental functions; meetings

(a) In carrying out the Department's major statutory functions of regulatory, marketing, service and promotion programs, and the promulgation of related rules and regulations, it is the rule of practice of the Department to provide an opportunity for all interested parties to be heard and assist in the drafting of any changes in statutes and/or rules and regulations.

(b) Through cooperative efforts of this type, the Board believes that good regulatory work can best be accomplished by encouraging a maximum degree of voluntary compliance of those to be regulated.

(c) To accomplish any changes in statutes and/or rules and regulations, an informal meeting of all interested parties is held to hear all viewpoints. Additional meetings are held to clarify any other recommendations that are made. Usually, if a broad-based support cannot be developed for the recommendations suggested, the matter is dropped until such time as general agreement can be reached.

(d) In cases where general agreement cannot be reached by interested persons and the Board determines that an emergency exists within statutory limitations, appropriate action is taken through the promulgation of rules and regulations and/or recommendations to the Legislature.]

Public comment upon Department regulations

(a) The Department, in carrying out its duties, shall provide the maximum amount of public participation possible in the review of existing or proposed regulations, and to help determine the need for new regulations, as well as request any information or clarification on any existing regulation.

(b) Any person may request of the Department, directly or through the Board, any question or suggestion concerning the regulations, or need for regulations. The request shall be in writing, intelligible and signed by the person making the request. The request shall contain the following information as far as is possible.

1. The full name of the person making the request;
2. The reason and nature of the request;
3. The rulemaking requested;
4. The interest, if any, of the petitioner in the request, including any relevant organizational affiliation or economic interest;
5. Any statutory authority under which the Department may take the requested action; and
6. Any existing State or Federal Law or regulation which may be pertinent.

Requests shall be addressed to:

Secretary of Agriculture
 New Jersey Department of Agriculture
 CN 330
 Trenton, New Jersey 08625

(c) Upon receipt of a request, the Department shall transfer the matter to the relevant Division Director, who shall transmit to the State Board of Agriculture at its next regularly scheduled meeting falling 30 days after the receipt of the request and the Division comments thereto. The State Board of Agriculture shall

take action to either study, deny or endorse the request. The Board shall direct the Division Director to respond in writing to the petitioner, with an explanation as to the reasons for the action taken.

(d) If a petition is endorsed, it shall be treated in accordance with N.J.A.C. 1:30-1 et seq. for the promulgation of rules.

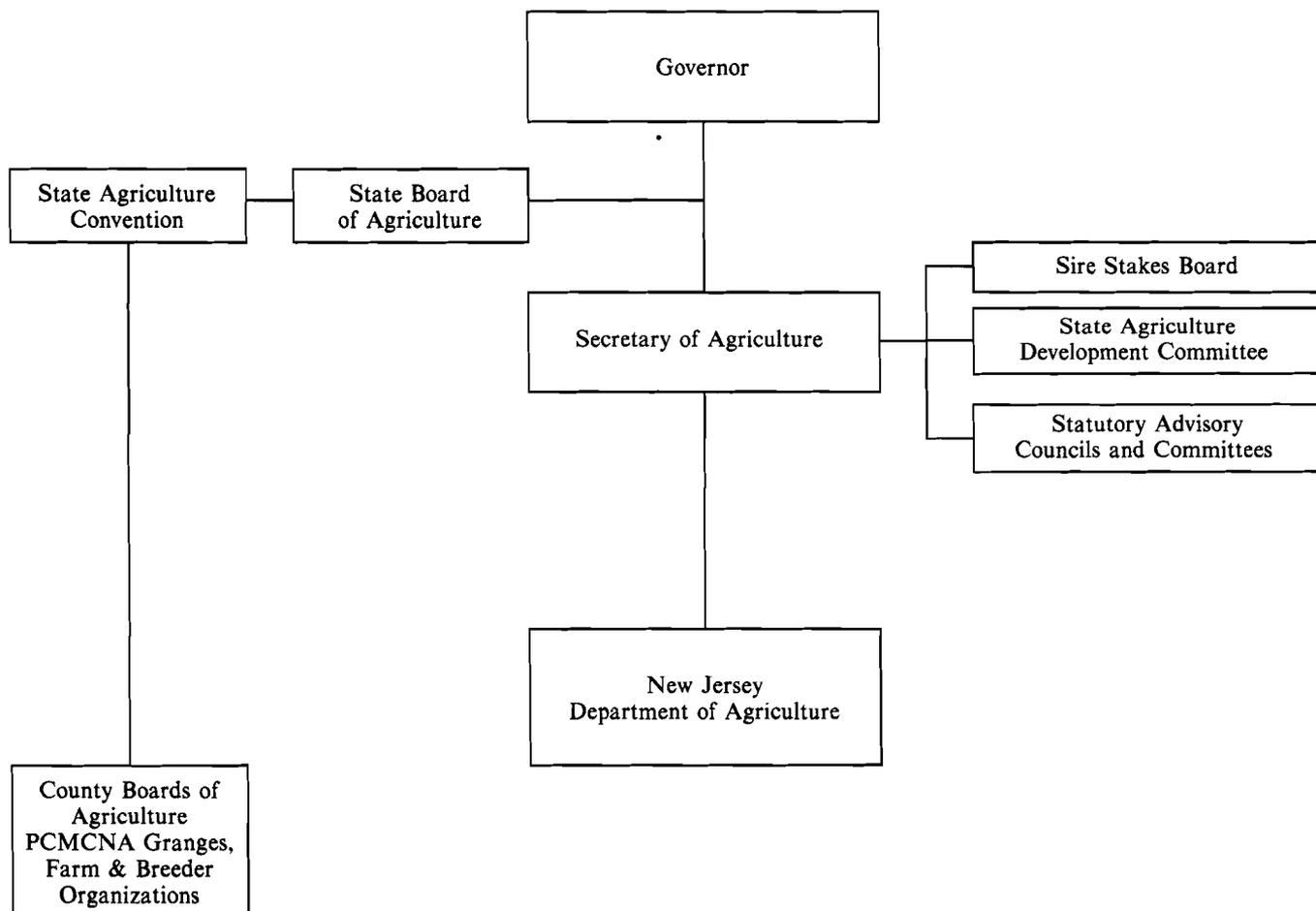
2:1-3.8 [Statutory provisions on hearings

Whenever the statutes governing the Department require formal hearings or permit informal hearings, the more restrictive provisions of the departmental statutes are followed as well as the requirements of the Administrative Procedure Act N.J.S.A. 52:14B-1 et seq.]

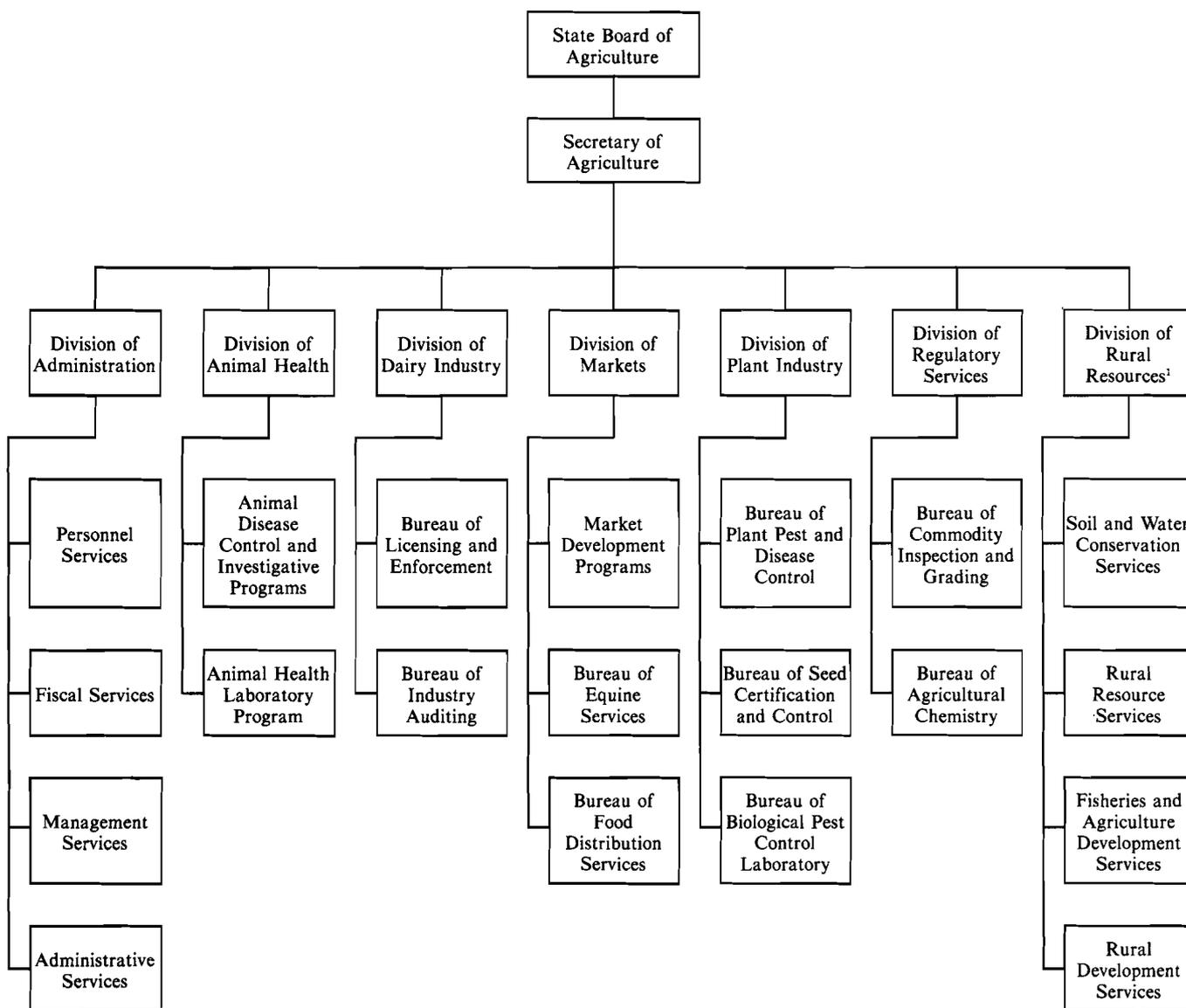
Hearings

(a) Any person who feels aggrieved by any action or inaction of the Department may request an informal meeting with the Department to settle any dispute, or seek clarification of the Department's rules and regulations. The Department shall respond, in writing, to any such request stating the reasons for its determination.

(b) If any dispute is required by law or regulation to be handled formally, or if a party is dissatisfied with an informal determination, or if the Department determines the matter a contested one, the matter shall be treated in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1, et seq.) and the Reform Administrative Rules of Practice, N.J.A.C. 1:1.



New Jersey Department of Agriculture



¹ The State Agriculture Development Committee is in, but not of, the Department of Agriculture. Its support services are provided through the Division of Rural Resources.

(a)

DIVISION OF ANIMAL HEALTH

**Animal Vaccines
Biological Products for Diagnostic or
Therapeutic Purposes**

**Proposed Repeal: N.J.A.C. 2:6-1
Proposed New Rules: N.J.A.C. 2:6-1**

Authorized By: State Board of Agriculture, Arthur R. Brown, Jr. Secretary, Department of Agriculture.
Authority: N.J.S.A. 4:5-107 et seq., specifically 4:5-104.
Proposal Number: PRN 1985-349.

Submit comments by July 31, 1985 to:
Sidney Nusbaum, D.V.M.
Director, Division of Animal Health
Department of Agriculture
CN330
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.A.C. 2:6-1, as currently exists, regulates and licenses distributors of veterinary biologics to ensure that licensees have satisfactory storage and maintenance facilities, and that products are safe and also regulates the use of certain diagnostic agents, such as tuberculin, Brucella test antigen, and rabies vaccine to licensed veterinarians only. As currently exists, the subchapter has become inadequate, outdated and unenforceable. There has been a large increase, since the introduction of this subchapter, in the numbers of manufacturers and distributors of biologics doing business within the State of New Jersey, and the very volume of products and companies makes effective implementation of the current regulations impracticable. More important, marked changes and rapid advances in the fields of molecular biology and biotechnology require a more sophisticated and systematic program of evaluation and control. In large part, efficacy and quality control systems are currently met by compliance with Federal regulations (issued by the Food and Drug Administration and the United States Department of Agriculture). Therefore, the current subchapter is being repealed and a new subchapter proposed to make it more practical and enforceable.

Social Impact

The proposed new rules will affect veterinarians, livestock owners, and poultrymen in that they will protect them from ineffective vaccines, serums, antigens, and test biologics used to diagnose, prevent, and treat animal disease. The rules will protect the public by removing ineffective vaccines from distribution. The general availability of such materials in the past has provided misleading confidence of freedom from disease, and created problems of diagnosis and treatment where animals have been vaccinated by laymen. Failure to adopt this subchapter would result in unacceptable risk from the use of inferior biologic products or those biologic products rendered inactive by improper handling.

Economic Impact

Diagnosis, prevention, and treatment of animal disease by the use of veterinary biologics prevents losses of horses, livestock, and poultry due to morbidity and mortality, thus preventing decreased production of animal agricultural products. Healthy animals allow New Jersey to compete more effectively in the distribution and sale, both nationally and internationally, of animal agricultural products. A minor degree of economic loss may occur within the animal feedstuff industry and the pet-animal industry in that these areas, under the proposed new rules will not be able to sell certain biologics.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 2:6.

Full text of the proposed new rules follows.

2:6-1.1 Definitions

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

“Accredited veterinarian” means any licensed Doctor of Veterinary Medicine who has fulfilled the requirements for Federal accreditation, pursuant to 9 C.F.R. §160.1 et seq. in the State of New Jersey.

“Biological,” “biological product,” and “biological drug” means any product utilizing virus (whether active or inactive) or

any molecular part thereof, bacteria or any genetic equivalent thereof, or toxin as its basic component, or any product derived from the serum of any other animal, in the diagnosis or therapy of animal disease. This includes any and all products covered by the Animal Virus, Serum, and Toxin Act, 21 U.S.C.A. §§151 et seq., and the regulations issued pursuant thereto, 9 C.F.R. §101.1 et seq.

“Director” means the Director, Division of Animal Health, New Jersey Department of Agriculture.

“Domestic animal” means any and all animals other than humans.

“Licensed veterinarian” means a Doctor of Veterinary Medicine, or its equivalent, who is currently licensed by the Board of Veterinary Medical Examiners, pursuant to N.J.S.A. 45:16-1 et seq., and the regulations issued pursuant thereto, N.J.A.C. 13:44-1.1 et seq., to practice veterinary medicine, surgery, and dentistry in the State of New Jersey.

“Person” means any individual, corporation, institution or partnership.

“Prophylactic biological” means any and all vaccines or toxoids used to initiate or maintain active or passive immunity against disease in domestic animals.

2:6-1.2 Scope

This subchapter applies to any person who either manufactures, sells, gives away, or distributes, or intends to manufacture, sell, give away or distribute within the State of New Jersey of any biological, biological product, or biological drug.

2:6-1.3 Application

(a) These regulations shall apply whenever

1. Any person who meets the requirements as defined in N.J.A.C. 2:6-1.1, has failed to meet the requirements of the Animal Virus, Serum, and Toxin Act, 21 U.S.C.A. §§151 et seq. and the Federal regulations issued pursuant thereto, 9 C.F.R. §101.1 et seq., or;

2. Any person who is engaged in the manufacture, sale, or distribution of a biological, biological product, or biological drug that is not covered by the Animal Virus, Serum, and Toxin Act, 21 U.S.C.A. §§151 et seq.

2:6-1.4 Prerequisites for licensure; application

Whenever this subchapter applies as specified in N.J.A.C. 2:6-1.2, application for a State license to manufacture, sell, give away, or distribute any biological, biological product, or biological drug must be made to the Director on forms provided by the Division.

2:6-1.5 Biologicals for State use only

Any and all antigens made available by commercial laboratories for distribution, sale, or the like thereof, to be used in the in vitro diagnosis of Equine Infectious Anemia, Brucellosis, or Paratuberculosis (Johne's Disease), or any other disease of domestic animals designated by the Director, shall be so used only by the Animal Health Laboratory, Division of Animal Health, New Jersey Department of Agriculture. Any and all distribution, sale, or the like, of Brucella [Strain 19] bacterin or contagious ecthyma of sheep vaccine shall be only to the Division of Animal Health.

2:6-1.6 Use of diagnostic biologicals

Products covered by this subchapter shall be used for the diagnosis or therapy of animal disease (including rabies) only by a licensed veterinarian, provided that the use of any biological for the purpose of diagnosis and control of any reportable animal disease, as enumerated N.J.S.A. 4:5-4 et seq., and the

PROPOSALS

Interested Persons see Inside Front Cover

BANKING

regulations issued pursuant thereto, N.J.A.C. 2:2-1.1 et seq., including Brucellosis, shall only be performed by an accredited veterinarian.

2:6-1.7 Use of prophylactic biologicals

Any and all vaccines made for the immunization of animals against Brucella [Strain 19], contagious ecthyma of sheep and any other disease designated by the Director, shall be administered to any animal only by an accredited veterinarian. Any and all other biologicals, including rabies vaccines, may be administered only by or on the order of a licensed veterinarian. This section does not apply to the immunization of poultry.

2:6-1.8 Revocation of license

(a) All licenses issued under this subchapter shall be subject to revocation at any time when the Director has a belief that there has been a violation of these or the appropriate Federal law or regulation, or where the public health, welfare or safety shall warrant such revocation.

(b) Any hearing to be conducted under this section shall be so conducted pursuant to the governing provisions of N.J.A.C. 2:1-3.8.

2:6-1.9 Distribution of biologicals

No person shall distribute, sell, or give away any biological product exempt from these regulations by compliance under the Animal Virus, Toxin, and Serum Act, 21 U.S.C. §§151 et seq., and the regulations issued pursuant thereto, 9 C.F.R. §101.1 et seq., except to any person that is licensed to sell, distribute, or prescribe the same.

BANKING

(a)

DIVISION OF SAVINGS AND LOAN

Asset Limitation

Service Corporations

Proposed Repeal: N.J.A.C. 3:27-4.5

Proposed Amendment: N.J.A.C. 3:27-4.6

Authorized By: Mary Little Parell, Commissioner,
Department of Banking.

Authority: N.J.S.A. 17:12B-152, 153, 165(7).

Proposal Number: PRN 1985-352.

Submit comments by July 31, 1985 to:

William B. Lewis, Deputy Commissioner
Division of Savings and Loan Associations
Department of Banking
CN 040
Trenton, N.J. 08625

The agency proposal follows:

Summary

The Department proposes to repeal N.J.A.C. 3:27-4.5, which limits the amount of loans or investments made under the Subchapter to 25 percent of an association's total assets. Since these loans and investments are limited under the Federal Home

Owners' Loan Act of 1933 and related regulations, N.J.A.C. 3:27-4.5 is unnecessary.

N.J.A.C. 3:27-4.6 is proposed to be amended to clarify the service corporation investment rule. The rule recites the Department's practice of permitting service corporations to engage in the same activities that are permissible for federally chartered associations. Furthermore, the proposed rule would reflect the Department's practice of requiring the submission of a resolution from the association's board of directors instead of a written agreement. In addition, the proposed rule substitutes the now inappropriate reference to the Code of Federal Regulations and replaces it with the correct reference, Section 545.74.

Social Impact

The proposed repeal and amendments are not expected to have any major social impact since they simply reflect current practice. Savings and loan associations have been complying with these investment practices in service corporations and will continue to do so. It is expected that the proposal will clarify the rules and lessen confusion because a resolution and explanatory letter will be required to be submitted instead of an agreement.

Economic Impact

Since the proposed amendments and repeal reflect current practice, they will not impose any additional costs to the associations or the Department of Banking. There are no costs to the public associated with the rule.

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

3:27-4.5 [Asset limitation] (Reserved)

[No insured association shall make any further loan or investment under the provisions of this Subchapter at any time that the total of all such loans and investments held by such association exceed 25 per cent of such association's total assets.]

3:27-4.6 Service corporations

(a) Any insured association, by resolution of its board of directors, may [invest in] **authorize its** service corporation[s] **to engage in activities** to the same extent as Federally chartered savings and loan associations under Part [545.9-1] **545.74** of the Rules and Regulations for the Federal Savings and Loan System. A State chartered association making such investment shall comply with the following conditions and procedures:

1. Prior to investing in any service corporation, a written [agreement] **resolution**, [signed by said corporation, will be obtained for submission to the Commissioner of Banking which permits] **permitting** the Commissioner of Banking or other person appointed by him to examine or audit the books and records of the service corporation **will be submitted to the Department of Banking**. The [agreement] **resolution** shall also provide that the service corporation will pay the cost of such examination or audit. If the Commissioner determines that it is necessary to perform an examination or audit of the books of the service corporation and such corporation is subject to examination by both Federal and State supervisory authorities, the examination will be conducted jointly whenever possible.

2. A copy of the independent audit report of the service corporation shall be submitted to the Commissioner of Banking annually.

3. If the service corporation is to engage in activities not specifically outlined in Part [545.9-1] **545.74** of the Rules and Regulations for the Federal Savings and Loan System, application shall be made to the Commissioner of Banking for approval where the service corporation is wholly owned by one or more State-chartered institutions. **The application shall take the form**

of a resolution adopted by the State-chartered institutions, together with a letter explaining the nature and anticipated equity investment relative to the proposed activity. If the service corporation is jointly owned by both Federal and State chartered associations a copy of the application filed with the Federal Home Loan Bank Board will be forwarded to the Commissioner of Banking for approval.

COMMUNITY AFFAIRS

(a)

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

Occupancy Requirements Regarding Income

Proposed Amendments: N.J.A.C. 5:80-8.1, 8.2 and 8.3

Proposed New Rules: N.J.A.C. 5:80-8.1 and 8.4.

Authorized By: New Jersey Housing and Mortgage Finance Agency, Feather O'Connor, Executive Director/Secretary.

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

Proposal Number: PRN 1985-359.

Submit comments by July 31, 1985 to:
William F. Abele, Esq.
Director of Policy Development
New Jersey Housing and Mortgage Finance Agency
3625 Quakerbridge Road
CN 070
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Housing and Mortgage Finance Agency serves as an advocate for promoting the supply, construction, rehabilitation and improvement of adequate and affordable housing in the State. To fulfill its objective, the Agency acts as a mortgage lender to housing sponsors who wish to construct, rehabilitate or improve housing projects for low and moderate income citizens. The proposal focuses on the requirements for occupancy of a dwelling unit within such housing projects and are being amended as follows:

1. 5:80-8.1 General applicability — The Agency permits occupancy of dwelling units by single individuals, provided other applicable eligibility requirements are met. N.J.S.A. 55:14-K et seq. authorizes the Agency to incorporate within its definition of "family" such other individuals as the Agency by rule or regulation shall include. This section was added to include "any individual over the age of eighteen, who is not a full time student" within the definition of family.

2. 5:80-8.2(a) is being deleted as the identical provision is set forth in 5:80-8.2(b).

3. 5:80-8.2(c) is being amended to make the cost of heat, light, water, sewerage, parking facilities and cooking fuel a mandatory inclusion in the determination of annual rental or

carrying charges, rather than discretionary as currently provided.

4. 5:80-8.2(f) is being deleted as this provision is contained in the new 5:80-8.1(a).

5. 5:80-8.3 is being amended to make the distribution of low and moderate income units among the different sized units discretionary rather than mandatory. Additionally, it is being amended to require low and moderate income units to be distributed throughout the project to provide tenants with equal access to all common facilities.

6. 5:80-8.4 Special Multiple Family Unit — The Agency statute also authorizes the Agency to assess the housing needs of any municipality which is experiencing housing shortages as a result of casino gaming. This section was added to permit occupancy of more than one family (including single individuals) in specifically designed units and provides standards for separate determination of income eligibility.

Social Impact

The proposed regulations are established to effectuate the general purpose of the Agency including: 1) to stimulate the construction, rehabilitation and improvement of adequate and affordable housing in the State so as to increase the number of housing opportunities for New Jersey residents particularly those of low and moderate income; 2) to enhance the production capacity of the private sector toward meeting the housing needs of residents of New Jersey; 3) to assist in the revitalization of the State's urban areas; 4) to respond to changing housing demographic and economic circumstances for the development of innovative and flexible financing vehicles. The proposed rules will have an impact on all tenants in Agency-financed projects, all Housing Sponsors of Agency-financed projects and all Contractors doing business on Agency-financed projects. In particular, the amendments will have an impact on single individuals, at least 18 years of age and not full time students, as they are now eligible for admission to Agency housing projects. The amendments will also have an impact by increasing housing opportunities in those municipalities experiencing housing shortages due to casino gaming.

Economic Impact

Through its sale of tax exempt bonds, the Agency is able to make mortgage loans for new construction of multi-family housing projects or the rehabilitation of existing units upon application by qualified housing sponsors. Since the program's inception over \$1.2 billion in loans have been issued for such housing. The NJHMFA Regulations will enable the Agency to continue to meet its goals to provide low and moderate income housing to the residents of the State of New Jersey. In particular, the amendment which considers gross family incomes separately in special multiple family units will enable a greater number of moderate income families to occupy Agency housing projects and will also increase the financial viability of such projects.

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

SUBCHAPTER 8. OCCUPANCY REQUIREMENTS REGARDING INCOME

5:80-8.1 General applicability

(a) Regulations within this subchapter shall apply to all Agency housing projects. In the event the housing project is assisted, directly or indirectly, by subsidies provided by the Department of Housing and Urban Development, any appropriate HUD regulations shall also apply. In the event there are any

PROPOSALS

Interested Persons see Inside Front Cover

COMMUNITY AFFAIRS

inconsistencies between the regulations in this subchapter and applicable HUD regulations, HUD regulations shall prevail.

(b) For purposes of this subchapter, "Family" shall be defined as follows:

1. For projects receiving subsidies under Section 236 or Section 8 Programs, two or more persons who live or expect to live together as a single household in the same dwelling unit and are related by blood, marriage or operation of law, or who demonstrate a stable relationship which has existed over a period of time.

2. For all other projects, two or more persons who live or expect to live together as a single household in the same dwelling unit or an individual at least 18 years of age who is not a full-time student.

[5:80-8.1] **5:80-8.2** Maximum gross aggregate family income

(a) Pursuant to N.J.S.A. 55:14K-8(a), the maximum gross aggregate family income for eligibility for admission to any housing project financed by the New Jersey Housing and Mortgage Finance Agency shall be \$45,000. [The income limit is revised to \$45,000 with the condition that projects having units with income limits in excess of \$36,000 will be required to give preference to qualified applicant households with incomes below \$36,000.]

(b) The income limit is revised to \$45,000 with the condition that projects having units with income limits in excess of \$36,000 will be required to give preference to qualified applicant households with incomes below \$36,000.

(c) Notwithstanding (a) and (b) above, for Housing Projects which receive a loan from the Agency on or after January 17, 1984, admission to Housing Projects shall be limited to families whose gross aggregate family income at the time of admission does not exceed six times the annual rental or carrying charges approved by the Agency except for families with three or more dependents whose incomes may be up to seven times the annual rental or carrying charge. Annual rental or carrying charges [may] shall include the value or cost of heat, light, water, sewerage, parking facilities and cooking fuel which are provided to or incurred by the family in connection with its occupancy of a dwelling. In addition, carrying charges include rent normally associated with rental projects as well as other costs associated with cooperative apartments. There may also be included an amount equal to 6 percent of the original cash investment of the family in a mutual or cooperative housing project and the value or cost of repainting and replacing any fixtures or appliances.

(d) Notwithstanding (a), (b) and (c) above, when a Housing Project has received a loan from the Agency, on or after January 17, 1984, that is insured or guaranteed by the United States of America or any agency or instrumentality thereof, the Agency may adopt the admission standards for such Project then currently prescribed, utilized or required by the guarantor or insurer.

(e) Notwithstanding (a), (b), (c) and (d) above, the Agency, in conjunction with any financing on or after January 17, 1984, may impose income limits at levels lower than those set forth above.

[(f) In addition to (a), (b), (c), (d) and (e) above, any appropriate regulations and requirements of the Department of Housing and Urban Development shall be applied to tenants receiving HUD subsidies.]

[5:80-8.2] **5:80-8.3** Occupancy requirements for housing projects financed pursuant to Section 103(b)(4) of the Internal Revenue Code

For Housing Projects financed by the Agency with the proceeds of bonds where the interest is exempt from Federal

taxation, and where the Project must contain a certain number of units to be occupied by individuals of low and moderate income pursuant to Section 103(b)(4) of the Internal Revenue Code, at all times during the qualified project period, as defined in Section 103(b)(12)(b), at least 23 percent of the units shall be occupied by individuals of low and moderate income as defined in Section 103(b)(12)(c), except in the case of target area projects where at least 18 percent of the units shall be occupied by individuals of low and moderate income. In allocating the units in a project which shall be occupied by individuals of low and moderate income, the Agency may require the distribution of low and moderate income units among the different sized units [shall] to reflect the same percentage distribution as the number of different sized units bears to the total number of units. A greater percentage of the low and moderate income units may, however, be allocated to the larger units. **Additionally, low and moderate income units shall be distributed throughout the project such that the tenants of such units will have equal access to and enjoyment of all common facilities of the project.** If there are changes in Federal law or in the internal revenue code or regulations with regard to the above-referenced matter, the Agency may adjust the above requirements accordingly.

5:80-8.4 Special Multiple Family Units within Housing Projects located in municipalities affected by casino gaming

(a) Special Multiple Family Units may be approved and designated by the Agency in accordance with this section on application by the Housing Sponsor where the Agency determines the municipality wherein the project is located is experiencing housing shortages as a result of the authorization of casino gaming.

(b) A Special Multiple Family Unit is a dwelling unit specifically designed to accommodate two or more families (including single individuals), and which has been so certified by the Agency after adequately meeting the following minimum criteria:

1. The dwelling unit has separate sleeping areas, each with adequate privacy, for each family; and

2. The dwelling unit has separate full bathrooms, each with adequate privacy, for each family; and

3. The rental of the dwelling unit complies with all relevant State and local occupancy laws.

(c) For purposes of determining income eligibility for admission into a Special Multiple Family Unit, the gross aggregate family income of each family is to be considered separate and apart from the gross aggregate family income of the other family or families occupying the unit. The full rental and carrying charges of the unit are to be used in determining each family's eligibility for admission, notwithstanding each family's planned or actual percentage contribution toward those charges, provided there is a written consent in the lease holding each family jointly and severably liable for these charges.

(d) A single family is deemed to exist among two or more individuals if those individuals have a joint personal economic relationship, other than their mutual interest in renting the same dwelling unit. Joint ownership of personal assets, commingling of personal accounts, economic dependency among the individuals, and/or the joint filing of income tax returns shall be evidence of a joint personal economic relationship.

(e) The rental of units to families, (including single individuals) must be consistent with Federal housing and tax laws and/or regulations, where such laws or regulations apply to government-

ENVIRONMENTAL PROTECTION

PROPOSALS

financed developments or Agency tax-exempt bond financing of such developments.

(f) The rental of Special Multiple Family Units, irrespective of the income levels of tenants therein, shall not be considered the rental of units to low and moderate income families for purposes of meeting Federal and State requirements to provide a certain percentage of units for those of low and moderate income, pursuant to N.J.A.C. 5:80-8.3.

[5:80-8.3] 5:80-8.5 Recertification of income

The Agency will adopt reasonable procedures regarding the certification or recertification of income which may include but is not necessarily limited to requiring tenants to provide copies of Federal income tax returns and other documents. If the tenant fails to provide information required by the Agency or otherwise fails to comply with procedures established by the Agency to determine income eligibility, the tenant may be subject to eviction or the imposition of surcharges in the same manner and rate as those imposed on tenants with excess income pursuant to N.J.S.A. 55:14K-8(b).

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WASTE MANAGEMENT

Fee Schedule for Environmental Cleanup Responsibility Act

Proposed New Rule: N.J.A.C. 7:1-4

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.

Authority: N.J.S.A. 13:1K-10(a).

DEP Docket No.: 033-85-06

Proposal Number: PRN 1985-367.

A public hearing concerning the proposed new rule will be held at the following time and location:

July 16, 1985, 9:30 A.M.
State Museum Auditorium
205 West State Street
Trenton, New Jersey 08625

Submit comments by July 31, 1985 to:
Joseph N. Schmidt, Jr., Esq.
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Environmental Cleanup Responsibility Act, N.J.S.A. 13:1K-6 et seq. ("ECRA"), represents another unique New Jersey environmental initiative. The New Jersey Department of Environmental Protection ("NJDEP" or "Department") has conducted an aggressive implementation program from the effective date of this law. The Bureau of Industrial Site Evalua-

tion ("BISE") was created within the Hazardous Site Mitigation Administration of NJDEP's Division of Waste Management to implement NJDEP's statutory mandate pursuant to ECRA. ECRA imposes pre-conditions on the sale, transfer or closure of industrial establishments involved in the generation, manufacture, refining, transportation, treatment, storage, handling or disposal of hazardous substances or wastes. (See "Interim Environmental Cleanup Responsibility Act Regulations", N.J.A.C. 7:1-3 for ECRA program requirements.)

Pursuant to N.J.S.A. 13:1K-10(a), the Department may adopt rules and regulations establishing, among other things, a "fee schedule, as necessary, reflecting the actual costs associated with the review of negative declarations and cleanup plans." ECRA also provides NJDEP with the authority to adopt as rules and regulations "any other provisions or procedures necessary to implement this act." The Legislature has provided the Department an amount up to \$400,000 per year from the New Jersey Spill Compensation Fund ("Spill Fund") established under the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11o(6) to cover the costs associated with the administration of ECRA. The Commissioner must annually request an appropriation for the \$400,000 from the Legislature.

The ECRA budget for Fiscal Year (FY) 86 is projected at \$2,942,000 of which \$400,000 will come from the annual appropriation from the Spill Fund. Therefore, the NJDEP finds that adoption of a fee schedule authorized by N.J.S.A. 13:1K-10(a) is necessary for the continued successful implementation of the Department's statutory mandate. NJDEP intends to collect the remaining \$2,542,000 necessary for successful implementation of the ECRA program through the Fee Schedule for Environmental Cleanup Responsibility Act, 7:1-4 ("Fee Schedule").

NJDEP began drafting the Fee Schedule shortly after the funding problems became evident. A needs analysis was conducted to determine the appropriate number of staff required for those activities associated with the review of negative declarations and cleanup plans. BISE expects to receive approximately 800 ECRA cases a year based on the prior year of experience. NJDEP projects that a staff of sixty-four people will be needed to fully manage the program established by ECRA. NJDEP has determined that of the total sixty-four staff required to implement ECRA, the following types of employees will be necessary: thirty professionals for BISE case management, ten technical coordinators for vital technical services and support in the Bureau of Environmental Evaluation and Risk Assessment, eight geologists for detailed and important ECRA geological reviews, eight professionals for BISE administrative support, and an additional eight clerical positions for essential secretarial and other office functions.

NJDEP has prepared a Basis and Background Document for the Fee Schedule which more fully explains the methodology utilized by BISE to develop the Fee Schedule. Copies of the Basis and Background Document may be obtained by writing to:

Anthony McMahon, Chief
Bureau of Industrial Site Evaluation
Division of Waste Management
CN 028
Trenton, New Jersey 08625
Attention: Basis and Background Document Request

The Fee Schedule assesses individual fees for the actual costs associated with individual NJDEP services associated with the review of negative declarations and cleanup plans (see 7:1-4.5). NJDEP developed fees for the review of initial notices, with and without sampling plan review (see 7:1-4.5(a)1); negative decla-

ration review (see 7:1-4.5(a)2); cleanup plan review, based on the cost of approved cleanup plans (see 7:1-4.5(a)3); cleanup plan deferral review (see 7:1-4.5(a)4); oversight of cleanup plan implementation, based on the duration of approved cleanup plans (see 7:1-4.5(a)5); and applicability/nonapplicability determinations (see 7:1-4.5(a)6). NJDEP further proposes alternative fees for the review of initial notices, with and without sampling plan review (see 7:1-4.5(b)1) and for negative declaration review (see 7:1-4.5(b)2) for any industrial establishment receiving a score of less than 31,000 points pursuant to the Small Business Test defined at 7:1-4.3. All other necessary BISE services required by industrial establishments claiming application of the Small Business Test from NJDEP not specified in 7:1-4.5(b)1 and 2, including all cleanup plan reviews, shall be subject to the fee schedule set forth at 7:1-4.5(a). The process for any industrial establishments claiming application of the Small Business Test and the reduced fees pursuant to 7:1-4.5(b) has been set forth at 7:1-4.5(c) and (d).

All fees established pursuant to the Fee Schedule shall be paid by certified checks or money orders made payable to the "New Jersey Department of Environmental Protection" at the address specified at 7:1-4.4(a). Fees for the review of initial notices, including sampling plan review, pursuant to 7:1-4.5(a)1 and (b)1 shall be paid along with the General Information Submission required pursuant to N.J.A.C. 7:1-3.7(d)1 through 8 (see 7:1-4.4(b)1). BISE shall prepare and mail an appropriate bill to an industrial establishment to be paid within 14 days of receipt by the industrial establishment for all BISE services rendered for negative declaration review pursuant to 7:1-4.5(a)2 and (b)2, cleanup plan review pursuant to 7:1-4.5(a)3, cleanup plan deferral review pursuant to 7:1-4.5(a)4, and oversight of cleanup plan implementation pursuant to 7:1-4.5(a)5 (see 7:1-4.4(b)2). Fees for applicability/nonapplicability determination pursuant to 7:1-4.5(a)6 shall be submitted along with each written request for an applicability/nonapplicability determination (see 7:1-4.4(b)3).

Upon BISE's written disapproval of any initial notice, negative declaration or cleanup plan pursuant to N.J.A.C. 7:1-3, an industrial establishment may be required to submit additional appropriate fees as set forth in 7:1-4.4(c). Please note that BISE shall not issue any negative declarations or cleanup plan approvals or any applicability/nonapplicability determination until the industrial establishment has paid all fees pursuant to the Fee Schedule (see 7:1-4.4(d)).

The provisions of the Fee Schedule shall be effective for all applicable BISE services rendered pursuant to ECRA on October 1, 1985 and thereafter (see 7:1-4.6(a)). However, ECRA cases under review by BISE prior to October 1, 1985 shall be subject only to the fees for individual BISE services and approvals required by ECRA and N.J.A.C. 7:1-3 that BISE provides on or after October 1, 1985 (see 7:1-4.6(b)). NJDEP intends to formally adopt the Fee Schedule, with any appropriate revisions, with notice thereof in either the September 3 or 16, 1985 New Jersey Register.

Social Impact

A positive social impact will result from the Fee Schedule. The adoption of the Fee Schedule will provide BISE with the staff necessary to ensure that all possible activities required for a complete ECRA review occur in a timely manner. Serious delays in commercial real estate and other corporate transactions may result without the implementation of the Fee Schedule. The Fee Schedule, supplemented by the annual Spill Fund appropriation pursuant to N.J.S.A. 58:10-23.11o(6), will provide

NJDEP with a self-sustaining budget for the important ECRA cleanup program.

Economic Impact

The Fee Schedule will result in a significant increase in the cost of ECRA compliance by the owners or operators of industrial establishments. Depending on each individual ECRA case, the total fee for BISE services associated with the review of negative declarations and cleanup plans shall vary considerably. NJDEP believes that the Fee Schedule remains the most equitable fee program possible consistent with the Department's broad statutory mandate to promulgate a fee schedule as necessary. Furthermore, the Legislature and NJDEP believe that the owners or operators of industrial establishments should properly incur all costs, including appropriate fee assessments, as a precondition to any ECRA transaction rather than the citizens and taxpayers of New Jersey at some later date.

Environmental Impact

ECRA program experience reinforces NJDEP's initial belief that ECRA provides a major positive environmental impact for the citizens, property and natural resources of New Jersey. The ECRA program gives NJDEP an important new remedial tool to significantly reduce the occurrence of future abandoned contaminated site problems throughout the State. However, NJDEP has determined that without the promulgation of the Fee Schedule ECRA would constitute little more than a good intention. The Fee Schedule provides NJDEP with the funds necessary for successful implementation of ECRA's unique environmental protection benefits to the citizens of New Jersey.

Full text of the proposed new rule follows:

SUBCHAPTER 4. FEE SCHEDULE FOR ENVIRONMENTAL CLEANUP RESPONSIBILITY ACT

7:1-4.1 Scope

(a) This subchapter shall constitute the fee schedule pertaining to the monetary charges to be paid by industrial establishments as reimbursement for the Department's costs for activities pursuant to the Environmental Cleanup Responsibility Act, N.J.S.A. 13:1K-6 et seq. ("ECRA"), and any regulations promulgated thereto.

(b) This subchapter shall be applicable to all those persons and business operations as set forth in N.J.A.C. 7:1-3.4.

7:1-4.2 Purpose

(a) The purpose of this subchapter is to establish a fee schedule for the Department's ECRA program reflecting the actual costs associated with the review of negative declarations and cleanup plans pursuant to N.J.S.A. 13:1K-10(a).

(b) This fee schedule supplements the annual appropriation of up to \$400,000 pursuant to the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11o(6).

7:1-4.3 Definitions

For the purpose of this subchapter, the following definitions in addition to those found in N.J.A.C. 7:1-3.3 are applicable:

"Applicability/nonapplicability determination" means a formal written response issued by BISE pursuant to a fully detailed and documented written request from an industrial establishment, person or any other entity requesting a determination from BISE concerning the applicability of any provision of ECRA to one particular factual or hypothetical transaction or other situation.

"Bureau" or "BISE" means the Bureau of Industrial Site Evaluation or its successor within the Division of Waste Management of the Department.

"Initial notice" means the written notice required by ECRA pursuant to N.J.A.C. 7:1-3.7(d)1 through 8 (known as the General Information Submission) and by N.J.A.C. 7:1-3.7(d)9 through 17 (known as Site Evaluation Submission).

"Small business test" means the formula developed by BISE, set forth below, as applied to the fee schedule provisions of N.J.A.C. 7:1-4.5(b):

$$\frac{(2000 E + A)}{2} = \text{Less than 31,000 points}$$

where "E" equals the maximum number of employees during any of the last five years and where "A" equals the operational area of the industrial establishment in square feet.

"Underground tank system integrity test" means any documentation, evidence or test results relating to a test conducted pursuant to any BISE approved test methodology designed to determine whether an underground storage tank or tank system, consisting of a maximum of four underground tanks, is discharging, spilling or otherwise leaking into the environment.

7:1-4.4 Fees

(a) All fees established pursuant to this subchapter shall be paid by certified checks or money orders made payable to "New Jersey Department of Environmental Protection". All fees shall be mailed to the following address: "Bureau of Industrial Site Evaluation, Division of Waste Management, New Jersey Department of Environmental Protection, CN-208, Trenton, New Jersey 08625, Attention: N.J.A.C. 7:1-4 Submission".

(b) Fee payments for all applicable BISE services pursuant to ECRA shall be submitted to the Bureau by an industrial establishment, person or other entity as set forth below:

1. Fees pursuant to N.J.A.C. 7:1-4.5(a)1 and (b)1 shall be paid along with the General Information Submission required pursuant to N.J.A.C. 7:1-3.7(d)1 through 8;

2. The Bureau shall prepare and mail an appropriate bill to an industrial establishment to be paid within 14 days of receipt by the industrial establishment for all BISE services rendered as described pursuant to N.J.A.C. 7:1-4.5(a)2, 3, 4, 5 and (b)2; and

3. Fees pursuant to N.J.A.C. 7:1-4.5(a)6 shall be submitted along with each written request for an applicability/nonapplicability determination.

(c) Upon the Bureau's written disapproval of any initial notice, negative declaration or cleanup plan, an industrial establishment may be required to submit additional appropriate fees pursuant to N.J.A.C. 7:1-4.5(a)1 through (a)5, (b)1 and (b)2 as applicable along with the submission of any revised initial notice, negative declaration or cleanup plan to the Bureau under the conditions set forth below:

1. Upon the Bureau's written determination to the industrial establishment that the review of the submission of any revised initial notice, negative declaration or cleanup plan shall require significant, additional expenditure of the Bureau's time and effort; and

2. For the purposes of (c)1 above, the Bureau's "significant, additional expenditure of time and effort" shall describe those cases in which a substantial portion of an initial notice, negative declaration or cleanup plan must be resubmitted to the Bureau and for all practical purposes the industrial establishment has made a new submission.

(d) The Bureau shall not issue any negative declaration or cleanup plan approvals or applicability/nonapplicability deter-

minations until the industrial establishment has paid all fees required pursuant to this subchapter.

(e) No fees required pursuant to this subchapter shall be returnable except in the case of an overpayment due to miscalculation of any fee required pursuant to this subchapter as determined by the Bureau.

7:1-4.5 Fee schedule

(a) Fees shall be charged, except as provided for in (b) below, for the following services associated with the review of an industrial establishment's negative declaration or cleanup plan:

BISE SERVICE	FEE
1. Review of initial notice:	
i. Without sampling plan review	\$1,600
ii. With underground tank system integrity test as only sampling plan review required by NJDEP	\$1,800

(1) Additional fee for BISE review of underground tank system integrity test per each additional underground tank over a maximum of four underground tanks.

\$50 per each additional underground tank tested.

iii. With sampling plan review	\$2,600
2. Negative declaration review:	\$500

3. Cleanup plan review (fee based on cost of approved cleanup plan):

i. \$1.00—\$9,999	\$500
ii. \$10,000—\$99,999	\$1,500
iii. \$100,000—\$499,000	\$5,000
iv. \$500,000—\$999,999	\$10,000
v. Over \$1,000,000	\$15,000
4. Cleanup plan deferral review:	\$1,000

5. Oversight of cleanup plan implementation (fee based on duration of approved cleanup plan):

i. One—14 days	\$400
ii. 15—30 days	\$700
iii. 31—90 days	\$1,000
iv. 91—120 days	\$1,500
v. Over 120 days	\$2,000

6. Applicability/nonapplicability determination

\$100

(b) Any industrial establishment that receives a score of less than 31,000 points pursuant to the small business test may apply to the Bureau, subject to compliance with (c) below, for the application of the following fee schedule for the specific services set forth below:

BISE SERVICE	FEE
1. Review of initial notice:	
i. Without sampling plan review	\$500
ii. With underground tank system integrity test as only sampling plan review required by NJDEP	\$700

(1) Additional fee for BISE review of underground tank system integrity test per each additional underground tank over a maximum of four underground tanks.

\$50 per each additional underground tank tested.

PROPOSALS

Interested Persons see Inside Front Cover

ENVIRONMENTAL PROTECTION

- iii. With sampling plan review \$1,500
- 2. Negative declaration review \$200
- 3. All other necessary BISE services required by industrial establishments from BISE not specified in (b)1 and (b)2 above shall be subject to the fee schedule set forth in (a) above.

(c) Any industrial establishment petitioning the Bureau for application of the fee schedule established in (b) above shall submit the following information to the Bureau:

- 1. An affidavit from an authorized officer or management official stating the details of the industrial establishment's calculation of its score of less than 31,000 points pursuant to the small business test and the justification for application of the fee schedule established in (b) above;
- 2. All other evidence and proofs of the industrial establishment's eligibility for application of the fee schedule established in (b) above; and
- 3. Any other reasonable information requested in writing by the Bureau.

(d) Any industrial establishment deemed in writing by the Bureau to be ineligible for application of the fee schedule established in (b) above shall be charged fees pursuant to (a) above as applicable.

7:1-4.6 Effective date

(a) The provisions of this subchapter, as amended and supplemented pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., shall be effective for all applicable BISE services rendered pursuant to ECRA on October 1, 1985 and thereafter.

(b) ECRA cases under review by BISE prior to October 1, 1985 shall be subject only to the fees pursuant to N.J.A.C. 7:1-4.5 for the individual BISE services and approvals required by ECRA and N.J.A.C. 7:1-3 that BISE provides on or after October 1, 1985.

7:1-4.6 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.

(a)

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF WATER RESOURCES

Surface Water Quality Standards

**Proposed Amendments: N.J.A.C. 7:9-4
Index D**

Authorized By: Robert E. Hughey,
Commissioner, Department
of Environmental Protection

Authority: N.J.S.A. 13:1D-1 et seq., 58:10A-1 et seq.,
and 58:11A-1 et seq.

DEP Docket No.: 032-85-06.

Proposal Number: PRN 1985-368.

A public hearing concerning this proposal will be held on:
July 16, 1985 at 3:30 P.M.-7:30 P.M.
Commissioner's Conference Room
Hackensack Meadowlands Environmental
Center
Lyndhurst, N.J. 07071

Submit comments by July 31, 1985 to:
Shing-Fu Hsueh, Ph.D., P.E., Chief
Bureau of Systems Analysis and Wasteload
Allocation
Division of Water Resources
Department of Environmental Protection
CN 029
Trenton, N.J. 08625

The agency proposal follows:

Summary

The Federal Clean Water Act (P.L. 92-500) requires that the States, from time to time, but at least once every three years, hold public hearings to review and, as appropriate, modify their Surface Water Quality Standards. The Environmental Protection Agency's (EPA) Water Quality Standards Regulation (40 CFR 131) requires submission of a use attainability analysis for all waters for which the approved standards do not include all the uses described in Section 101(a)(2) of the Federal Clean Water Act. Section 101(a)(2) discusses an interim goal of "water quality which provides for the protection and propagation of fish, shellfish and wildlife and provides for recreation in and on the water". New Jersey completed its last review/revision of Surface Water Quality Standards with the adoption of new Surface Water Quality Standards on April 29, 1985 (see May 20, 1985 Register at 17 N.J.R. 1270(a) for Notice of Adoption). A number of stream classifications for waters within the Delaware River basin and the Passaic, Hackensack and New York Harbor Complex basin in the new Surface Water Quality Standards do not include all of the Section 101(a)(2) uses. Use attainability studies and analyses have been completed for the waters within the Passaic, Hackensack and New York Harbor Complex Basin and are currently being conducted on the waters within the Delaware River Basin.

Under the EPA Water Quality Standards Regulation a use attainability analysis is a "multi-step scientific assessment of the physical, chemical, biological and economic factors affecting the attainment of the use. It includes a water body survey and assessment, a wasteload allocation, and an economic analysis, if appropriate" (48 FR 51401). The State may omit Section 101(a)(2) uses for particular waters if the use attainability analysis demonstrates that the use is not attainable because of any of the following: 1) Naturally occurring pollutant concentrations prevent the attainment of the use; or 2) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for, by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements, to enable uses to be met; or 3) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; or 4) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use; or 5) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and

ENVIRONMENTAL PROTECTION

PROPOSALS

the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or 6) Controls more stringent than those required by Sections 301(b) and 306 of the Clean Water Act would result in substantial and widespread economic and social impact.

Based upon the use attainability analyses conducted by the Department of Environmental Protection the following waters are proposed for upgrading: the Hackensack River (from the Route 1 & 9 crossing to Berry's Creek) from SE3 to SE2, and the Hudson River (from the Harlem River to the N.J.-N.Y. border) from SE2 to SE1. The following waters were studied and are not proposed for change: 1) Hackensack River (main stem and saline tributaries from Overpeck Creek to confluence with Berry's Creek); 2) Hackensack River (main stem from Route 1 & 9 crossing to confluence with Newark Bay); 3) Arthur Kill (entire length); 4) Hudson River (Harlem River to New York Bay); 5) Overpeck Creek (saline portions); 6) Passaic River (mouth to Dundee Lake dam); 7) Rahway River (South Branch from Hazlewood Avenue to mouth, main stem from Pennsylvania Railroad bridge to mouth); 8) Smith Creek (saline portion); 9) Elizabeth River (Broad Street bridge to mouth); 10) Kill Van Kull (entire length); 11) Morses Creek (saline portion); 12) Newark Bay (entire bay); 13) Piles Creek (saline portion); 14) Saddle River (Allendale Road bridge to mouth); 15) Berry's Creek (saline portion); and 16) Woodbridge River (saline portion).

Social Impact

The proposal should produce a positive social impact. Upgrading the designated uses of these waters will reflect improved water quality and provide for additional uses of the waters. The addition of uses should be beneficial to the public health, welfare and environment and improve the quality of life along these waters.

Economic Impact

There should be little or no economic impact resulting from this proposal. The proposal reflects improvements expected to be achieved through implementation of existing regulations and requirements governing the control of point source discharges, landfills and combined sewer overflows.

Environmental Impact

Bacterial levels will be lowered and dissolved oxygen levels increased. These changes would have occurred through the implementation of existing regulations and requirements. The proposed upgrading will provide additional impetus to accomplish these improvements. This will result in environmental improvements occurring sooner.

The Department has prepared a use attainability report covering the waters involved in this proposal. Copies of this document may be viewed at all 75 depository libraries for State documents. Interested persons may contact their local library to ascertain the depository library most convenient to them. Copies may also be examined at or requested from:

Shing-Fu Hsueh, Ph.D., P.E., Chief
Bureau of Systems Analysis and Wasteload Allocation
Division of Water Resources
25 Artic Parkway
Trenton, N.J. 08638

Full text of the proposal follows (additions indicated in bold-face **thus**; and deletions indicated in brackets [thus]):

INDEX D— Surface Water Classifications of the Passaic, Hackensack and N.Y. Harbor Complex Basin

HACKENSACK RIVER

- (Oradell)—Source to Oradell dam FW2-NT
- (Oradell)—Main stem and saline SE1
- tributaries from Oradell dam to the confluence with Overpeck Creek
- (Little Ferry)—Main stem and saline SE2
- tributaries from Overpeck Creek to confluence with Berrys Creek
- (Secaucus)—Main stem [downstream of] from Berrys Creek to Route 1 & 9 crossing SE[3]2
- (Kearny Point)—Main stem downstream from Route 1 & 9 crossing SE3

HUDSON RIVER

- (Rockleigh)—River and saline portions of New Jersey tributaries from [a north-south line connecting Constable Hook (Bayonne) to St. George (Staten Island, N.Y.) to the Bergen County—Rockland County, N.Y. line] the N.J.—N.Y. boundary line in the north to its confluence with the Harlem River, N.Y. SE[2]1
- (Englewood Cliffs)—River and saline portions of New Jersey tributaries from the confluence with the Harlem River, N.Y. to a north-south line connecting Constable Hook (Bayonne) to St. George (Staten Island, N.Y.) SE2

TRIBUTARIES

- (Rockleigh)—[All other] Freshwater portions of tributaries to the Hudson River in New Jersey FW-NT[/SE2]

COMMISSION ON RADIATION PROTECTION

Proposals numbered PRN 1985-365 and 366 are authorized by the Commission on Radiation Protection, Max Weiss, Ph.D., Chairman.

(a)

**General Provisions
Industrial and Nonmedical Radiography**

Proposed Amendments: N.J.A.C. 7:28-1.4 and 7:28-17.1 through 17.

Proposed New Rule: N.J.A.C. 7:28-17.7

Authority: N.J.S.A. 13:1D-7 and 26:2D-7
DEP Docket No. 031-85 05.
Proposal Number: PRN 1985-366.

A public hearing concerning this proposal, and proposed amendments to N.J.A.C. 7:28-19 (Medical Exposure to Ionizing Radiation by Radiologic Technologists) appearing in this Register, will be held on:

PROPOSALS

Interested Persons see Inside Front Cover

ENVIRONMENTAL PROTECTION

July 17, 1985 at 4:00 P.M.
New Jersey State Museum Auditorium
205 W. State Street
Trenton, New Jersey

Submit comments by July 31, 1985 to:
Scott B. Dubin
New Jersey Department of Environmental
Protection
Office of Regulatory Services
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Radiation Protection Act, L. 1958, c. 116, N.J.S.A. 26:2D-1 et seq. (the Act) governs the possession, handling, transportation, and use of sources of radiation within the State of New Jersey. The Act created the New Jersey Commission on Radiation Protection (hereinafter referred to as "CORP") and vested in that body the authority to promulgate rules and regulations.

In 1964, CORP adopted N.J.A.C. 7:28-17 (Industrial and Nonmedical Radiography). The purpose of this regulation is to establish radiation safety requirements for persons utilizing sealed sources, radiographic-exposure devices, or ionizing radiation-producing machines for industrial and nonmedical radiography. These safety requirements address the performance of the radiographic device, the personnel training requirements in the hazards of radiation exposure and the safe use of the radiographic device, and precautionary procedures to utilize to prevent unnecessary radiation exposure to the nearby public during radiographic procedures.

The CORP proposes to amend N.J.A.C. 7:28-1 to add the definitions of "shielded position" and "x-ray tube" and to amend N.J.A.C. 7:28-17 to ensure that it provides reasonable and state-of-the-art protection for the prevention of unnecessary exposure to radiation during industrial and nonmedical radiographic procedures. The following references were consulted by the CORP and the Department of Environmental Protection (hereinafter referred to as "Department") during the preparation of the revisions:

1. Part E of the 1982 edition of Suggested State Regulations for Control of Radiation, Volume I, Ionizing Radiation (HHS Publication FDA 83-8203) prepared by the Conference of Radiation Control Program Director, Inc., U.S. Nuclear Regulatory Commission, U.S. Environmental Protection Agency, U.S. Food and Drug Administration's National Center for Devices and Radiological Health (hereinafter referred to as "Suggested State Regulations");

2. The Code of Federal Regulations, Title 21, Chapter 1, Subchapter J, Part 1020.40. (21 C.F.R. 1020.40); and

3. Illinois Regulations for Radiation Protection, Part E.

The Suggested State Regulations document is used throughout the country as a guide for establishing individual State regulations for the control of radiation. The objective of the Suggested State Regulations is to have similar regulations in all states. The Code of Federal Regulations establishes machine performance standards that are in force nationwide.

The CORP proposes to amend N.J.A.C. 7:28-17 to make the Subchapter more clearly defined and specific. In addition, the new provisions will provide the Department with specific authority to regulate cabinet x-ray systems and shielded room radiography.

A section-by-section summary of the proposed amendments to N.J.A.C. 7:28-17 follows:

N.J.A.C. 7:28-17.1 (Scope) establishes the regulated group to which these regulations apply. The CORP proposes minor technical changes.

N.J.A.C. 7:28-17.2 (Definitions) is a new section which defines terms applicable only to industrial and nonmedical radiography. The CORP used the Suggested State Regulations in proposing to add the following definitions: cabinet x-ray system, external surface, industrial radiography, shielded room radiography and temporary job site.

N.J.A.C. 7:28-17.3 (Registration and licensing requirements), presently codified as N.J.A.C. 7:28-17.2, is revised for clarity only. N.J.A.C. 7:28-17.3(a) is proposed to regulate only ionizing radiation-producing machines and N.J.A.C. 7:28-17.3(b) is proposed to regulate sealed sources and radiographic-exposure devices.

N.J.A.C. 7:28-17.4 (Equipment control), presently codified as N.J.A.C. 7:28-17.3, is a revision and updating of the equipment requirements for ionizing radiation-producing machines, radiographic-exposure devices, sealed sources and storage containers. These regulations were amended for clarity and are generally accepted standards of good practice for this equipment. A new subsection on temporary job site record keeping was added to make it clear to the radiographer what records and documents he must have on site and make available to the Department. These requirements were consolidated from other sections of N.J.A.C. 7:28.

Proposed amendments to N.J.A.C. 7:28-17.4(e) 1 and 2 add a requirement to perform an operational check source test on the radiation survey instrument to be used during industrial radiographic procedures and to keep a record of each such test. Proposed amendments to N.J.A.C. 7:28-17.4(j) would delete a requirement for a quarterly inventory requirement and add a requirement for an ongoing inventory of sealed sources so that the owner of the sources of radiation would know, at any one time, what sources he had on-hand and to whom and where they were assigned for use.

N.J.A.C. 7:28-17.5 (Personal radiation safety requirements for radiographers), presently codified as N.J.A.C. 7:28-17.4, was amended for clarity. This section establishes the training requirements for radiographers and radiographer's assistants necessary to insure personnel safety during the handling and use of industrial and nonmedical radiographic equipment. Proposed amendments to N.J.A.C. 7:28-17.5(a) and (c) add the requirement that only a qualified individual can teach the required radiation safety course and administer the written examination to demonstrate understanding of the course material. "Qualified individual" is defined in N.J.A.C. 7:28-1.4. The requirement for a written examination is proposed at N.J.A.C. 7:28-17.5(a) and (c), and would require a radiographer and a radiographer's assistant to demonstrate an understanding of the material required in the training course. The examination requirement provides the specific means for demonstration of understanding and also provides a record.

N.J.A.C. 7:28-17.6 (Precautionary procedures in radiographic operations), presently codified as N.J.A.C. 7:28-17.5, establishes the procedures to be followed during radiographic operations to maintain surveillance over high radiation areas to prevent entry of unauthorized persons and to monitor radiation levels to the environment. The proposed amendments to this section are for clarity. Codification was changed to reflect other amendments to this subchapter.

N.J.A.C. 7:28-17.7 (Cabinet radiography) is proposed as a new section establishing machine performance standards for

safety from unnecessary radiation exposure during radiographic operations. This new section will provide the Department with specific regulatory authority over the use and safety of cabinet radiography systems which include x-ray systems designed primarily for the inspection of carry-on baggage at air, railroad, and bus terminals, and similar facilities and x-ray systems designed to inspect letters and packages in mailrooms. The Code of Federal Regulations, Title 21, Chapter 1, Subchapter J, Part 1020.40 "Cabinet x-ray systems" has specific performance standards for these cabinet radiographic systems. The proposed N.J.A.C. 7:28-17.7 is equivalent to the Federal performance standards. This new section will give the Department specific regulatory authority to require that these adopted standards are met. This section requires that operating personnel be trained and have demonstrated competence in the operation and use of cabinet x-ray systems. Owners would be required to supply and the operator would be required to use appropriate personnel monitoring equipment. In addition, this section establishes specific equipment requirements for the cabinet x-ray systems, such as safety interlocks which turn off the power to an x-ray tube when a cabinet door is opened, a permanent floor, warning labels, warning lights, key activated controls which require a key to use the equipment, and means to insure operator presence at the x-ray control switch.

N.J.A.C. 7:28-17.8 (Shielded room radiography) is a new section and will provide the Department with specific regulations addressing the safety features already employed by the industry. These regulations will set standards which will insure uniformity of these safety features from facility to facility. It will insure operator safety by providing for these specific safety features and requiring that they be fully operational during radiographic procedures. The Suggested State Regulations contain standards for shielded room radiography to be incorporated into a State's radiation protection regulations. In addition, the Illinois Regulations for Radiation Protection Part E were also consulted. The Illinois regulation contains specific provisions for Shielded Room Radiography. The proposed new N.J.A.C. 7:28-17.8 will give the Department specific regulatory authority to require that these standards are met.

Proposed new N.J.A.C. 7:28-17.8 will govern the equipment, operator, and the shielded room in which the source of radiation is contained. The requirements for the operator include: who can operate the equipment (N.J.A.C. 7:28-17.8(a) and (b)), what training and testing will be required (b), and what protections must be adhered to, including use of personnel monitoring devices (17.8(c)) and physical surveys which reveal whether a source of radiation is on (17.8(f)), a check on the survey instrument (17.8(g)), and access restrictions (17.8(h)). Also included are requirements for the shielded room, including visible warning lights and audible alarm systems, door interlock mechanisms, room shielding surveys to determine whether radiation limits are exceeded, scram or emergency buttons, and control panel locks (17.8(i)).

Social Impact

The proposed amendment will allow the Department to improve its regulatory program to insure that all users of industrial and nonmedical radiographic equipment use, handle, transport, and store it in such a manner that they safeguard themselves from unnecessary radiation exposure. Safety procedures and performance standards to keep radiation exposure to within acceptable regulatory limits protect not only owners and operators of sources of radiation but also the public from unnecessary radiation exposure. Implementation of N.J.A.C. 7:28-17 has successfully prevented radiation exposure accidents from occurring

from the use of industrial and nonmedical radiography equipment. The requirements for cabinet x-ray systems will protect the general public in airports and security areas from unnecessary radiation exposure. The requirements for shielded room radiography will reduce occupational exposure to radiation in research and manufacturing industries including steel manufacturing plants.

Economic Impact

The CORP foresees some economic impact for owners of facilities engaged in shielded room radiography for the one-time installation of required safety features such as the emergency scram button. Many facilities already use such safety devices. The equipment that would be required for cabinet radiography is substantially the same as that required by Federal regulations (21 C.F.R. 1020.40). Therefore, no additional expense should be incurred by owners of cabinet x-ray systems.

Environmental Impact

The proposed amendments will have the positive environmental impact of enabling the Department to enforce requirements to prevent users and all persons within effective range of sources of radiation used in cabinet radiography and shielded room radiography from being exposed to unnecessary radiation.

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

SUBCHAPTER 1. GENERAL PROVISIONS

7:28-1.4 Definitions

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise. Additional words and terms, applicable to a specific subchapter only, will be found in that subchapter.

(a) General Terms: (No change.)

(b) Ionizing radiation terms:

"Shielded position" means the location within the radiographic-exposure device or storage container which, by manufacturer's design, is the proper location for storage of the sealed source.

"X-ray tube" means an electron tube which is designed for the conversion of electrical energy into x-ray energy.

(c) Non-ionizing radiation terms: (No change.)

SUBCHAPTER 17. INDUSTRIAL AND NONMEDICAL RADIOGRAPHY

7:28-17.1 Scope

(a) [The regulations in this] **This** subchapter **establishes** [establish] radiation-safety requirements for persons utilizing sealed sources, radiographic-exposure devices or **ionizing** radiation-producing machines for industrial and nonmedical radiography.

(b) The requirements of this subchapter are in addition to the requirements of [Subchapters 1 through 13 of this Chapter] **N.J.A.C. 7:28-1 through 7:28-13.**

(c) (No change.)

7:28-17.2 [Registration and licensing requirements] Definitions

[(a) All owners of radiation-producing machines, and all owners of sealed sources or radiographic exposure devices utilizing radiation sources not subject to specific State license requirements, must register them in accordance with the requirement of Subchapter 3 (Registration) of this Chapter.

(b) The possession or use of sealed sources or radiographic exposure devices, either of which utilize radioactive materials

specified in Section 4.2 (Requirements) of this Chapter, are subject to the licensing requirements of Subchapter 4 (Licensing) of this Chapter.]

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

“Cabinet X-ray system” means an ionizing radiation-producing machine with the x-ray tube installed in an enclosure which, independent of existing architectural structures except the floor on which it may be placed, is intended to contain at least that portion of a material being irradiated, provide radiation attenuation, and exclude personnel from its interior during generation of x-radiation, including but not limited to all x-ray systems designed primarily for the inspection of carry-on baggage at air, railroad, and bus terminals, and similar facilities, and all x-ray systems designed primarily for the inspection of letters, periodicals, and packages in mailrooms. An x-ray tube used within a shielded part of a building or x-ray equipment which may temporarily or occasionally incorporate portable shielding, is not considered a cabinet x-ray system.

“External surface” means the outside surface of the cabinet x-ray system, including the high-voltage generator, doors, access panels, latches, control knobs, and other permanently mounted hardware and including the plane across any aperture or port.

“Industrial radiography” means the examination of the macroscopic structure of materials by nondestructive methods using sources of radiation.

“Shielded room radiography” means industrial radiography which is conducted in an enclosed room, the interior of which is not occupied during radiographic operations.

“Temporary job site” means any location where industrial radiography is performed other than the location(s) listed in a license or registration issued by the Department pursuant to N.J.A.C. 7:28-3 or 7:28-4.

7:28-[17.2] 17.3 Registration and licensing requirements

(a) All owners of ionizing radiation-producing machines[, and all owners of sealed sources or radiographic-exposure devices utilizing radiation sources not subject to specific State license requirements, must register them in accordance with the requirements of Subchapter 3 (Registration) of this Chapter] shall comply with N.J.A.C. 7:28-3.

(b) [The possession or use] All owners of sealed sources or radiographic-exposure devices [either of which utilize radioactive materials specified in [Section 4.2] N.J.A.C. 7:28-4.2 (Requirements) [of this Chapter], are subject to the licensing requirements of [Subchapter 4] N.J.A.C. 7:28-4 (Licensing) of this Chapter] shall comply with N.J.A.C. 7:28-3 and 7:28-4.

7:28-[17.3] 17.4 Equipment control

(a) The permissible levels of radiation from radiographic-exposure devices and storage containers shall be as follows:

1. Radiographic-exposure devices[, measuring less than four inches from the sealed source storage position to any [exterior] external surface of the device[, shall not produce a radiation level in excess of 50 milliroentgens per hour at least six inches from any [exterior surface] point on the external surface of the device.

2. Radiographic-exposure devices measuring a minimum of four inches from the sealed source storage position to any [exterior] external surface of the device[, and all storage containers for sealed sources or for radiographic-exposure devices[, shall not produce [a] radiation [level] levels in excess of 200 milliroentgens per hour at any [exterior surface,] point on the exter-

nal surface and 10 milliroentgens per hour at one meter from any [exterior] point on the external surface.

3. The radiation levels specified in [paragraphs] 1 and 2 above [of this subsection] are with the sealed source in the shielded[, or[, “off”[,] position.

(b) (No change.)

(c) Each [radiograph] radiographic-exposure device and each storage container shall be provided with a lock or outer locked container designed to prevent unauthorized or accidental removal of a sealed source or its change from a shielded to an unshielded position. All ionizing radiation-producing machines, radiographic-exposure devices and storage containers shall be kept locked at all times except when under the direct surveillance of a radiographer or of a radiographer’s assistant or as provided in [Section 17.5(a) (Precautionary procedures in radiographic operations of this Chapter) N.J.A.C. 7:28-17.6(a).

(d) Locked radiographic-exposure devices and storage containers shall be physically [secure] secured to prevent tampering or removal by unauthorized personnel.

(e) The owner shall maintain sufficient calibrated and operable radiation-survey instruments to make physical radiation surveys as required by [Section 17.5(c) (Precautionary procedures in radiographic operations) of this Chapter] N.J.A.C. 7:28-17.6(c) and by [Subchapter 7 (Radiation Surveys and Personnel Monitoring) of this Chapter] N.J.A.C. 7:28-7. The requirements for the radiation-survey instruments are as follows:

1. [Calibration of each] Each radiation-survey instrument shall be [checked] calibrated at intervals not to exceed three months and the instrument shall be recalibrated after each servicing involving other than battery replacement. An operational check source test shall be performed on each radiation-survey instrument prior to its use.

2. Records shall be maintained of [the latest] each date of calibration and [of the dates of succeeding checks] the operational check source test results.

3. (No change.)

(f) The replacement of any sealed source fastened to or contained in a radiographic-exposure device and leak testing, repair, tagging, opening or any other modification of any sealed source shall be performed only by persons specifically authorized by the Department, a Federal agency or any [other] Agreement state.

(g) (No change.)

(h) Requirements regarding [the] any leaking [sources] sealed source shall be as follows:

1. Any test conducted pursuant to [subsection (f) of this Section] (g) above which reveals the presence of 0.005 microcuries or more of removable radioactive material shall be considered evidence that [the] a sealed source is leaking.

2. The owner shall immediately withdraw [the equipment involved] any leaking sealed source above from use and shall cause it to be decontaminated and repaired in accordance with [subsection (e) of this Section,] (f) or to be disposed of in accordance with [Subchapter 11 (Disposal of Radioactive Materials) of this Chapter] N.J.A.C. 7:28-11.

3. Within five working days after obtaining results of the test performed pursuant to (g) above, a report shall be filed with the Department describing the equipment involved, the test results, and the corrective action taken.

(i) (No change.)

(j) Each owner shall conduct [a quarterly physical inventory to account for all sealed sources received and possessed. The records of the inventories shall be maintained for inspection by the Department, and shall include the quantities and kinds of radioactive materials, location of sealed sources, and the date of

ENVIRONMENTAL PROTECTION

PROPOSALS

the inventory.] **an ongoing inventory and keep a written record of each sealed source that is received, possessed, and used. This record shall include the date of receipt of each sealed source, the identity and quantity of the radioactive material contained within each sealed source, the date and to whom each sealed source is assigned and of the location at which each sealed source is to be used, the date that each sealed source is returned for storage at the owner's facility, the date that the source is returned for replacement, and the date of calibration.**

(k) Each owner shall maintain current logs, which shall be kept available for inspection by the Department at the address specified in the license, showing for each radiation source the following information:

1. A description, or make and model number of the **ionizing** radiation-producing machine, or of the radiographic-exposure device or storage container in which the sealed source is located; 2-3. (No change.)

(l) **Each owner conducting industrial radiography at a temporary job site shall make the following records available at that site for inspection by the Department:**

1. A copy of the owner's current license to possess or use radioactive materials issued by the Department pursuant to N.J.A.C. 7:28-4.

2. A copy of the owner's current registration of a radioactive material or ionizing radiation - producing machine issued by the Department pursuant to N.J.A.C. 7:28-3;

3. A copy of the owner's current license to possess or use radioactive materials issued by the United States Nuclear Regulatory Commission;

4. A copy of the owner's operating and emergency procedures prepared pursuant to N.J.A.C. 7:28-17.5(d);

5. A copy of N.J.A.C. 7:28;

6. Survey records required pursuant to N.J.A.C. 7:28-17.6(c) for the period of operation at the site;

7. Daily pocket dosimeter records for the period of operation at the site required to be made pursuant to N.J.A.C. 7:28-17.5(e)2;

8. A copy of the latest instrument calibration and the original log of daily instrument operational check source test results for the specific devices in use at the site required to be made pursuant to (e)1 and 2 above; and

9. A copy of the record of leak test results made pursuant to (g)4 above.

7:28-[17.4] **17.5 Personal radiation safety requirements for radiographers**

(a) The owner shall not permit any person to act as a radiographer until such person:

1. Has been instructed by a **qualified individual** in the subjects outlined in [subsection] (b) **below**[of this Section.] and has demonstrated an understanding of those subjects by **passing a written examination given by a qualified individual**;

2. Has received copies of and instruction in the applicable sections of this Chapter and the owner's operating and emergency procedures **required pursuant to (d) below**, and demonstrated an understanding of this Chapter and the procedures **specified therein**; and

3. Has demonstrated competence to use the **ionizing** radiation-producing machines, radiographic-exposure devices, sealed sources, related handling tools and survey instruments which will be employed in his assignment.

(b) The outline of the course for radiographer's training is as follows:

1. Fundamentals of radiation safety:

i. (No change.)

ii. Units of radiation dose and quantity[;] of radioactivity;

iii. (No change.)

iv. Levels of radiation from **ionizing** radiation-producing machines and radioactive materials;

v. Methods of controlling radiation dose:

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

2. Radiation detection instrumentation to be used:

i. Use of **ionizing** radiation survey instruments:

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

ii.-iii. (No change.)

3. Radiographic equipment to be used:

i. [Radiation] **ionizing radiation**-producing machines;

ii. Radiographic-exposure devices;

iii-iv. (No change.)

4.-5. (No change.)

(c) The owner shall not permit any person to act as a radiographer's assistant until such person:

1. Has received copies of and instruction in the owner's operating and emergency procedures, **required pursuant to (d) below**, and has demonstrated an understanding of the procedures; and

2. Has demonstrated competence to use under the personal supervision of the radiographer the **ionizing** radiation-producing machines, radiographic-exposure [device] **devices**, sealed sources, related handling tools and radiation-survey instruments which will be employed in his assignment[.]; and

3. **Has been instructed by a qualified individual in the subjects outlined in (b) above, and has demonstrated an understanding of those subjects by written examination given by a qualified individual.**

(d) The owner shall [draw up] **prepare** written operating and emergency procedures[,] which shall include instructions in at least the following:

1. The handling and use of **ionizing** radiation-producing machines, sealed sources and radiographic-exposure devices to be employed such that no person is likely to be exposed to radiation doses in excess of the limits established in [Subchapter 6 (Permissible Dose Rates, Radiation Levels and Concentrations) of this Chapter] N.J.A.C. 7:28-6;

2.-3. (No change.)

4. Methods and occasions for locking and securing **ionizing** radiation-producing machines, radiographic-exposure devices, storage containers and sealed sources;

5. (No change.)

6. Transporting sealed sources to field locations, including packing of radiographic-exposure devices and storage containers in the vehicles, posting of vehicles, and control of the sealed sources during transportation;

7.-9. (No change.)

(e) The owner shall not permit any person to act as a radiographer or as a radiographer's assistant unless, at all times during radiographic operations, each such person shall wear a film badge and either a pocket dosimeter or pocket chamber. **The requirements for the use of film badges, pocket dosimeters, and pocket chambers are as follows:**

1.-5. (No change.)

7:28-[17.5] **17.6 Precautionary procedures in radiographic operations**

(a) During each radiographic operation the [radiographic] **radiographer** or radiographer's assistant shall maintain a direct surveillance of the operation to protect against unauthorized entry into a high radiation area, [as defined in Section 1.4 (Definitions) of this Chapter] except as follows:

1. Where the high radiation area is equipped with a control device which shall either cause the level of radiation to be re-

PROPOSALS

Interested Persons see Inside Front Cover

ENVIRONMENTAL PROTECTION

duced below that at which an individual might receive a dose of 100 millirems in one hour upon entry into the area, or shall energize a conspicuous visible [or] and audible alarm signal in such a manner that the individual entering and the owner or the supervisor of the activity are made aware of the entry; or

2. (No change.)

(b) Notwithstanding any provisions in [Section 10.8 (Exceptions from posting and labeling requirements) of this Chapter] N.J.A.C. 7:28-10.8, areas in which radiography is being performed shall be conspicuously posted as required by [Section 10.2 (Radiation areas) and 10.3 (High radiation areas) of this Chapter] N.J.A.C. 7:28-10.2 and 7:28-10.3.

(c) No radiographic operation shall be conducted unless calibrated and operable ionizing radiation-survey instrumentation as described in [Section 17.3(d) (Equipment Control) of this Chapter] N.J.A.C. 7:28-17.4(e) is available and used at each site where radiographic exposures are made. In addition to the requirements of [Subchapter 7 (Radiation Surveys and Personnel Monitoring) of this Chapter] N.J.A.C. 7:28-7, radiation surveys shall be made and recorded as follows:

1. Physical radiation surveys shall be made as necessary during radiographic exposures to determine compliance with [Subchapter 6 (Permissible Dose Rates, Radiation Levels and Concentrations) of this Chapter] N.J.A.C. 7:28-6.

2. (No change.)

3. After radiographic operations employing a sealed source or sources have been completed, a physical radiation survey shall be made to determine that each sealed source is in its shielded condition prior to securing the radiographic-exposure device and storage container as specified in [Section 17.3(b) and (c) (Equipment control) of this Chapter] N.J.A.C. 7:28-17.4(a) and (c).

4. Clear and legible records shall be kept of the surveys that are required by [paragraphs](e) 1 and 3 above [of this subsection,] and maintained for inspection by the Department.

7:28-17.7 Cabinet x-rays systems

(a) No person shall operate or permit the operation of a cabinet x-ray system unless such system meets the requirement of N.J.A.C. 7:28-17.1, 7:28-17.2, 7:28-17.3, and 7:28-17.7.

(b) No person shall operate or permit any other person to operate a cabinet x-ray system until the operator has received a copy of the operator's manual, has been trained in the operating procedures for the system, and has demonstrated competence in operating the system. The owner shall maintain a copy of the operator's manual in the proximity of the system.

(c) Each owner shall supply appropriate personnel monitoring equipment to and shall require that it be used by every individual who operates, makes "set-ups", or performs maintenance on a cabinet radiography unit.

(d) Radiation emitted from the cabinet x-ray system shall not exceed an exposure of 0.5 milliroentgen in one hour at any point five centimeters outside the external surface.

(e) No cabinet x-ray system shall be placed into operation until a radiation survey is made by a qualified individual demonstrating that the exposure level in (d) above is not exceeded. Where an operating system is subsequently modified, repaired or moved to a new location an additional survey shall be performed, and operation shall not resume until a survey demonstrates compliance with this limit. The owner shall perform such additional surveys as required by the Department or as determined by a qualified individual. The owner shall maintain a record of all surveys performed and shall make such records available to the Department for inspection.

(f) Safety interlocks shall be provided on cabinet x-ray systems as follows:

1. Each door of a cabinet x-ray system shall have a minimum of two safety interlocks installed in such a manner that the opening of any door would disconnect the energy supply circuit to the high-voltage generator.

2. Each access panel on a cabinet x-ray system shall have at least one safety interlock.

3. Following interruption of x-ray generation by the functioning of any safety interlock, a manually reset control button shall be activated before x-ray generation can resume.

4. Failure of any single component of the cabinet x-ray system shall not cause failure of more than one required safety interlock.

5. Safety interlocks shall be tested for operation at intervals not to exceed six months. A record of these tests shall be maintained for inspection by the Department.

(g) A cabinet x-ray system shall have a permanent floor. Any support surface to which a cabinet x-ray system is permanently affixed may be deemed the floor of the system.

(h) Warning labels shall be provided on cabinet x-ray systems and shall meet the following requirements:

1. There shall be permanently affixed or inscribed on the cabinet x-ray system at the location of any controls which can be used to initiate x-ray generation a clearly legible and visible label bearing the statement or words having a similar meaning: "CAUTION: X-RAYS PRODUCED WHEN ENERGIZED"; and

2. There shall be permanently affixed or inscribed on the cabinet x-ray system adjacent to each port a clearly legible and visible label bearing the statement or words having a similar meaning: "CAUTION: DO NOT INSERT ANY PART OF THE BODY WHEN SYSTEM IS ENERGIZED: X-RAY HAZARD".

(i) All cabinet x-ray systems shall be provided with the following controls and indicators:

1. A key-actuated control to insure that x-ray generation is not possible with the key removed;

2. A control button or control switch to initiate and terminate the generation of x-rays other than by the functioning of a safety interlock or the main power control;

3. A warning light at the control button or control switch that indicates when and only when x-rays are being generated. This light shall be clearly labeled with the words: "X-RAY ON";

4. A warning light which indicates when and only when x-rays are being generated. This warning light shall be visible from each door, access panel, and port and shall be clearly labeled with words: "X-RAY ON".

5. A meter which indicates the kilovoltage and current during the generation of x-rays at each x-ray control button or control switch unless the x-ray tube current is preset.

(j) Cabinet x-ray systems designed primarily for the inspection of carry-on baggage at airline, railroad, and bus terminals, and similar facilities, shall be provided with means to insure that an operator is present at the control area in a position which permits surveillance of the ports and doors during the generation of x-radiation as follows:

1. During an exposure or preset succession of exposures of one-half second or greater duration, the system shall contain a mechanism to enable the operator to terminate the exposure or preset succession of exposures at any time.

2. During an exposure or preset succession of exposures of less than one-half second duration, there shall be a mechanism provided to allow completion of the exposure in progress but shall enable the operator to prevent additional exposures.

ENVIRONMENTAL PROTECTION

PROPOSALS

7:28-17.8 Shielded room radiography

(a) No person shall operate or permit the operation of any ionizing radiation-producing machine, radiographic-exposure device, or sealed source used in shielded room radiography unless the equipment, installation, and personnel meet the requirements of N.J.A.C. 7:28-17.1 through 7:28-17.6 and 7:28-17.8.

(b) No person shall operate or permit any person to operate an ionizing radiation-producing machine, radiographic-exposure device, or sealed source used in shielded room radiography until such operator has completed the following requirements:

1. The operator has met the requirements of N.J.A.C. 7:28-17.5;
2. The operator has received a copy of and instruction in N.J.A.C. 7:28-1 through 7:28-13 and 7:28-17 and a copy of the owner's operating and emergency procedures as required by N.J.A.C. 7:28-17.5(d) and has demonstrated an understanding of the procedures and regulations by written examination given by a qualified individual; and
3. The operator has demonstrated competence to operate appropriate safety systems.

(c) Each owner shall supply appropriate personnel monitoring equipment and shall require that it be used by every individual who operates, makes "set-ups", or performs maintenance on an ionizing radiation-producing machine, radiographic device, or sealed source used in shielded room radiography.

(d) The enclosed room in which shielded room radiography is conducted shall be shielded so that no location on the exterior exceeds the radiation levels and limits established in N.J.A.C. 7:28-6. No industrial radiography shall be conducted in a shielded room until a radiation survey is first made to insure compliance with these radiation levels and limits. A record of this survey shall be maintained and a copy shall be available for inspection by the Department.

(e) No person shall enter an enclosed room in which shielded room radiography is performed until after a physical radiation survey is conducted to determine whether the ionizing radiation producing machine is off or the radiographic-exposure device or the sealed source is in the shielded or "off" position. A record shall be maintained of the date and exposure rate measured for each physical radiation survey and shall be made available for inspection by the Department.

(f) The radiation surveys required in (d) and (e) above shall be made with a radiation survey instrument measuring radiation at the energies and at the exposure rates to be encountered. This instrument shall have an operational check source test conducted prior to each use and shall be calibrated at intervals not to exceed one year and shall be recalibrated after each servicing other than a battery replacement. Records shall be maintained of each date of calibration and the daily operational check and shall be made available for inspection by the Department.

(g) Adequate methods shall be provided to restrict the access of personnel and the public to any and all shielded room radiography areas to prevent the exposure of any person to radiation in excess of the level limits of N.J.A.C. 7:28-5, 7:28-6 and 7:28-17. No person is permitted to remain within the enclosed room where shielded room radiography is being performed.

(h) All ionizing radiation-producing machines, radiographic-exposure devices, and sealed sources used in shielded room radiography and all objects exposed thereto shall be confined within an installation or structure designed or intended for radiography and in which radiography is regularly performed in accordance with the following requirements:

1. A reliable interlock or other mechanism shall be installed at each means of access to the shielded room which will turn off the

source(s) of radiation if a person tries to enter or open the door to the shielded room.

2. A door-fastening mechanism shall be installed so that the door to the shielded room can be opened from the inside at all times in case of emergency.

3. A visible and audible signal alarm system shall be installed within the shielded room which will be actuated at a reasonable length of time before the power to the radiation source can be activated which enables persons in the vicinity of the shielded room to take appropriate protective actions.

4. One or more scram or emergency buttons shall be installed at a highly visible and easily accessible location or locations within the shielded room that will terminate the power to the source of radiation. This scram or emergency button shall be installed so that it shall require manual resetting before the power to the source of radiation can be reactivated.

5. Each source of radiation used in shielded room radiography shall be provided with a lock at the control panel to prevent unauthorized use of the source.

6. If more than one source of radiation is used in the same shielded room, all such sources of radiation shall meet the requirements of 1-5 above.

(a)

Medical Exposure to Ionizing Radiation by Radiologic Technologists

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

Authority: N.J.S.A. 13:1D-7 and 26:2D-7, and specifically 26:2D-24 et seq., as amended by P.L. 1984, c.242.

DEP Docket No. 630-85-65.

Proposal Number: PRN 1985-365.

A public hearing concerning this proposal, and proposed amendments to N.J.A.C. 7:28-1 and 17 (General Provisions and Industrial and Non-Medical Radiology) appearing in this Register, will be held on:

July 17, 1985 at 4:00 P.M.
New Jersey State Museum Auditorium
205 W. State Street
Trenton, New Jersey

Submit comments by July 31, 1985 to:

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

The agency proposal follows:

Summary

The Radiologic Technologist Act, N.J.S.A. 26:2D-24 et seq., was amended by P.L. 1984, c.242 to provide for the licensing of podiatric x-ray technologists by the Radiologic Technology Board of Examiners. The practice of podiatric x-ray technologists is limited to the use of radiologic technology to the

PROPOSALS

Interested Persons see Inside Front Cover

HEALTH

leg and foot area for diagnostic purposes only. Currently, the licensing rules provide for the licensing of radiation therapy technologists whose application of radiation on human beings is for therapeutic purposes and diagnostic x-ray technologists whose application of radiation on human beings is for diagnostic purposes. This proposal adds the limited specialty of podiatric x-ray technologists to the limited specialties of chest x-ray and dental x-ray technologists already regulated by the Department. The reason for this is that the practice of podiatric x-ray technology has increased dramatically over the past few years. Therefore, amending these rules to include the education and training of technologists in this field is warranted.

In order to implement this program for podiatric x-ray technologists, the Commission has a defined "podiatric x-ray technologist" in N.J.A.C. 7:28-19.2 and has added this specialty to the licensing procedure in N.J.A.C. 7:28-19.4. The scope of practice explained in N.J.A.C. 7:28-19.6 was determined by the Radiologic Technology Board of Examiners after discussion at their meeting held on March 7, 1985. The general provisions of N.J.A.C. 7:28-19.3 have been expanded and minor changes have been made to N.J.A.C. 7:28-19.9 and 10 to include the requirements for podiatric x-ray technologists.

Social Impact

A positive social impact is expected because better health care will be provided to the public by requiring specific educational qualifications for podiatric x-ray technologist, including the successful completion of a Board mandated curriculum in podiatric x-ray technology prior to admission to the licensing examination.

Economic Impact

Any additional expense incurred by the Department in implementing the revisions to the subchapter should be minimal since the administrative and technical support is already in place and is handled by the Bureau of Radiation Protection's Certification section, which is a fee supported program. Podiatric x-ray technologists, if they have not previously done so, will incur an expense for completing the Board mandated curriculum. They will also be required to pay the Department's examination and licensing fee which is estimated to be approximately \$30.00 per applicant.

Environmental Impact

The environmental impact should be positive because these amendments provide further assurance that exposure to medical ionizing radiation will be controlled by properly qualified people.

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

7:28-19.2 Definitions

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

"Podiatric x-ray technologist (LRT(P))" means a person, other than a licensed practitioner, whose practice of radiologic technology is limited to the operation of x-ray machines as used by podiatrists on the lower leg and foot area for diagnostic purposes only.

7:28-19.3 General Provisions

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

(g) The Board shall establish criteria and standards for programs of diagnostic, radiation therapy, dental [or], chest, or

podiatric x-ray technology and approve these programs upon findings that the standards and criteria have been met.

7:28-19.4 Licensure procedure

(a) (No change.)

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

1.-4. (No change.)

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

7:28-19.6 Practice of radiologic technology

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

(e) The practice of podiatric x-ray technology shall include patient measurement, proper positioning, selecting adequate technique factors on control panel, demonstrating anatomy as requested by physician, selecting proper distance, exercising proper principles of radiation protection and making x-ray exposures. The application of x-rays to a human being by podiatric x-ray technologists is restricted to the distal third (tibia/fibula) which shall include the ankle and foot area and shall not include the knee joint.

7:28-19.9 Program approval

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

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

(e)-(q) (No change.)

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

(a) (No change.)

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

1.-2. (No change.)

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

HEALTH

(a)

HEALTH AND SERVICES

Recognized Public Health Activities and Minimum Standards of Performance for Local Boards of Health in New Jersey

Proposed Readoption as a New Rule: N.J.A.C. 8:51-1

Proposed Readoption: N.J.A.C. 8:51-2 through 6

HEALTH

PROPOSALS

Authorized by: Evelyn Geddes, Chairperson, State
Public Health Council.
Authority: N.J.S.A. 26:1A-15.
Proposal Number: PRN 1985-354.

Submit comments by August 1, 1985 to:
Dennis P. McDonough, M.P.H.
Acting Chief
Health Aid Services Program
CN 364
Trenton, New Jersey 08625

Pursuant to Executive Order No. 66 (1978), the expired rule, N.J.A.C. 8:51-1, becomes effective upon publication in the Register of a notice of adoption. The readoption of the existing rules, N.J.A.C. 8:51-2 through 6, becomes effective upon acceptance for filing by the Office of the Administrative Law of a notice of readoption.

The agency proposal follows.

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 8:51-1 expired on October 1, 1981 and is being proposed for readoption as a new rule. N.J.A.C. 8:51-2 through 6 expire on August 31, 1985 and are also being readopted. N.J.A.C. 8:51-7, concerning child lead poisoning, is not affected by this readoption because it was promulgated prior to the effective date of Executive Order No. 66, has not been amended since then and therefore has not been assigned an expiration date.

The Department of Health has reviewed the regulations and has found them to be necessary, adequate, reasonable and proper for their originally intended purpose.

N.J.A.C. 8:51-1 through 8:51-6, Recognized Public Health Activities and Minimum Standards of Performance for Local Boards of Health, represent the minimum activities necessary for the protection of the public health from: communicable diseases such as tuberculosis and rabies; the inspection of food establishments and public bathing places for health and safety considerations, preventive health services such as immunizations for infants and preschool children, screening and health education for the early detection and prevention of cervical, breast, and colorectal cancers and hypertension; and other program areas.

N.J.A.C. 8:51-1 through 8:51-6 is divided into those program activities that are mandated or "core" for every local health department and those activities that are elective. The "core" activities are considered necessary to protect the health and safety of New Jerseyans and serve as the base of all local health programs.

N.J.S.A. 8:51-2.1 through 2.8 addresses Administration of local health departments, the provision of Health Education, Laboratory and Public Health Nursing Services, the maintenance of Vital Records and Statistics, and the delivery of Emergency Medical, Migrant Health and Social Work Services.

N.J.S.A. 8:51-3.1 through 3.10 identifies Environmental Health program activities including Bathing Places, Youth Camps, Food Surveillance, Mobile Home Parks and Campgrounds as "core" activities.

N.J.A.C. 8:51-4.1 through 4.5 mandates programs in the area of Communicable Diseases to include Rabies and Tuberculosis Control, Venereal Diseases, Immunizations, and control of Acute Communicable Diseases.

N.J.A.C. 8:51-5.1 through 5.8 deals with Maternal and Child Health programs of which Infants and Preschool Children, Lead Poisoning and Boarding Homes are mandated activities.

N.J.A.C. 8:51-6.1 through 6.17 lists program services in the area of Chronic Illness. Of the seventeen listed activities, Cancer Services, Diabetes Services and Heart and Circulatory Disease Services are mandated activities.

The Public Health Council proposes to readopt the existing standards until such time as a revision, which is now in process, is completed.

Social Impact

The contents of N.J.A.C. 8:51-1 through 8:51-6 have reflected the recommendations of the State Commissioner of Health and the Public Health Council for those public health activities considered crucial to minimize and prevent the spread of communicable diseases and to address the leading causes of illness and death in the State of New Jersey. As the front line of public health efforts, local health departments have conducted as comprehensive a program as possible to improve the health of New Jersey's citizens. Failure to readopt these standards would unquestionably result in an increase in communicable diseases such as tuberculosis and venereal diseases, as well as childhood diseases in unimmunized children. Failure to conduct cancer screening programs would likely result in the detection of cancers in later stages when treatment is much more costly and not as effective.

The readoption of Recognized Public Health Activities and Minimum Standards of Performance for Local Boards of Health represents a vital component in maintaining, improving and promoting the health of New Jersey's citizens.

Economic Impact

The current standards have been in effect for the past five years and the readoption of these standards will not impose any additional economic impact on local health departments. The standards are being readopted without change and therefore do not require that local health departments hire new personnel or initiate new programs. While there is no question that these standards require the allocations of local resources in addition to State priority funding, the failure to provide preventive health services would be considerably greater in terms of hospitalization, treatment, morbidity and premature death.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:51-2 through 6.

Full text of the proposed readoption as a new rule follows.

NOTE: The FOREWORD which precedes Subchapter 1 is being deleted.

SUBCHAPTER 1. GENERAL PROVISIONS

8:51-1.1 General scope and applicability

(a) Local boards of health are required to establish and maintain a program of recognized public health activities and to meet the minimum standards of performance for each activity. The recognized activities are classified as follows:

1. Core: Core activities are designated as mandatory; these are considered the public health common denominators for all municipalities. A waiver may be granted for a core activity if a definite lack of need can be documented by the local board of health to the satisfaction of the pertinent State agency.

2. Elective: All recognized public health activities, other than those designated core, are deemed elective on the part of the local board of health. Depending upon needs and resources available, local boards of health which provide one or more elective recognized health activities are urged to meet the standards listed on each activity undertaken. However, local boards of health must meet all standards for each activity selected

PROPOSALS

Interested Persons see Inside Front Cover

HIGHER EDUCATION

within two years from the effective date of this revision or the date of initial implementation if the activity is started after the effective date of this revision.

(b) All New Jersey statutes relating to public health and the State Sanitary Code are hereby included and made a part of the Recognized Public Health Activities and Minimum Standards of Performance for Local Boards of Health in New Jersey. No such minimum standard shall be construed as:

1. Authorizing a lesser standard than that prescribed by said statutes or Code or other regulation imposed by a properly authorized agency.

2. Empowering or requiring a local health agency to act in matters solely under the jurisdiction of a State, county or municipal agency.

(c) A core or elective recognized public health activity meeting the minimum standards prescribed herein below may be planned and provided by the local board of health or by a person or agency under contract to the board. Personnel employed by, or under contract to, a local board of health must be licensed as required by law or qualified to the satisfaction of the pertinent State agency to carry out the minimum standards of performance for the recognized public health activities.

1. Personnel requirements for the activity "Provide public health nursing services" are satisfied when the program is administered by:

i. A public health nurse director who is a registered professional nurse currently licensed in New Jersey and who has:

(1) Completed a Master's Degree program accredited by the National League for Nursing with a nursing major in supervision, teaching, consultation or administration and advanced study in a clinical specialty; or has completed a Master's program in public health in an institution accredited by the American Public Health Association; and

(2) Five years of experience in public health nursing, one year of which shall have been a supervisory experience; or

ii. A public health nurse supervisor who is a registered professional nurse currently licensed in New Jersey and who has:

(1) Completed a baccalaureate degree program approved by the National League for Nursing for public health nursing preparation or post-baccalaureate study which includes content approved by the National League for public health nursing preparation; and

(2) Three years of experience in public health nursing under qualified nursing supervision.

2. Personnel requirements for the activity "Administer a planned health education program" are satisfied when the program is administered by:

i. A full-time employee who has a degree of Masters of Public Health in health education, or its equivalent, e.g. a Master of Arts in community health education from an accredited program; or

ii. A full-time employee with a bachelors degree, preferably in community health education, who receives part-time direction from a person with a Masters degree (see above). If efforts, satisfactory to the State Department of Health, made to employ or contract for this part-time person are not successful, the local health agency may receive guidance in health education from the State Department of Health until such time that this person can be obtained.

(d) A local official body, agency, or department, other than the local board of health, which has the responsibility for and administers any recognized public health activity must comply with the minimum standards of performance for that activity to the satisfaction of the pertinent State agency.

(e) Local boards of health retain responsibility to provide the following public health activities under direction of the Department of Environmental Protection: air pollution, water pollution, noise pollution, and solid waste (C.26:3A2-21 et al.).

1. The standards for these activities will be promulgated by the Department of Environmental Protection and will no longer appear in the "Recognized Public Activities and Minimum Standards of Performance for Local Boards of Health" published by the Department of Health.

(f) This document will be revised within three years following the effective date of this revision.

8:51-1.2 Definitions and requirements

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

"Full-time health officer" means a holder of a license as a health officer issued by the State Department of Health and who is employed by a local board of health to function during all the working hours of the regularly scheduled workweek of the governmental unit to which the local health agency is attached and not regularly employed during the working hours of that scheduled workweek in other activities for which he receives remuneration.

"Local board of health" means the board of health as defined in N.J.S.A. 26:1A-1 and N.J.S.A. 26:3-1, and shall be the enforcement, policy and rule-making body with respect to Local Health Services provided by local health agencies under N.J.S.A. 26:3A-2-1 et seq.

"Local health agency" means a municipal, county, regional or other governmental agency conducting a public health program pursuant to law.

"Pertinent State agency" means that governmental entity charged by law with the responsibility for a particular public health program that is not within the primary authority of the State Department of Health, but is acknowledged by the Public Health Council as a "recognized public health activity".

"Secretary." Every local board of health shall appoint a secretary who shall keep accurate records of all official actions of said board and perform such other duties as may be assigned by that board. A full-time health officer or other person in the employ of any jurisdiction may be appointed as the secretary of the local board of health.

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

Alternate Benefit Program

Proposed Amendment: N.J.A.C. 9:2-4.1

Authorized by: Board of Higher Education, T.

Edward Hollander, Chancellor and Secretary.

Authority: N.J.S.A. 18A:66-170 and 18A:66-172.

Proposal Number: PRN 1985-350.

HIGHER EDUCATION

PROPOSALS

Submit comments by July 31, 1985 to:
 Grey J. Dimenna, Esq.
 Administrative Practice Officer
 Department of Higher Education
 225 West State Street
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

Full-time employees of public institutions of higher education and the Department of Higher Education are eligible to participate in the Alternate Benefit Program, N.J.S.A. 18A:66-168 et seq. P.L. 1984, c. 200 recently expanded those categories of employees who are eligible to participate in the program. Under P.L. 1984 c. 200, the Board of Higher Education is given authority to determine eligible positions for the program. The proposed amendment expands the positions at the public colleges and universities which are eligible to participate in the program.

Social Impact

The amendment will allow a greater number of the professional staff at New Jersey's public colleges and universities to participate in the Alternate Benefit Program, N.J.S.A. 18A:66-168 et seq.

Economic Impact

As all full-time public employees are members of a retirement system, the proposed amendment will not serve to place employees within a retirement system where the employee previously was not a member of a system but shall result in more employees within the Alternate Benefit Program and fewer employees in the other public retirement systems.

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

9:2-4.1 General provisions

(a) [Effective July 1, 1973, the following full-time] **Full-time** members of the faculty and administrative staffs, **as set forth below**, of the [College] **University of Medicine and Dentistry of New Jersey, Rutgers, the State University, the New Jersey Institute of Technology, the [State] state colleges and the county [community] colleges [appointed to positions as follows] are eligible to participate in the alternate benefit program under [chapter 242, Public Law 1969(] N.J.S.A. 18A:66-167 et seq.[.)]:**

1. All officers, such as, president, vice president, secretary and treasurer;

2. All members of the faculty, such as dean, associate dean, assistant dean, professor, associate professor, assistant professor, instructor, assistant instructor and distinguished service professor;

3. All librarians;

4. All academic counselors;

5. All directors, associate directors, [and] assistant directors [in the following areas or functions] **or their equivalents**, providing that those holding such titles serve in applicable [academic] positions **as set forth in (b) below**;

[i. Academic planning;

ii. Admissions;

iii. Adult, evening or continuing education;

iv. Evaluation, psychological counseling and student services;

v. Financial aid;

vi. Grant and scholarship programs;

vii. Placement;

viii. Registrar;

ix. Scheduling;

x. Student teaching;

xi. Publications and grants.]

6. Administrative personnel directly in contact with and related to the academic performance of the students and the institution;

7. Administrative personnel who play an integral part in the policy determinations of the institutions;

8. Administrative and research personnel who perform work which requires knowledge of an advanced nature in a field of science, technology or other area of specialized study and are commonly recruited from among individuals with experience in higher education.

(b) [The following guideline shall be used as a basis to determine whether specific full-time positions under the above categories, or their equivalents, are to be considered as applicable academic positions. Individuals will be considered to be in an applicable academic position if prospective employees for the position are commonly recruited from among individuals with experience in higher education; and they are:

1. Teaching faculty;

2. Officers of the institutions;

3. Administrative personnel directly in contact with and related to the academic performance of the students and the institution;

4. Administrative personnel who play an integral part in the policy determinations of the institutions.]

Eligibility to participate in the alternate benefit program by those employees within the category set forth in (a) 5, above shall be limited to employees in the titles stated therein or positions of equivalent authority and responsibility who are commonly recruited from among individuals with experience in higher education. Except for those employees eligible under (c) below, no employees employed in a clerical or below the level of director in a maintenance or security position shall be eligible to participate in the alternate benefit program.

(c) **Any eligible person who has been enrolled in the alternate benefit program for at least one year may continue to be enrolled in the program, notwithstanding promotion or transfer to a position within the institution not otherwise eligible for the program.**

(d) **Any employee of an eligible institution who has previously been denied eligibility for participation in the alternate benefit program who is currently eligible for participation in the alternate benefit program under this subchapter shall be granted until January 1, 1986 to apply for eligibility to participate in the alternate benefit program.**

[(c)] (e) [That in] **In** the case of questions arising from the application of the guidelines, the Board of Higher Education hereby delegates responsibility to determine eligibility for participation in the alternate benefit program to the Chancellor of Higher Education in consultation with the employing institution and the Division of Pensions.

(f) **The eligibility restrictions set forth in this section shall not apply to any individuals participating in the program pursuant to the provisions of N.J.S.A. 18A:64A-72.**

[(d)] (g) [That the] **The** holders of the following positions or their equivalent in the Department of Higher Education shall be eligible to participate in the alternate benefit program:

1. Chancellor;

2. Vice Chancellor;

3. Assistant Chancellor;

4. Deputy Assistant Chancellor;

5. Special Assistant;

6. Executive Assistant;

PROPOSALS

Interested Persons see Inside Front Cover

HUMAN SERVICES

- 7. Confidential Agent;
- 8. Director;
- 9. Associate Director;
- 10. Assistant Director;
- 11. Program Officer;
- 12. Program Assistant;
- 13. Program Specialist;
- 14. Administrative Assistant;
- 15. Administrative Services Assistant;
- 16. Evaluation Analyst;
- 17. Project Coordinator, Computer Planning and Information Systems;
- 18. Program Development Specialist;
- 19. Management Compliance Officer;
- 20. Project Specialist;
- 21. Coordinator, Veteran's Programs;
- 22. Assistant Coordinator, Veteran's Programs;
- 23. Supervisor, Processing Services;
- 24. Special Projects Officer;
- 25. Fiscal Analyst;
- 26. Graduate Program Coordinator;
- 27. Supervisor, Program Analysts.

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Transportation Services Manual Basis of Payment

Proposed Amendments: N.J.A.C. 10:50-1.5 and 1.6

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4D-6b(15), 7, 7a, 7b; 42 CFR
431.53, 42 CFR 440.170(a).
Proposal Number: PRN 1985-358.

Submit comments by July 31, 1985 to:
Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN 712
Trenton, NJ 08625

The agency proposal follows:

Summary

This proposal concerns reimbursement for Medicaid providers who provide ambulance and/or invalid coach services to Medicaid patients.

The transportation charge for ambulance service is currently \$24.00 for a one-way trip. The proposed increase will raise this amount to \$30.00. For invalid coach services, the current trans-

portation charge is \$17.00. The proposed increase will raise this figure to \$20.00 for a one-way trip.

The mileage charge is being increased from \$.80 to \$1.00 per loaded mile for both ambulance and invalid coach services.

It should be noted that states are required to assure necessary transportation to and from providers of medical services pursuant to the federal regulations cited above.

Please note that a proposed amendment to N.J.A.C. 10:50-1.5 and 1.6 appeared in the June 3, 1985 New Jersey Register at 17N.J.R. 1373(d). The proposed changes have been incorporated in this proposal but may be adopted at an earlier date than those having to do with the increased reimbursement being proposed herein.

Social Impact

This proposal should assist Medicaid patients in obtaining necessary transportation to obtain medical care and treatment. Prior authorization for transportation is required from the Medicaid District Office, except for ambulance service.

The proposal also impacts on providers of transportation services, but the impact is economic rather than social.

Economic Impact

Medicaid patients are not required to pay for the cost of transportation services.

The estimated cost of the proposed fee increase is approximately \$1,600,000 (federal and state share combined). It is anticipated that a part of this increase may be offset by the expansion of lower mode transportation services.

The economic impact on providers will vary, depending on the number of Medicaid patients that are transported.

Full text of the proposal follows (additions indicated in bold-face **thus**; deletions indicated by brackets [thus]):

10:50-1.5 Basis of Payment

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

(d) Ambulance service shall be reimbursed on the basis of customary charge, not to exceed the following maximums:

- 1. Transportation charge, one way - [\$24.00;] **\$30.00;**
- 2. Transportation charge, round trip - [\$48.00.] **\$60.00.**

i. A carrier when performing round-trip services shall be responsible for completing each round-trip obligation by honoring the return trip if occurring within 24 hours from the original pickup time. This responsibility is interpreted to include the carrier's guarantee that if he does not perform the return trip himself that arrangements are to be made with another transportation company to do so with no additional expense to the Medicaid program.

3. Mileage, [\$0.80] **\$1.00** per loaded mile;

4. Waiting time: \$10.00 per hour maximum waiting time is payable only on one-way trips and only after 30 minutes has elapsed. It is payable in one-quarter hour increments, for example, one-quarter hour - \$2.50, one-half hour - \$5.00, 3/4 hour - \$7.50, and one hour - \$10.00.

(e) Invalid coach service shall be reimbursed on the basis of customary charge, not to exceed the following maximums: [(Exception: See (j) below.)]

- 1. Transportation charge, one way, [one] per patient - [\$17.00] **\$20.00;**
- 2. Transportation charge, round trip, [one] per patient - [\$34.00;] **\$40.00.**
- 3. Transportation charge, one way, each additional patient - \$14.00 per patient;]
- 4. Transportation charge, round trip, each additional patient - \$28.00 per patient.]

LAW AND PUBLIC SAFETY

PROPOSALS

i. The limit as to the number of patients being carried at one time is three. A carrier when performing round-trip services shall be responsible for completing each round-trip obligation by honoring the return trip if occurring within 24 hours from the original pickup time. This responsibility is interpreted to include the carrier's guarantee that if he does not perform the return trip himself that arrangements are to be made with another transportation company to do so with no additional expense to the Medicaid Program.

[5.] 3. Mileage, [\$0.80] **\$1.00** per loaded mile.

i. (No change.)

[6.] 4. (No change.)

(f)-(i) (No change.)

(j) The Medicaid Program has special [allowances] **condi-tions** for invalid coach services for patients receiving dialysis treatment[,] who require invalid coach transportation.

[1. Transportation charge, first patient, one way - \$14.00;]

[2. Transportation charge, first patient, round trip - \$28.00;]

[3. Transportation charge, additional patient, one way - \$11.00 per patient;]

[4. Transportation charge, additional patient, round trip - \$22.00 per patient.]

[i] 1. The Medicaid program does not pay for waiting time for patients transported to receive dialysis treatments.

[ii] 2. Prior authorization is required for invalid coach ser-vices for patients receiving dialysis treatment[,] ; however, ser-vices may be authorized for up to three calendar months at a time.

[iii.] 3. The Program limits the number of persons in a multi-ple load for dialysis treatments to four.

[iv. A carrier when performing round-trip services shall be responsible for completing each round-trip obligation honoring the return trip if occurring within 24 hours from the original pickup time. This responsibility is interpreted to include the carrier's guarantee that if he does not perform the return trip himself that arrangements are to be made with another trans- portation company to do so with no additional expense to the Medicaid program.]

Delete 5. and 6.

10:50-1.6 Transportation services; maximum allowable fees

(a) The following procedure codes, description and maximum allowances are recognized for reimbursement by the New Jersey Medicaid Program.

PROCEDURE CODES	DESCRIPTION	MAXIMUM ALLOWANCE
	[Ambulance]	
6101	Ambulance—One Way	[\$24.00] \$30.00
6102	Ambulance—Round trip	[\$48.00] \$60.00
	[Invalid coach—Non-dialysis patients:]	
6111	*Invalid coach—one way, [first] per patient	[\$17.00] \$20.00
6113	Invalid coach—round trip [first] per patient	[\$34.00] \$40.00
[6112	Invalid coach—one way, each [additional patient]	\$14.00 per patient]
[6114	Invalid coach—round trip, each [additional patient]	\$28.00 per patient]
	[Invalid coach—Dialysis patients]	
[6115	First patient, one way	\$14.00]
[6117	First patient, round trip	\$28.00]
[6116	Additional patient, one way	\$11.00]
[6118	Additional patient, round trip	\$22.00]
	[Mileage:]	
6103	Mileage—Ambulance	[\$ 0.80] \$1.00 per loaded mile
6103	*Mileage—Invalid coach	[\$ 0.80] \$1.00 per loaded mile
[6103	*Mileage—Dialysis patient	\$ 0.80 \$1.00 per loaded mile]

6109	Waiting time—Ambulance— One-way trip only:	
	1/4 hour	\$ 2.50
	1/2 hour	\$ 5.00
	3/4 hour	\$ 7.50
	1 hour	\$10.00
[6119	Oxygen 1/2 hour minimum	\$ 6.00 per 1/2 hour]
6110	Waiting time—invalid coach— One-way trip only:	
	1/4 hour	\$1.25
	1/2 hour	\$2.50
	3/4 hour	\$3.75
	1 hour	\$5.00
6119	Oxygen 1/2 hour minimum	\$6.00 per 1/2 hour

*Maximum of three patients for invalid coach at one time, except for patients transported to receive dialysis treatments where a maximum of four patients is allowed. Medicaid will pay mileage for only one patient in a multiple load from the farthest location to the destination (and back if a round trip). Provider must submit all claims for multiple-load patients together and certify on the claim forms that they are charging mileage only for the one patient who is being transported the farthest distance.

LAW AND PUBLIC SAFETY

(a)

BOARD OF BEAUTY CULTURE CONTROL

**General Rules and Regulations
Fee Schedule**

Proposed New Rule: N.J.A.C. 13:28-4.1

Authorized By: Board of Beauty Culture Control,
Bridget Damiano, President.

Authority: N.J.S.A. 45:4A-13 and N.J.S.A. 45:1-3.2
Proposal Number: PRN 1985-364.

Submit comments by July 31, 1985 to:

Richard G. Griswold
Executive Secretary
Board of Beauty Culture Control
1100 Raymond Boulevard
Newark, New Jersey 07102

The agency proposal follows:

Summary

The Board of Beauty Culture Control is proposing to adopt a schedule of fees which will enable it to meet its current operating expenses with funds derived from its revenues and to put the Board of Cosmetology and Hairstyling, which, pursuant to P.L. 1984, ch. 205, will succeed the Board on December 4, 1985, in a similar position. In accordance with N.J.S.A. 45:1-3.2, the increases have been found by the Board to be necessary to defray all proper expenses incurred by the Board as well as those that will be incurred by its successor in performance of the duties placed upon each by statute.

PROPOSALS

Interested Persons see Inside Front Cover

LAW AND PUBLIC SAFETY

Social Impact

The proposed fee schedule would necessarily have a direct impact on licensees and applicants for licensure, as well as shop owners. Pursuant to this new rule, licensees will be required to bear the costs of administrative services provided to them. Since these services are primarily of benefit to the licensees themselves, they are clearly the appropriate group to bear the cost. Additionally, there will be a positive impact upon the public since the proposed fee structure will ensure that the State will continue to require beauty shops and schools are operated in accordance with the public interest; and that applicants for licensure will meet appropriate minimum standards.

Economic Impact

Certainly, all licensees, applicants and holders of shop licenses will directly feel the economic impact of this new rule. The need for such increases, however, is evident. The fees currently charged have remained unchanged since 1953. During this period, of course, expenses have risen dramatically. Without the proposed increases, the Board anticipates revenue shortages which will impair its abilities to discharge its statutory responsibilities and further will impede the ability of the new Board which will be entrusted with the responsibility to regulate the same licensees as well as those presently regulated by the Board of Barber Examiners from assuming those responsibilities.

Full text of the proposed new rule follows:

SUBCHAPTER 4. FEES

13:28.4.1 Fee schedule

(a) The following fees will be charged by the Board:

- | | |
|--|----------|
| 1. Initial shop registration (one year) | \$35.00 |
| 2. Biennial shop registration-renewal | \$50.00 |
| 3. Examination fee for practicing licensees | \$20.00 |
| 4. Biennial operator registration or renewal | \$20.00 |
| 5. Biennial manager-operator registration or renewal | \$20.00 |
| 6. Biennial manicurist registration or renewal | \$20.00 |
| 7. Biennial teacher registration or renewal | \$20.00 |
| 8. Restoration fee for lapsed practicing license | \$20.00 |
| 9. Demonstrator license | \$10.00 |
| 10. Demonstrator premise permit | \$10.00 |
| 11. Initial school registration (one year) | \$100.00 |
| 12. Biennial school license renewal | \$100.00 |
| 13. Student registration | \$3.00 |
| 14. Senior permit | \$3.00 |
| 15. Temporary permit | \$15.00 |
| 16. Charge for issuance of duplicate license | \$3.00 |

(a)

BOARD OF ACCOUNTANCY

Change of Address

Proposed New Rule: N.J.A.C. 13:29-1.4

Authorized By: Paul Kurisko, C.P.A., President, State Board of Accountancy.

Authority: N.J.S.A. 45:2B-6(g).

Proposal Number: PRN 1985-361.

Submit comments by July 31, 1985 to:

John J. Meade, Executive Secretary
 State Board of Accountancy
 Room 507-A
 1100 Raymond Boulevard
 Newark, NJ 07102

The agency proposal follows:

Summary

The proposed new rule sets forth the requirement that all licensees of the Board of Accountancy notify the Board when a change of address occurs.

Social Impact

The proposed new rule will have a favorable social impact upon the public because it will enable the Board to save time, effort and money in locating the whereabouts of certified public accountants and public accountants practicing in this State. The Board needs an efficient method to locate its licensees in order to disseminate necessary information and to enforce disciplinary actions in licensing requirements.

Economic Impact

The proposed new rule will have no unfavorable economic impact upon the Board's licensees because it imposes no financial obligation aside from the minimal cost of mailing notification to the Board of a change of address. It will have a favorable economic impact upon the public because it will enable the Board to save time, effort and money in locating licensees who have changed addresses without notifying the Board.

Full text of the proposed new rule follows.

13:29-1.4 Change of address

A licensee of the Board of Accountancy shall notify the Board in writing of any change of address from that currently registered with the Board and shown on the most recently issued license. Such notice shall be given not later than 60 days following the change of address.

(b)

BOARD OF OPTOMETRISTS

Licensure By Examination; Reexamination

Proposed Amendment: N.J.A.C. 13:38-3.2

Authorized By: State Board of Optometrists, Maxwell M. Kaye, O.D., President.

Authority: N.J.S.A. 45:12-4.

Proposal Number: PRN 1985-360.

Submit comments by July 31, 1985 to:

Maxwell M. Kaye, O.D., President
 New Jersey State Board of Optometrists
 1100 Raymond Boulevard, Room 501
 Newark, New Jersey 07102
 201-648-2012

Summary

N.J.A.C. 13:38-3.2 was proposed for amendment at 17 N.J.R. 677 on March 18, 1985. It was amended therein to

remain consistent with the Board's goal of operating on an adequate budget and was proposed along with an amendment to the fee schedule rule. That part of the current regulation which allows for a second examination without payment of a fee following the failure of the first examination by an applicant is deleted by this amendment. Moreover the section requiring an applicant to pay an additional \$25.00 for retaking the examination a third or fourth time is being deleted in order to remain consistent with the recently adopted across-the-board fee for all reexaminations under N.J.A.C. 13:38-5.1(6), as amended at 17 N.J.R. 678.

This regulation is now being repropoed to further amend that portion dealing with the consequences of an applicant failing the examination with regard to the extent to which a failed applicant must retake the examination. This proposed amendment is necessary because the entire format of the examination was changed in December 1984. Inasmuch as the examination, although still administered in parts, is now considered and graded as a whole, it is no longer feasible to sever various sections for assessing the pass or failure of each. Consequently, as a result of this amendment, the possibility that an applicant would only have to retake a portion of the exam no longer exists. In fact the entire examination must be retaken in the event of failure.

Social Impact

The proposed amendment of N.J.A.C. 13:38-3.2 will impact upon only those applicants for licensure potential who fail the State examination. Since this group requires additional administrative services which are rendered at a cost, the Board is attempting to meet its expenses from this group as the most logically direct source.

Additionally, it would be no longer meaningful to permit these applicants to retake only a portion of the examination upon failure.

Economic Impact

The economic impact of having to pay more money for the reexamination service will be felt by those applicants who fail the examination. These applicants will now be obligated to pay a \$125.00 fee in order to retake the examination, whereas under the current rule, there were no additional fees required for the first two reexaminations and only a \$25.00 fee for the third and fourth reexaminations.

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

13:38-3.2 Reexamination.

An applicant for licensure failing the first examination shall be permitted to take any of the next two succeeding examinations conducted by the Board [without payment of any additional fee]. An applicant failing the examination twice must take courses approved by the Board before taking the examination a third and fourth time [and must pay an additional fee of \$25.00]. This same procedure shall prevail after each two failures. [If an applicant fails to pass in only one subject of the examination, he shall be examined at the next examination, he shall take, only in the subject which he failed to pass. If an applicant fails to pass in more than one subject, he shall at the next examination, he shall take, be examined in all subjects of the examination.]

NEW JERSEY RACING COMMISSION

Proposal Numbers: PRN 1985-362 and 363 are authorized by the New Jersey Racing Commission, Harold G. Handel, Executive Director.

Submit comments by July 31, 1985 to:
Bruce H. Garland, Deputy Director
New Jersey Racing Commission
CN 088 Justice Complex
Trenton, New Jersey 08625

(a)

Thoroughbred Rules Urine Testing

Proposed Amendment: N.J.A.C. 13:70-14A.11

Authority: N.J.S.A. 5:5-30.

Proposal Number: PRN 1985-363.

The agency proposal follows:

Summary

Proposed amendment to N.J.A.C. 13:70-14A.11 would subject officials, trainers and grooms to urine tests in addition to jockeys, thereby broadening the rule. This amendment includes those licensees already included in the companion breathalyzer rule at N.J.A.C. 13:70-14A.10. There are no other substantial changes in the rule.

Social Impact

The proposed amendment would have a positive social impact since it is aimed at helping individuals who have problems with controlled dangerous substances. The amendment is aimed at improving the safety of those who participate in racing by testing those with responsibilities related to various racing activities. In addition, the rule is aimed at enhancing the integrity of racing.

Economic Impact

To the extent the proposed amendment provides for safer racing and increased public confidence, the economic impact would be positive. Safer racing reduces medical expenses for participants and with increased public confidence it is expected that handle and attendance will not decrease, thereby benefiting the racing industry and the public. Cost of increased testing will be borne by the track associations and it is not anticipated to make any dramatic change in the present testing budget.

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

13:70-14A.11 Urine test

(a) No [jockey] **licensee or official** shall use any Controlled Dangerous Substance as defined in the "New Jersey Controlled Dangerous Substance Act", N.J.S.A. 24:21-1, et seq. or any prescription legend drug, unless such substance was obtained directly, or pursuant to a valid prescription or order from a licensed physician, while acting in the course of his professional practice. It shall be the responsibility of the [jockey] **official, jockey, trainer and groom** to give [prior] notice to the State Steward that he is using a Controlled Dangerous Substance or prescription legend drug pursuant to a valid prescription or order from a licensed practitioner **when requested**.

(b) Every [jockey] **official, jockey, trainer and groom** for any race at any licensed racetrack may be subjected to a [post-race]

urine test, or other non-invasive fluid test at the direction of the State Steward in a manner prescribed by the New Jersey Racing Commission. Any [jockey] **official, jockey, trainer or groom** who fails to submit to a urine test when requested to do so by the State Steward shall be liable to the penalties provided in N.J.A.C. 13:70-31.

(c) Any [jockey] **official, jockey, trainer and groom** who is requested to submit to a [post-race] urine test shall provide the urine sample, without undue delay, to a chemical inspector of the Commission. The sample so taken shall be immediately sealed and tagged on the form provided by the Commission and the evidence of such sealing shall be indicated by the signature of the tested [jockey] **official, jockey, trainer or groom**. The portion of the form which is provided to the laboratory for analysis shall not identify the individual [jockey] **official, jockey, trainer or groom** by name. It shall be the obligation of the [jockey] **official, jockey, trainer or groom** to cooperate fully with the Chemical Inspector in obtaining any sample which may be required and to witness the securing of such sample.

(d) A "positive" Controlled Dangerous Substance or prescription drug result shall be reported, in writing, to the Executive Director or his designee. On receiving written notice from the official chemist that a specimen has been found "positive" for controlled dangerous substance or prescription legend drug, the Executive Director or his designee shall proceed as follows:

1. He shall, as quickly as possible, notify the [jockey] **official, jockey, trainer or groom** involved in writing.

2. For an [jockey's] **official, jockey, trainer or groom's** first violation, he shall issue a written reprimand and warning and notify the [jockey] **official, jockey, trainer or groom** that he will be subject to mandatory drug testing and that any further violation shall result in the sanctions described in paragraphs (3) and (4) below:

3. For an [jockey's] **official, jockey, trainer or groom's** second violation, he shall require the [jockey] **official, jockey, trainer or groom** to enroll in a Supervisory Treatment Program approved by the New Jersey Racing Commission upon such reasonable terms and conditions as he may require. The [jockey] **official, jockey, trainer or groom** shall be permitted to participate unless his continued participation shall be deemed, by the Executive Director or his designee, to be detrimental to the best interests of racing. It shall be the [jockey's] **official, jockey, trainer or groom's** responsibility to provide the Commission with written notice of his enrollment, weekly status reports and written notice that he has successfully completed the program and has been discharged. If an [jockey] **official, jockey, trainer or groom** fails to comply with these requirements, he shall be liable to the penalties provided in N.J.A.C. 13:70-31.

4. For an [jockey's] **official, jockey, trainer or groom's** third or subsequent violation, he shall be liable to the penalties provided in Subchapter 31 and may only enroll into a Supervisory Treatment Program in lieu of said penalties, with the approval of the New Jersey Racing Commission.

(e) The results of any urine test shall be treated as confidential, except for their use with respect to a ruling issued pursuant to this rule, or any administrative or judicial hearing with regard to such a ruling. Access to the reports of any "positive" results shall be limited to the Commissioners of the New Jersey Racing Commission, the Executive Director and/or his designee and the subject [jockey] except in the instance of a contested matter.

(a)

Harness Rules Urine Testing

Proposed Amendment: N.J.A.C. 13:71-18.2

Authority: N.J.S.A. 5:5-30.

Proposal Number: PRN 1985-362

The agency proposal follows:

Summary

Proposed amendment to N.J.A.C. 13:71-18.2 would subject officials, trainers and grooms to urine tests in addition to drivers, thereby broadening the rule. This amendment includes those licensees already included in the companion breathalyzer rule at N.J.A.C. 18:71-18.1. There are no other substantial changes in the rule.

Social Impact

The proposed amendment would have a positive social impact since it is aimed at helping individuals who have problems with controlled dangerous substances. The amendment is aimed at improving the safety of those who participate in racing by testing those with responsibilities related to various racing activities. In addition, the rule is aimed at enhancing the integrity of racing.

Economic Impact

To the extent the proposed amendment provides for safer racing and increased public confidence, the economic impact would be positive. Safer racing reduces medical expenses for participants and with increased public confidence it is expected that handle and attendance will not decrease, thereby benefiting the racing industry and the public. Cost of increased testing will be born by the track associations and it is not anticipated to make any dramatic change in the present testing budget.

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

13:71-18.2 Urine test

(a) No [driver] **licensee or official** shall use any controlled dangerous substance as defined in the "New Jersey Controlled Dangerous Substance Act", N.J.S.A. 24:21-1, et seq., unless such substance was obtained directly, or pursuant to valid prescription or order from a licensed physician, while acting in the course of his professional practice. It shall be the responsibility of the [driver] **official, driver, trainer or groom** to give [prior] notice to the State Steward or Presiding Judge that he is using a controlled dangerous substance pursuant to a valid prescription or order from a licensed practitioner.

(b) Every [driver] **official, driver, trainer or groom** for any race, qualifier or fair event at any licensed racetrack or fair site, may be subjected to a [pre-race and/or post-race] urine test or tests at the direction of the State Steward and/or Presiding Judge, in a manner prescribed by the New Jersey Racing Commission. Any [driver] **official, driver, trainer or groom** who fails to submit to a urine test when requested to do so by the State Steward and/or Presiding Judge, shall be liable to the penalties provided in N.J.A.C. 13:71-2.

(c) Any [driver] **official, driver, trainer or groom** who is requested to submit to a [post-race] urine test shall provide the urine sample, without undue delay, to a chemical inspector of the Commission. The sample so taken shall be immediately

TRANSPORTATION

PROPOSALS

sealed and tagged on the form provided by the Commission, and the evidence of such sealing shall be indicated by the signature of the tested [driver] **official, driver, trainer or groom**. The portion of the form which is provided to the laboratory for analysis shall not identify the individual [driver] **official, driver, trainer or groom** by name. It shall be the obligation of the [driver] **official, driver, trainer or groom** to cooperate fully with the Chemical Inspector in obtaining any samples which may be required and to witness the securing of such sample.

(d) A "positive" controlled dangerous substance result shall be reported, in writing, to the Executive Director or his designee. On receiving written notice from the official chemist that a specimen has been found "positive" for controlled dangerous substance, the Executive Director or his designee shall proceed as follows:

1. He shall, as quickly as possible, notify the [driver] **official, driver, trainer or groom** involved in writing.

2. For an [driver's] **official, driver, trainer or groom's** first violation, he shall issue a written reprimand and warning.

3. For an [driver's] **official, driver, trainer or groom's** second violation, he shall require the [driver] **official, driver, trainer or groom** to enroll in a supervisory treatment program approved by the New Jersey Racing Commission upon such reasonable terms and conditions as he may require. It shall be the [driver] **official, driver, trainer or groom's** responsibility to provide the Commission with written notice of his enrollment, weekly status reports, and written notice that he has successfully completed the program and has been discharged. If an [driver] **official, driver, trainer or groom** fails to comply with these requirements, he shall be liable to the penalties provided in N.J.A.C. 13:71-2.

4. For an [driver's] **official, driver, trainer or groom's** third or subsequent violation, he shall be liable to the penalties provided in N.J.A.C. 13:71-2 and may only enroll into a supervisory treatment program in lieu of said penalties, with the approval of the New Jersey Racing Commission.

(e) The results of any urine test shall be treated as confidential, except for their use with respect to a ruling issued pursuant to this rule or any administrative or judicial hearing with regard to such a ruling. Access to the reports of any "positive" results shall be limited to the Commissioners of the New Jersey Racing Commission, the Executive Director and/or his designee and the subject [driver] except in the instance of a contested matter.

Submit comments by July 31, 1985 to:
Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

Summary

The proposed amendment will correct the rule concerning a "no parking" zone along Route 27 in Metuchen Borough, Middlesex County. The rule was proposed at 16 N.J.R. 3186(a) and adopted at 17 N.J.R. 316(a) but was not fully descriptive, in that it did not prescribe the specific area to which the rule was applicable.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.18 to clarify the rule.

Social Impact

The proposed amendment will provide the motoring public information as to the direction and the area to which the restriction applies.

Economic Impact

The proposed amendment will have no economic impact since signs have already been posted and this amendment is administrative in nature.

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

16:28A-1.18 Route 27

(a) The certain parts of State highway Route 27 described in this section shall be designated and established as "no parking" zones where stopping and standing are prohibited at all times except as provided in N.J.S.A. 39:4-199.

1.-15. (No change.)

16. No stopping or standing in Metuchen Borough, Middlesex County:

i. Along both sides

(1) From a point 310 feet east of **Main Street to the easterly curb line of Lake Avenue**

ii.-iii. (No change.)

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

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Route 27 in Middlesex County**

Proposed Amendment: N.J.A.C. 16:28A-1.18

Authorized By: Roger A. Bodman, Commissioner,
Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1,
39:4-139, 39:4-199

Proposal Number: PRN 1985-357.

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS

**Administration
Minimum Adjustments**

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

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

Authority: N.J.S.A. 52:18A-96 et seq.
Proposal Number: PRN 1985-34.

PROPOSALS

Interested Persons see Inside Front Cover

TREASURY-TAXATION

Submit comments by July 31, 1985 to:
Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions
20 West Front Street
CN 295
Trenton, N.J. 08625

Authorized By: John R. Baldwin, Director, Division of Taxation.
Authority: N.J.S.A. 54A:9-17(a), specifically 54A:8-1b.

Submit comments by July 31, 1985 to:
John R. Baldwin
Director
Division of Taxation
50 Barrack Street, CN 240
Trenton, NJ 08646

This proposal is known as PRN 1985-351.

The agency proposal follows:

Summary

The amendments are being proposed in order to improve operational efficiencies within the Division of Pensions by forgoing complicated calculations when only negligible, token amounts are involved in calculating minimum adjustments. The current \$100.00 salary adjustment is proposed to be deleted and the standard to be utilized in place thereof is that no monthly benefit will be recalculated if the net result of the adjustment is less than \$1.00. The elimination of these token adjustments will lead to greater efficiencies within the Division of Pensions.

Social Impact

The proposed amendment may affect all past, present and future retirants of the State-administered retirement systems who may have adjustments made to their pension accounts or monthly retirement benefits in small, token amounts.

Economic Impact

Since the ultimate result would only involve small or token amounts of adjustments, the proposed amendments will not have any significant economic effect on the retirant, the retirement systems or the taxpaying public.

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

17:1-1.10 Minimum adjustments

(a) (No change.)

(b) No rebates or additional contributions shall be made for retired members if the adjustments involve amounts of \$5.00 or less. All bad balances of \$5.00 or less will be written off. [A member's retirement benefits will be recalculated if the total salary used for computing retirement benefits changes by more than \$100.00.] **In the event the balance is greater than \$5.00 but produces a monthly retirement adjustment of less than \$1.00 no recalculation of monthly benefit will be computed and the balance will be rebated.**

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

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 19:35-1.8, deals with the extension of time to file the New Jersey Gross Income Tax Return. The Division of Taxation's policy has been to grant an automatic two month extension for filing the annual individual New Jersey Gross Income Tax Return. For Federal income tax purposes taxpayers are granted a four month automatic extension for filing the annual Federal income tax returns by filing the Federal Form 2688 — Application for Extension of Time to File U.S. Individual Income Tax Return. Taxpayers will now, effective with the tax year 1985, be able to obtain an automatic four month extension of time for filing their annual New Jersey Gross Income Tax Return by attaching a copy of the Federal application for the four month automatic extension to their New Jersey return. Taxpayers who have not obtained a Federal extension may obtain an automatic four month extension to file their New Jersey tax return by filing Form NJ-630 — Application for Extension of Time to File New Jersey Gross Income Tax Return. In either case the taxpayer is required to pay 80 percent of their tax liability. Additional extensions beyond the four month period up to six months may still be obtained by the taxpayer by filing the Form NJ-620 and by making full payment of their tax liability.

Social Impact

The public, the individual taxpayer, their accounting and legal representatives and the Division of Taxation itself will benefit from the amended rule. The taxpayer's automatic extension will now conform to the Federal four month automatic extension period and it will no longer be necessary for the taxpayer to file their New Jersey tax return two months earlier than the Federal return unless the taxpayer has filed the NJ-630 form for an additional two month extension. The Division of Taxation will be able to more easily administer the automatic extension for individual taxpayers since it will now conform to the Federal four month automatic extension.

Economic Impact

Since the individual taxpayer will still be required to pay 80 percent of their projected tax liability when applying for the automatic four month extension of time to file their tax return, the amendment to the rule is not expected to have any significant economic impact.

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

18:35-1.18 Extension of time to file New Jersey gross income tax return

(a) Subject to the requirements set forth in (e) below, an automatic [two] **four** month extension of time may be obtained by all taxpayers for filing their annual New Jersey Gross In-

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

**Gross Income Tax
Extention of Time to File New Jersey Gross
Income Tax Return**

Proposed Amendment: N.J.A.C. 18:35-1.18

TREASURY-TAXATION

PROPOSALS

come Tax Return provided the taxpayer has been granted at least a [two] **four** month extension for Federal income tax purposes. A copy of the Federal application for automatic extension must be attached to the taxpayer's New Jersey return.

(b) If no automatic Federal extension has been obtained, the taxpayer must file a request for an automatic [two] **four** month extension on Form NJ-630 — Application for Extension of Time to File New Jersey Gross Income Tax Return. This form can be obtained from the Forms Section of the Division of Taxation, CN-269, 50 Barrack Street, Trenton, New Jersey 08646, or at any District Office. The request for extension must be filed with [full] payment of [the estimated tax] **at least 80 percent of the taxpayer's tax liability** (as required on Form NJ-630) on or before the original due date of the New Jersey return and is subject to the requirements set forth in (e) below.

(c) Additional extensions beyond the automatic [two] **four** month extension in subsections (a) and (b) above must be specifically requested by a taxpayer from the New Jersey Division

of Taxation using Form NJ-630 — Application for Extension of Time to File New Jersey Gross Income Tax Return. This form can be obtained from the Forms Section of the Division of Taxation, CN-269, 50 Barrack Street, Trenton, New Jersey 08646, or at any District Office. An extension beyond [two] **four** months will not be considered unless the request is submitted on Form NJ-630 and the full amount of any estimated tax (as required on Form NJ-630) has been paid. The request for additional extension must be filed on or before the extended due date of the New Jersey return and is subject to the requirements set forth in (e) below.

(d) - (g) (No change.)

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF DAIRY INDUSTRY

Processors, Dealers and Subdealers

Readoption: N.J.A.C. 2:52-2, -3, -4 and 2:53-4

Adopted Repeal: N.J.A.C. 2:52-7

Proposed: May 6, 1985 at 17 N.J.R. 1011(a).
Adopted: June 5, 1985 by Woodson W. Moffett, Jr.,
Director, Division of Dairy Industry.
Filed: June 7, 1985 as R.1985 d.336, **without change.**
Authority: N.J.S.A. 4:12A-1 et seq., specifically 4:12A-20.
Effective Date of Readoption: June 7, 1985.
Effective Date of Repeal: July 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): June 7, 1990.

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. 2:52-2, -3, -4, and 2:53-4.

(b)

DIVISION OF DAIRY INDUSTRY

Processors, Dealers and Subdealers Notices of Intent

Adopted Amendments: N.J.A.C. 2:52-2.1 and 3.1, 2:53-4.1

Proposed: May 6, 1985, at 17 N.J.R. 1012(a).
Adopted: June 5, 1985 by Woodson W. Moffett, Jr.,
Director, Division of Dairy Industry.
Filed: June 7, 1985 as R.1985 d.335, **without change.**
Authority: N.J.S.A. 4:12A-1 et seq., specifically 4:12A-20.
Effective Date: July 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): June 7, 1990.
Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

- 2:52-2.1 Notice of intent
 - (a) A dealer licensee may begin selling milk and milk products to an unlicensed store (other than a government agency) upon approval by the Director as follows:
 - 1.-5. (No change.)
 - 6. Without notice if yogurt is the only product involved.
 - (b) (No change.)
- 2:52-3.1 Change in source of supply
 - (a) A dealer may change his source of supply or engage an additional source of supply of milk and milk products upon approval by the Director as follows:
 - 1.-5. (No change.)
 - 6. Without notice if yogurt is the only product involved.
 - (b) (No change.)
- 2:53-4.1 Notice of intent
 - (a) A licensed store may change source of supply or engage an additional supply of milk and milk products upon approval by the Director as follows:
 - 1.-5. (No change.)
 - 6. Without notice if yogurt is the only product involved.
 - (b) (No change.)

CIVIL SERVICE

(c)

Compensation Ninth Step Salary Maximum Adopted New Rule: N.J.A.C. 4:2-7.13

Proposed: May 6, 1985 at 17 N.J.R. 1014(a).
Adopted: June 6, 1985 by Civil Service Commission,
Eugene J. McCaffrey, Sr., President.
Filed: June 10, 1985 as R.1985 d.345, **with changes** not in violation of N.J.A.C. 1:30-3.5.
Authority: N.J.S.A. 11:5-1; 11:8-1; 11:8-2; 11:8-3; and 11:8-4.
Effective Date: July 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): December 7, 1986.
Summary of Public Comments and Agency Responses:
No comments received.
A technical adjustment was made to include N.J.A.C. 4:2-7.7 so that the 39 pay period standard will generally be applicable to all salary status situations.
Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated with asterisks and brackets *[thus]*).

4:2-7.13 Ninth step salary maximum

In those situations where a ninth step is added to the State Compensation Plan, employees who have been in pay status, as set forth in N.J.A.C. 4:2-7.5, at the eighth step of the same range for 39 pay periods or longer shall be eligible for movement to the ninth step providing their performance warrants this salary adjustment. Further, the time requirements set forth in N.J.A.C. 4:2-7.3*, * * [and] * 4:2-7.4 * and 4:2-7.7* for obtaining an additional increment in a new salary range by virtue of having attained the ninth step maximum in a lower salary range will be adjusted to 39 pay periods in such cases. Performance appraisal review and anniversary date schedules shall be appropriately adjusted.

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code One-and Two-Family Dwelling Subcode

Adopted Amendment: N.J.A.C. 5:23-3.14 Adopted New Rule: N.J.A.C. 5:23-3.21

Proposed: April 15, 1985 at 17 N.J.R. 861(c).
Adopted: May 24, 1985 by John P. Renna, Commissioner, Department of Community Affairs.
Filed: June 3, 1985 as R.1985 d.324, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:27D-123.

Effective Date: July 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 1, 1988.

Summary of Public Comments and Agency Responses:

Comments were received from representatives of the New Jersey Builders Association and the American Iron and Steel Institute and from a construction official.

The American Iron and Steel Institute requested an expansion of allowable types of construction to include non-combustible materials. In response, the Department is amending Table R-221 to establish separate height and area standards for construction types other than combustible Type 5.

The New Jersey Builders Association requested clarification of certain typographical errors and substantiation regarding the wind pressure requirements. In response, the Department provided clarification as to the rationale behind a 15 lbs/sq. ft. wind pressure standard and the prohibiting of openings from garages directly into sleeping rooms, and also provided appropriate cross-referencing to other adopted subcodes for particular standards.

The construction official requested additional requirements for the addition of guardrails in one-and two-family dwellings. In response, the Department noted that its technical

staff reviewed R.215.2, the relevant category, and that the requirements set forth there were adequate for the use group in question.

In addition, the Department has made certain minor editorial and technical corrections.

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

5:23-3.14 Building subcode

(a) (No change.)

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

1.-2. (No change.)

3. The following amendments are made to article 3 of the building subcode entitled "Use Group Classification";

i. Section 309.5 is amended to delete ***the*** phrase "One and Two Family Dwelling Code listed in Appendix A." on lines 3, 4 and 5 and substitute in lieu thereof "One and Two ***Family*** Dwelling Subcode."

4.-21. (No change.)

5:23-3.21 One and two family dwelling subcode

(a) Rules concerning subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c.217, the Commissioner hereby adopts the model code of the Council of American Building Officials known as "The CABO One and Two Family Dwelling Code/1983", including all subsequent revisions and amendments thereto, as the one and two family dwelling subcode for New Jersey subject to the modifications stated in (b) below.

i. Copies of this code may be obtained from BOCA International, 4051 West Flossmoor Road, Country Club Hills, Illinois 60477.

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

1. Chapter 1 entitled "Administrative" is amended as follows:

i. Sections R-101 to ***[R-133]* *R-113*** are deleted and substitute in lieu thereof UCC regulations~~[:]* *~~;

ii. Section ***[R-144]* *R-114*** is amended to change the definitions as follows:

(1) The definition of the term "approved" is deleted and in lieu thereof substitute "approved by the building official or other authority having jurisdiction in accordance with the regulations."

(2) The definition of the term "Approved Agency" is amended to add the phrase "or other authority having jurisdiction in accordance with the UCC regulations" after the word "Official" on line 3.

(3) The definition of the term "Building Official" is deleted and is redefined herein and throughout the subcode as the "building subcode official" as defined in N.J.A.C. 5:23-1.4 unless indicated otherwise.

(4) The definition of the term "Story (first)" is amended to add after the word grade "except that a basement shall be considered as a story above grade when the distance from grade to the finished surface of the floor above the basement is more than 6 feet for more than 50 percent of the total perimeter or more than 12 feet at any point."

2. Chapter 2 entitled "Building Planning" is amended as follows:

i. Sec. R-202.2 is amended to include the following information in Table R-202:

ADOPTIONS

COMMUNITY AFFAIRS

Per	15	15	Zone 1	Yes	2' - 6"(s) 3' - 0"(n)	Yes	Yes
DCA Bulletin #81-9							

- ii. Sec. R-202.4, increase the minimum lives load for stairs in Table R-202.4 from 40 to 100 psf.
 - iii. Sec. R-203, in the first and 4th lines, change "three (3) feet" to "six (6) feet."
 - iv. Sec. 204.2, change in the 6th line "one-tenth (1/10)" to "eight (8) percent."
 - v. Sec. R-210.1—Opening Protection—Delete and substitute in lieu thereof the following:
 "Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than one and three quarter $*(1\frac{3}{4})*$ inches in thickness or equivalent of $*[3.4]*$ **three quarters** hour fire resistance rating or better. A raised sill shall also be provided between garage and adjacent interior spaces **with a** minimum **height** of four $*[(4)]*$ inches."
 - vi. Sec. R-213, under the second Exception in the second line, delete the phrase "eight and one-half (8 1/2) inches" and substitute in lieu thereof "eight (8) inches."
 - vii. Sec. R-214.2, in the second paragraph, second line, change "four (4) inches" to "six (6) inches."
 - viii. Sec. 215.1, in the 4th line change "four (4) or more risers" to "three (3) or more risers."
 - ix. Sec. R-216.1, delete the first sentence and in lieu thereof add "A minimum of one smoke detector per floor including basement and in the immediate vicinity of bedrooms shall be provided and they shall be all interconnected. In split levels, a smoke detector installed on the upper level shall suffice for the adjacent lower level provided the lower level is less than one full story below the upper level. If there is an intervening door between adjacent levels, a smoke detector shall be installed on both levels."
 - x. Sec. R-216.2 is amended to delete the words "or in buildings which undergo . . . section" at the end.
- *[xi.]* **xii.** Add new Sec. R-221 "Height and Area Limitations" per Table R-221 below:**

Table No. R-221

Use Group	Type of Construction									
	Noncombustible					*Noncombustible/ Combustible*			*Combustible*	
	Type 1	*Type 2*	*Type 3*	*Type 4*	*Type 5*					
R-3	*1A*	*1B*	*2A*	*2B*	*2C*	*3A*	*3B*	*4*	5A	5B
Residential	*3 St. 40'	*3 St. 40'	*3 St. 40'	*3 St. 40'	*3 St. 40'	*3 St. 40'	*3 St. 40'	*3 St. 40'	3 St. 2 St.	2 St.
One and Two Family	No limit	No Limit	40'	40'	40'	40'	40'	40'	40'	40'
			22,800*	15,000*	9,600*	13,200*	9,600*	14,400*	10,200	4,800

- xii. Sec. 217.2.4, after the words "foam filled doors" add the phrase "except for fire doors."
- 3. Chapter 3 is amended as follows:
 - i. Sec. R-301.1, delete the words "Sec. R-108" and in lieu thereof insert "UCC regulations N.J.A.C. 5:23-3.6 and 3.7."
 - ii. ***[Sec.]* **Table** R-304.4, change Nominal Thickness for Masonry of Solid Units from six $*[(6)]*$ inches to eight $*[(8)]*$ inches.**
 - iii. Fig. R-303, change 1/2" bolts @ 6' o.c. to 1/2" bolts @ 8' o.c.
- 4. Chapter 4 is amended as follows:
 - i. Sec. R-402.8, in the second paragraph, 3rd line, change "one thousand (1,000) sq. ft." to "five hundred (500) sq. ft."
 - ii. Sec. R-404.2, in the 4th line, change "one third (1/3)" to "one half (1/2)" (the total thickness).

- iii. Sec. 404.11, in the second line, change "three (3) inches" to "four (4) inches."
- 5. Chapter 9 is amended as follows:
 - i. Sec. R-902.3, in the first line, change "two (2) feet" to "three (3) feet."
 - ii. Sec. R-902.5 add the following phrase after the word degrees "and embedded in medium duty refractory mortar complying with ASTM C105." Delete Exception.
 - iii. Sec. R-904.2, in the last line, change "ten (10) inches" to "twelve (12) inches."
 - iv. Sec. R-904.5, second line, change "three-eighth (3/8) inches . . . all imposed loads" to "four (4) inches solid masonry or equivalent."
 - v. Sec. R-904.7, second and fourth lines, change **"*[twelve (12)]* **two*** inches"** to "four $*[(4)]*$ inches."
 - vi. Sec. R-905, add item #6: Factory Built Fireplaces shall be listed, labelled and tested according to UL 127.
 - vii. Sec. R-906.1—Factory Built Fireplace Stoves shall be tested according to UL 737.
- 6. Part IV—Mechanical, is amended as follows:
 - i. Sec. M-1104—At the beginning of the paragraph add "When more than one fuel oil burning appliance is installed, a shut off valve shall be installed at the connection to each appliance."
 - ii. Sec. M-1106—Delete second paragraph and in lieu thereof insert "Fuel-fired and fuel-burning appliances shall be installed on a non-combustible floor. The non-combustible floor shall extend 12 inches beyond the sides of the appliance. On the burner side, the floor shall extend at least 36 inches."
 - iii. Sec. M-1112—At the end of the section, add "Solid fuel burning room heaters shall be tested and labeled in accordance with UL 1482."
 - iv. Sec. M-1114—Delete second sentence and in lieu thereof insert "Appliances in private garages shall be installed with a minimum clearance of 6 feet above the floor."
 - v. Sec. M-1308.1—At the end of the paragraph, add "When appliances are located within 10 feet of a roof edge or open side with a drop greater than 24 inches, guards shall be provided. A guard rail shall be located a minimum of 36 inches and a maximum of 42 inches above the roof surface."
 - vi. Sec. M-1601.1—At the end of the Section, add item #7, "Duct material shall meet the requirements specified in the Mechanical subcode Sec. M-302.1, M-302.2 and M-303.1."
 - vii. Sec. M-1602—In the second paragraph, first line, change "three (3) feet" to "six (6) feet."
 - viii. Sec. M-1604—At the end of item #9, add the words "and a flame spread of 200 or less."
 - ix. Sec. 1905.2—Add a new paragraph "No piping shall be installed in supply air ducts, clothes chutes, chimneys, vents or dumbwaiters."
 - x. Sec. M-1909.3—Delete second paragraph.
 - xi. Sec. M-1916.1—At the beginning of second line delete the word "sweat". Also add at the end of the paragraph "Only brazed joints shall be permitted."
 - xii. Sec. M-1917.1—Add after the first sentence "All pumps shall be listed and labeled by an approved agency."
- 7. Part V—Plumbing, is deleted in its entirety. All requirements for plumbing shall be provided in accordance with the Plumbing Subcode listed in N.J.A.C. 5:23-3.15.
- 8. Parts VI and VII pertaining to Electrical and Energy Conservation are deleted. Requirements for electrical and energy conservation shall be provided in accordance with the respective subcodes, Electrical per N.J.A.C. 5:23-3.16, and Energy per N.J.A.C. 5:23-3.18.

EDUCATION

(a)

STATE BOARD OF EDUCATION

Business Services; State Aid, Asbestos Removal and Encapsulation State Aid

Adopted New Rule: N.J.A.C. 6:20-5.5

Proposed: April 15, 1985 at 17 N.J.R. 863(a).
Adopted: June 5, 1985 by State Board of Education, Saul Cooperman, Secretary.
Filed: June 10, 1985 as R.1985 d.340, **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, 52:14B-4(c) and P.L. 1984, Ch. 226.

Effective Date: July 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): November 15, 1989.

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

The Department received only one written comment regarding the proposed new rule concerning asbestos removal and encapsulation State aid. The commenter suggested that the proposal be amended to make it clear that school districts which receive funds from the Federal government would not be prohibited from receiving funds under the State School Aid Act for Asbestos. The Department agreed with this suggestion and the proposal was amended for clarification.

Full text of the adoption follows (additions shown in bold-face with asterisks *thus*; deletions shown in brackets with asterisks *[thus]*).

- 6:20-5.5 Asbestos removal and encapsulation State aid
- (a) A district board of education applying for reimbursement under the provisions of the "State School Aid Act for Asbestos" for a currently planned asbestos removal or encapsulation project shall certify that funds have been budgeted for the project and that such funds are included in the 1984-[19]*85 or 1985-86 school district budget statement.
 - (b) A district board of education may apply for reimbursement for an asbestos removal or encapsulation project which has been undertaken if the project was begun in the 1984-85 school year and 50 percent or less of the funds budgeted for the project were expended prior to December 28, 1984.
 - (c) A district board of education may apply for reimbursement for an asbestos removal or encapsulation project which has been substantially completed if the project was begun in the 1984-85 school year and more than 50 percent of the funds budgeted for the project were expended prior to December 28, 1984.
 - (d) A district board of education may apply for reimbursement for an asbestos removal or encapsulation project which was begun before 1984-85 or which has been completed.
 - (e) A district board of education shall only be reimbursed under the provisions of the "State School Aid Act for Asbestos" for expenditures actually incurred. State aid reimburse-

ments for projects currently planned, undertaken and substantially completed shall be adjusted when actual expenditures are known. Adjustments shall only be made to the extent State aid funds are available.

(f) A district board of education shall not be reimbursed for an asbestos removal or encapsulation project under both the "State School Aid Act for Asbestos" and the Federal "Asbestos School Hazard Abatement Program*[*]" ***for more than the actual expenditures less any State aid received under any other law.***

(g) A district board of education which recovers funds expended for asbestos removal or encapsulation through a legal action shall have its State aid reimbursement adjusted for any such funds recovered.

(h) A district board of education shall maintain separate accounting records which identify all expenditures for which reimbursement is approved.

(i) A district board of education receiving a State aid reimbursement under the provisions of the "State School Aid Act for Asbestos" shall submit reports as required concerning work progress, expenditures or any other factors which the commissioner shall deem necessary.

(j) A district board of education shall comply with all requirements established by the Bureau of Facility Planning Services (N.J.A.C. 6:22), Department of Community Affairs (N.J.A.C. 5:23-8) and the Department of Health (N.J.A.C. 8:60) concerning asbestos removal or encapsulation. State aid funds may be withheld for noncompliance.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF WATER RESOURCES

Flood Hazard Area Delineations Flood Plain Delineation of Portions of North Branch Raritan River (Project U)

Adopted Amendment: N.J.A.C. 7:13-7.1(d) (formerly 7:13-1.11(d))

Proposed: June 4, 1984 at 16 N.J.R. 1307(a).
Adopted: June 3, 1985 by Robert E. Hughey, Commissioner, Department of Environmental Protection.
Filed: June 4, 1985 as R.1985 d.329, **without change**.

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

Effective Date: July 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): May 4, 1989.
DEP Docket No. 028-84-05.

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

Full text of the adoption follows.

ADOPTIONS

ENVIRONMENTAL PROTECTION

7:13-7.1 Delineated floodways

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

(d) A list of streams in the Passaic-Hackensack Basin and a list of delineated streams in the Raritan Basin follow:

1.-50. (No change.)

51. Drakes Brook from its downstream Corporate limit in Roxbury to 15230 ft. U.S.; Holland Brook from 4735 feet downstream of Centerville Road in Readington upstream to Route 19; Lamington River from 6000 feet upstream of its confluence with North Branch Raritan River upstream to Linvale Road; Stony Brook from Route 518 in East Amwell Township upstream to Linvale Road; Millstone River from 2650 feet downstream of Old Route 33 in Millstone; upstream to 4754 feet upstream of Roberts Road; South Branch Rockaway Creek from 1200 feet upstream of Cushetunk Lake Dam, upstream to Knok Avenue; Neshanic River from 2575 feet downstream of Rainbow Hill Road upstream to Old York Road; Rockaway Creek from its junction with South Branch Rockaway Creek upstream to Fairmount Road west; North Branch Raritan River from its downstream Corporate limit in Mendham, upstream to Ironia Road; Rockaway Creek from its confluence with Lamington River upstream to 3000 feet upstream of Lamington Road; Rocky Brook from its downstream corporate limit in Millstone, upstream 5200 feet; South Branch Raritan River from 4000 feet downstream of Higginsville Road in Hillsboro/Readington to New Dartmills Road in Readington Raritan and again from 7150 feet downstream of Gray Rock Road to 1170 feet upstream of Cokesbury Road in Clinton Township; and to add to it the floodway and flood hazard area of Back Brook from its confluence with Neshanic River upstream to Old York Road in East Amwell; Beaver Brook in Clinton township from 3000 feet downstream of Route 31, upstream to Central Railroad of New Jersey; Burnett Brook from its confluence to North Branch Raritan River upstream to South Road; Capoolong Creek in Franklin Township from 3600 feet downstream of Quakertown Road upstream 6350 feet; Chambers Brook in Bedminster/Bridgewater from its confluence with North Branch Raritan River upstream through a portion of Echo Lake; Chambers Brook in Readington from 700 feet downstream of County Line Road upstream 15260 feet; Claucas Brook from its confluence with North Branch Raritan River to Lamington Road in Bedminster; Dawsons Brook from its confluence with Burnett Brook upstream 2177 feet in Mendham; Gladstone Brook in Chester Township from St. Bernards Road upstream 4845 feet; Harmony Brook from its confluence with Whippany River upstream to Woodland Road; Herzog Brook in Bedminster from its confluence with Lamington River upstream to Pottersville Road; Hoopstick Brook from its mouth upstream to Lamington Road in Bedminster; Indian Brook from its confluence with Burnett Brook upstream 5840 feet; Middle Brook from its confluence with North Branch Raritan River upstream to Spook Hollow Road; Mulhockaway Creek in Union from Spruce Run upstream to 430 feet upstream of Gravel Hill Road; Musconetcong River from mouth at Lake Musconetcong upstream 4380 feet; Passaic River in Mendham from its downstream corporate limit to 1300 feet upstream of Tempewick road; Peapack Brook in Bedminster from its confluence with North Branch Raritan River, upstream 3230 feet; Peapack Brook in Clinton Township from its downstream Corporate limit upstream to Farm Road; Pleasant Run in Readington from 450 feet downstream of Old York Road to upstream of Route 202; Rockaway River in Roxbury from its downstream corporate limit to its upstream Corporate limit; South Fork Third Neshanic

River in East Amwell from Creek Road downstream to Creek Road upstream; Spruce Run from Spruce Run Reservoir upstream 6340 feet; Succasunna Brook in Roxbury from the downstream Corporate limit upstream to Eyland Road; portion of Toms River in Millstone Township from Monmouth Road upstream 5600 feet; Whippany River in Mendham from the downstream Corporate limit to its confluence with Harmony Brook; Willoughby Brook from Spruce Run Reservoir upstream to Buffalo Hollow Road; Various Unnamed Tributaries to South Branch Raritan River including Tributary 'A' in Franklin and Union Townships from Lehigh Valley Railroad to Conrail Bridge, Tributary 'A' in Readington from confluence to Barley Sheaf Road; various unnamed tributaries to Mulhockaway Creek in Union Township; Tributary 'B' from its confluence upstream 5380 feet; Tributary 'C' from its confluence upstream 5155 feet, Tributary 'D' from its confluence upstream 5760 feet, Tributary 'F' from its confluence upstream 1240 feet and Tributary 'E' from Tributary 'D' upstream 4200 feet; Two Tributaries to South Branch Rockaway Creek in Lebanon Borough; Tributary 'A' from its confluence to Route 22 and Tributary 'B' from its confluence with Tributary 'A' to Route 78; a tributary to Neshanic River in East Amwell labelled Tributary 'A' from its confluence to Manners Road; a Tributary to Lamington River in Tewksbury labelled Tributary 'A' from its confluence to 5000 feet upstream of Homestead Road; and a tributary to Rockaway Creek labelled Tributary 'B' from its confluence upstream 2810 feet.

(e)-(g) (No change.)

(a)

DIVISION OF ENVIRONMENTAL QUALITY

Control and Prohibition of Air Pollution from Gasoline-Fueled Motor Vehicles and Air Test Method 4, Testing Procedures for Motor Vehicles

Adopted Amendment: N.J.A.C. 7:27-15.4

Adopted Repeal: N.J.A.C. 7:27B-4.6

Adopted New Rules: N.J.A.C. 7:27B-4.6 and 4.7

Proposed: April 1, 1985 at 17 N.J.R. 781(a).

Adopted: June 5, 1985 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: June 6, 1985 as R.1985 d.331, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5), and with **7:27B-4.6(a)2 not adopted** but still pending.

Authority: N.J.S.A. 13:1D-5, 13:1D-9, 26:2C-8, 26:2C-8.1, 26:2C-8.2, and 26:2C-8.5.

Effective Date: July 1, 1985.

Operative Date: December 2, 1985.

DEP Docket No.: 014-85-03.

Expiration Date pursuant to Executive Order No. 66(1978): Exempt.

Summary of Public Comments and Agency Responses:

During the Department's May 2, 1985 public hearing, the New Jersey Motor Truck Association (NJMTA) and the New Jersey Department of the Public Advocate questioned the validity and equity of the proposed vehicle exhaust lead examination procedure. Both organizations cited the possibility for unleaded fuel to become contaminated with lead prior to its introduction into the vehicle. In such a situation, the motorist would be responsible for replacing the vehicle catalytic converter even though he may not have been responsible for the fuel contamination.

As a result of these comments, the Department asked the U.S. Environmental Protection Agency (EPA) for data which quantify the extent of unleaded fuel contamination in service stations. During March 1984, July 1984, and March 1985 EPA inspected 382 retail gasoline stations in the metropolitan New York City area for unleaded fuel contamination. Twenty-seven (7.1 percent) of the stations sampled had unleaded fuel contaminated with lead. The national unleaded contamination rate is less than 0.5 percent.

In addition, the New Jersey Division of Motor Vehicles (DMV) asked Macherrey-Nagel, the manufacturer of the Plumbtesmo paper used for the lead test, to review the proposed lead test paper procedure. In his May 6, 1985 response to DMV, Mr. Bardick D. Ellam of Macherrey-Nagel stated that "That heat from a warm tailpipe would completely deactivate the chemicals which are impregnated into our Plumbtesmo test paper. This means the motor should be turned off and the tailpipe should be allowed to cool down for a few minutes before the test is carried out."

After receiving this information, the Department asked EPA's Field Operations and Support Division of forward a technical review of the lead test paper procedure including Macherrey-Nagel's comments. EPA responded by forwarding a copy of its recommended method of application of Plumbtesmo paper to detect lead in tailpipes. EPA's recommended method states "Normally plumbtesmo can be applied to the inside of either a hot or cold tailpipe." The EPA recommended procedure does not specify whether the vehicle engine should be turned off.

Because of the possibility for unleaded fuel to become contaminated prior to purchase by the motorist and because of the conflicting statements regarding the technical application of the Plumbtesmo paper, the Department is not adopting the lead test paper examination procedure proposed in N.J.A.C. 7:27B-4.6(a)2 at this time. The Department is adopting the following procedure at N.J.A.C. 7:27B-4.7 as part of its study to determine the proper method for applying the Plumbtesmo test. N.J.A.C. 7:27B-4.7 shall expire on October 1, 1986.

The procedure requires those vehicles failing to pass the catalyst examination or the fuel filler neck inlet restrictor examination to be inspected using the lead test paper procedure. Also, one percent of the vehicles passing both the catalyst and fuel filler neck inlet restrictor examination will be inspected using the lead test paper procedure. This examination will be made by DMV during the annual inspection conducted at State-operated stations and during random roadside inspections. The examination will not be made by private inspection centers (PIC's) licensed by DMV. The examination will be made for the purpose of collecting data only; vehicles will not be rejected as a result of the Plumbtesmo lead test.

The data collected through this sampling procedure will be used by the Department to evaluate the technical application of the Plumbtesmo paper for detecting lead in vehicle exhaust

in the New Jersey vehicle inspection system. If the results of the study show that the originally proposed lead test examination procedure is valid and therefore may be implemented and if EPA enforcement can control the contamination of unleaded fuel, the Department will adopt the procedure proposed at N.J.A.C. 7:27B-4.6(a)2 by April 1, 1986. Once adopted, the procedure will become operative six months later.

Comment: NJMTA questioned the ability of the vehicle inspection system to examine the increased handlings resulting from the proposed anti-tampering standards for gasoline-fueled trucks. NJMTA referenced the labor cost for operating a gasoline-fueled truck as \$35 per hour. Consequently, it will be very expensive for fleet operators to have vehicles waiting in lines at the inspection stations in order to be examined.

Response: The New Jersey Division of Motor Vehicles (DMV) is building 13 new lanes which will open June 17, 1985. This construction was planned for the express purpose of accommodating the increased handlings resulting from amendments adopted by DEP on December 28, 1984, as well as these amendments. Further, DMV has licensed approximately 1700 private inspection centers (PIC's) to perform initial vehicle examinations for both safety and emission items. A fleet operator with ten or more vehicles is permitted by DMV to apply for a PIC license in order to perform initial examinations for his vehicles. Also, a fleet operator may have his vehicles examined at any licensed PIC or he may contract with a licensed PIC to perform the initial examinations at the fleet operator's site. Finally, as stated by NJMTA, a fleet operator may select to have his vehicles examined at the State operated inspection stations. Consequently, the department feels that the total vehicle inspection system is capable of processing the increased handlings associated with this proposal.

Comment: The lead test examination procedure was cited by NJMTA as significantly increasing the total test time for vehicle examination. Unless DMV is prepared to provide the necessary test time for this examination, invalid test results are to be expected. In a busy DMV inspection station, a breakdown in testing techniques would be devastating.

Response: NJMTA is correct in its observation that the proposal will increase total vehicle examination time. In its final report entitled "Comprehensive Architectural Study of 37 Inspection Stations for the New Jersey Division of Motor Vehicles", Armstrong, Jordan, Pease concluded that DMV could follow one of the following three alternatives: 1) It could eliminate the existing headlight board examination and replace it with a visual headlight check, the three anti-tampering checks, and the brake test. The 90 seconds which are required for this are equivalent to 40 vehicles per hour which is the goal established by Armstrong, Jordan, Pease for the State operated inspection stations; 2) add another examiner position to each lane to perform the three anti-tampering checks; or 3) take no action and allow the examination rate to fall below 40 vehicles per hour.

Comment: The NJMTA questioned whether the proposed exhaust lead examination procedure will produce positive results because of the use of tailpipes manufactured with lead bearing steel or tailpipes containing lead plating/coating.

Response: The Department has no evidence to support the possibility that tailpipes are manufactured with lead bearing steel or are coated with lead. Also, no false positive test results have been observed in the Harris County, Texas, program because of tailpipes containing metallic lead.

ADOPTIONS

ENVIRONMENTAL PROTECTION

Comment: The last comment made by the NJMTA was that a positive lead test does not necessarily mean that the catalyst has been poisoned. The presence of lead in the tailpipe does not quantify the amount of leaded fuel which has been introduced into the vehicle. If the amount of leaded fuel used is minimal, then the catalyst may still be effective.

Response: The Department agrees with NJMTA's reasoning. As previously stated, the lead examination procedure is not being adopted at this time. Data will be collected in order to determine the validity and equity of the proposed Plumbtesmo test. In addition to this study, the Department will consider laboratory testing to determine minimum quantities of leaded fuel needed for a positive lead test and for deactivation of the catalyst.

Comment: A commentator discussed research which he had performed using his 1979 Chevrolet truck with a 350 cubic inch engine. The commentator explained that although he removed the vehicle catalytic converter and operated his vehicle with leaded fuel, his vehicle fuel economy improved and his emissions were reduced.

Response: The New Jersey emissions test procedure and the procedure used by the commentator measure the vehicle exhaust emissions while the vehicle is idling. This procedure does not measure the exhaust emissions during acceleration, cruise and deceleration. The New Jersey emissions test procedure is employed as a cost-effective means of identifying vehicles with excessive emissions. However, this screening is not always correct in that false negative results can occur because the test examines the emissions during only the idle mode of the vehicle driving cycle. This is particularly true with later model year vehicles which use advanced emission control systems. Consequently, in order to perform a more valid screening of the vehicle for proper exhaust emission control, the Department has proposed to supplement the exhaust emissions test with an examination of the catalytic converter and the fuel filler neck inlet restrictor test. If the proposed lead examination test procedure proves to be technically valid, this will also be adopted and used as a supplement to the exhaust emissions test.

Comment: The New Jersey Department of the Public Advocate suggested that the proposed phase-in schedule for the new amendments be accelerated. This is necessary so that the Department may assess the full impact of the proposed program and implement additional controls, if necessary, in order to attain the ozone national ambient air quality standard by the end of 1987.

Response: The phase-in schedule for the proposal was developed on the basis of modeling conducted by EPA, in consultation with the Department. This modeling demonstrates that the necessary emission reductions and air quality improvements will occur by the end of 1987. The proposed phase-in also reflects the needs of DMV's motor vehicle inspection system. The department believes that the proposed schedule is realistic in light of these two concerns.

Comment: The Public Advocate suggested that the visual examination for the presence or malfunction of the fuel filler neck inlet restrictor be fully implemented without any phase-in.

Response: As indicated in the previous response, the phasing-in of the proposed standards and procedures reflects the air quality assessment performed by EPA and also the needs of the vehicle inspection system.

Comment: The Public Advocate suggested that the department identify a backup test for the lead examination procedure. The reason for this is the possibility of false positive test results.

Response: The department knows of no existing backup test for the lead examination procedure. However, DEP shares the same concern as the Public Advocate regarding false positive test results with the lead test. Consequently, the Department is not adopting the lead test procedure at this time.

Comment: The Public Advocate encouraged DMV and DEP to publicize the proposed procedures and standards prior to their implementation.

Response: The Department will work closely with DMV to prepare explanatory information which will be enclosed with the vehicle registration renewal mailings made by DMV. In addition, the Department will release press announcements immediately prior to the start of the vehicle control systems examination procedures.

Comment: The U.S. EPA suggested some revisions regarding the wording of the exhaust lead examination procedure. To ensure more accurate readings, the procedure should specify a "quick wipe" of the section of the tailpipe to which the lead test paper will be attached. Also, the procedure should state that a positive lead test result will be indicated by a pink or red color change.

Response: The Department has revised the regulation to include the "quick wipe" procedure in the lead test paper examination (see N.J.A.C. 7:27B-4.7). The proposed amendment does specify that a positive test result is indicated by a pink or red color change.

Comment: EPA suggested that the proposed procedure be revised to read that replacement catalytic converters can be either new or used catalytic converters certified according to EPA procedures.

Response: The Department has made this revision in N.J.A.C. 7:27B-4.6(a)1 and 3.

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

7:27-15.4 Motor vehicle inspection standards

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

(c) Any post-1974 model year gasoline-fueled motor vehicle weighing less than 8501 pounds which is subject to inspection by the State of New Jersey in accordance with the provisions of N.J.S.A. 39:8, as a condition of compliance with said inspection, shall have properly functioning and properly maintained emission control apparatus as determined according to the inspection test procedure established at N.J.A.C. 7:27B-4.6.

Table 1 (No change.)

7:27B-4.6 Gasoline-fueled motor vehicle emission control apparatus compliance examination procedure

(a) The examination of the motor vehicle emission control apparatus of all post-1974 model year gasoline-fueled motor vehicles under 8501 pounds to determine compliance with N.J.A.C. 7:27-15.4(c), when conducted during annual ***inspection*** and random roadside inspection, shall consist of the following three examinations:

1. A visual check to determine the presence of properly installed catalytic converters on motor vehicles designed and

marketed by the vehicle manufacturer with catalytic converters as original equipment. The absence of such properly installed catalytic converters, shall be cause for vehicle rejection. Rejected vehicles shall be required to be properly equipped with ***new or used replacement*** catalytic converters certified ***[by the] *according to*** U.S. Environmental Protection Agency ***procedures*** and subsequently reexamined. The reexamination shall consist of a visual check to document proper installation of a ***[new] *replacement*** catalytic converter.

2. (This paragraph not adopted but still pending.) ***Reserved***

3. An examination consisting of a visual inspection for the presence of, or malfunction of the fuel filler neck inlet restrictor on motor vehicles designed and marketed by the vehicle manufacturer for operation with unleaded fuel only. Rejected vehicles shall be required to be properly equipped with new ***or used replacement*** catalytic converters certified ***[by the] *according to*** U.S. Environmental Protection Agency ***procedures*** and a new fuel filler neck inlet restrictor. Reexamination shall consist of a visual check to document proper installation of a ***[new] *replacement*** catalytic converter and fuel filler neck inlet restrictor.

i. The fuel filler neck inlet restrictor examination shall be conducted in the following manner:

(1) Attempt to insert a dowel, with a diameter equivalent to that of a standard leaded fuel pump nozzle, into the fuel filler neck;

(2) The absence of the fuel filler neck inlet restrictor is verified if the dowel can be inserted and shall be cause for vehicle rejection;

(b) Inspection of gasoline-fueled motor vehicles for (a) above shall be implemented by model year and registered weight in accordance with the following schedule:

Date	Model Year	Registered Weight
December 1, 1985	1985 and later	Under 6001 pounds
May 1, 1986	1982 and later	Under 6001 pounds
July 1, 1986	1982 and later	Under 8501 pounds
January 1, 1987	1979 and later	Under 8501 pounds
May 1, 1987	1975 and later	Under 8501 pounds

***7:27B-4.7 Gasoline-fueled motor vehicle exhaust lead determination procedure**

(a) An examination using lead test paper to determine the presence of lead in the vehicle exhaust shall be performed on the following vehicles:

1. All post-1974 model year gasoline-fueled motor vehicles weighing less than 8501 pounds which are designed and marketed by the vehicle manufacturer for operation with unleaded fuel only and which are determined during annual inspection and random roadside inspection to have improperly functioning or improperly maintained emission control apparatus as determined according to the inspection test procedure established at N.J.A.C. 7:27B-4.6.

2. One percent of all post-1974 model year gasoline-fueled motor vehicles weighing less than 8501 pounds which are designed and marketed by the vehicle manufacturer for operation with unleaded fuel only and which are determined during annual inspection and random roadside inspection to have properly functioning and properly maintained emission control apparatus as determined according to the inspection test procedure established at N.J.A.C. 7:27B-4.6.

(b) The lead test paper examination shall be conducted in the following manner:

1. Remove test paper from package and moisten with distilled water;
2. Wipe a small section of the tailpipe with a cloth;
3. Attach moistened paper onto the cleaned surface of the tailpipe with a clip; and
4. Remove paper.
5. The presence of lead in the vehicle exhaust is indicated by the lead paper changing to a pink or red color.

(c) The test results for vehicles examined according to the inspection test procedure established at (b) above shall be recorded by the New Jersey Division of Motor Vehicles and forwarded monthly to the Department of Environmental Protection.

(d) The presence of lead in the vehicle exhaust, if determined solely according to the inspection test procedure established at (b) above shall not be cause for vehicle rejection.

(e) This section shall not apply to vehicle examinations performed by private inspection centers licensed by the Division of Motor Vehicles.

(f) This section shall expire on October 1, 1986.*

HEALTH

(a)

HOSPITAL REIMBURSEMENT

**Procedural and Methodological Regulations
Periodic Adjustments**

Adopted Amendment: N.J.A.C. 8:31B-3.72

Proposed: April 15, 1985 at 17 N.J.R. 872(a).
 Adopted: June 13, 1985 by J. Richard Goldstein, M.D.,
 Commissioner, Department of Health (with approval
 of the Health Care Administration Board).
 Filed: June 13, 1985 as R.1985 d.349, **without change**.

Authority: N.J.S.A. 26-2H-18d.

Effective Date: July 1, 1985.
 Expiration Date pursuant to Executive Order No.
 66(1978): October 17, 1985.

Summary of Public Comments and Agency Responses:

COMMENT: New Jersey Hospital Association stated that the amendment should provide that any loss of revenue to hospitals that is the result of a Medicare withholding, be paid by the State and/or the non-Federal payers.

RESPONSE: The waiver agreement between the State and the Health Care Financing Administration (HCFA) requires only that the State enact legislation or pass regulation providing for a Medicare withholding in the event projected payment levels (relative to PPS) are not achieved. The State must fulfill this requirement by July 1, 1985.

The question of the "financing" of such a withholding in the event that it occurs is one of statutory interpretation as well as of broad social policy. It affects the interest of many groups (hospitals, consumers, payers, the State governing bodies). Precise resolution of the extent to which there is liability will require significant time to determine. Fortu-

ADOPTIONS

HIGHER EDUCATION

nately, the issue of financing is not as urgent as the need to provide for a mechanism to accomplish the withholding itself. There is no requirement in the waiver agreement to specify the extent to which any liability is financed. Financing only becomes necessary if and when there is a withholding to finance. Existing projections do not suggest that a withholding will occur, and under the waiver agreement one would not be expected to occur under any circumstances until the second quarter of 1986.

COMMENT: Health Insurance Association of America and the New Jersey Business Group on Health, Inc. stated that the amendment should provide that any loss or revenue to hospitals that is the result of a Medicare withholding cannot be financed by raising the payments of other payers.

RESPONSE: This comment, while it disagrees with the conclusion of the New Jersey Hospital Association comment (above), addresses the same issue in that it asks that the regulation address the question of the financing of the withholding. For the reasons given in the response to the comments of the NJHA, the Department does not need to address the question of financing in this amendment.

COMMENT: Department of Human Services stated that the Medicaid Upper Payment Limit established under the Code of Federal Regulations would suggest that if there is a reduction to Medicare payments for a withholding, there must be a corresponding reduction to Medicaid payments.

RESPONSE: The Department of Health is proposing this amendment in order to fulfill the terms of the Medicare waiver agreement. That agreement makes no reference to Medicaid in regard to withholding, nor has any discussion with HCFA representatives. The Department does not say that this issue may not have to be addressed at some point, however, it is not necessary to address it in this amendment.

Full text of the adoption follows.

8:32B-3.72 Periodic adjustments

(a) Certain periodic adjustments are made to the Schedule of Rates which are not dependent upon new submissions of reports. These adjustments are made independently of the yearly reconciliations of the Schedule of Rates, but will affect the calculation of Commission Approved Revenue. Periodic adjustments are made for any adjustments explicitly ordered by the Commission pursuant to N.J.A.C. 8:31B-3.64, Modification of Proposed Schedule of Rates. The following periodic adjustments will be implemented by the Commission and the affected hospitals pursuant to N.J.A.C. 8:31B-3.42, Implementation.

1. (No change.)
2. Other adjustments:
 - i. Payers reimbursing institutions on the basis of a period intermittent payment system shall adjust for significant changes in actual case-mix on a quarterly basis (accounting for seasonal variation) and at appropriate intervals for any payer adjustments set forth in N.J.A.C. 8:31B-3.39, 3.40, 3.41 and 3.72(a)2iii.
 - ii. (No change.)
 - iii. In no event shall the aggregate amount of rates to be reimbursed by Medicare over the three-year period beginning January 1, 1985 exceed the aggregate amount of payments which would otherwise have been made by Medicare under methodological principles of reimbursement which would ordinarily apply under Title XVIII of the Social Security Act. In the event that quarterly payments exceed the agreed to ratios

of State waiver spending relative to what would have been spent by Medicare absent the waiver, interim adjustments to implement waiver assurance shall be initiated in a timely fashion pursuant to N.J.A.C. 8:31B-3.72(a)(2)(i).

iv. Reduced Medicare payments to hospitals shall be made in accordance with N.J.A.C. 8:31B-3.72(a)(2)(i) and in accordance with the methodology approved by the Commission in order to comply with the Medicare waiver letter of agreement. Such reduced payments shall be Medicare's full and final payment for services rendered on behalf of Medicare beneficiaries during the period covered by the reduced payments, but subject to the adjustments permitted the State to subsequently increase hospital payments when savings relative to the Federal System are reestablished during the waiver period.

v. Nothing in these regulations shall prohibit the State Department of Health from recommending and the Commission from approving aggregate increases in Medicare payments to individual hospitals up to the amount previously withheld should aggregate savings relative to what the Federal Medicare System would pay be reestablished. Provided however, that such increases should in no event result in Medicare payments in any quarter in excess of those which would otherwise have been made by Medicare following Federal Medicare reimbursement principles.

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

HIGHER EDUCATION

(a)

STUDENT ASSISTANCE BOARD

**Student Assistance Programs
Determination of Eligibility for and Value of
Student Assistance; Award Combinations**

**Adopted Amendments: N.J.A.C. 9:7-2.4 and
2.9**

Proposed: April 1, 1985 at 17 N.J.R. 787(a).

Adopted: June 5, 1985 by Student Assistance Board, Joseph Streit, Chairman.

Filed: June 10, 1985 as R.1985 d.338, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:71-26.5, 18A:71-26.8, 18A:71-26.11, 18A:71-47(a), 18A:71-48 and P.L. 1984, c.94.

Effective Date: July 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 13, 1988.

Summary of Public Comments and Agency Responses:

Comments: Five letters were received from New Jersey college officials commenting on the proposed amendment to

N.J.A.C. 9:7-2.9. Three requested that students be allowed to receive an Educational Opportunity Fund Grant and a Distinguished Scholarship simultaneously, one letter supported the regulation as noticed and the final letter offered a compromise position that would permit students to receive recognition as a Distinguished Scholar if they received consideration under the Educational Opportunity Fund Program.

Response: The Department reviewed all of the written comments and considered other statements made by members of an advisory group to the Student Assistance Board. The Department amended the noticed regulation to reflect these comments and thus enable students to simultaneously receive a Distinguished Scholarship and an Educational Opportunity Fund Grant.

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]***).

9:7-2.4 Determination of eligibility for and value of student assistance

In order to receive a need-based award students must have demonstrated financial need through submission of a New Jersey Financial Aid Form in accordance with annually established deadline dates. The information on the Financial Aid Form will be evaluated by employing the national Uniform Methodology, as represented in the College Scholarship Service system or by approaches modified to meet the purposes of the New Jersey student assistance programs. The evaluation results in an estimate of the family or student's ability to contribute to the cost of education. This estimate is then used to determine eligibility for and value of need-based student assistance. Students may not receive assistance under the programs administered by the Student Assistance Board if information is made known that they owe a refund on a grant or scholarship previously received from a state or federal program through any institution or are in default on any student loan made or insured by the Federal government at any institution.

9:7-2.9 Award combinations

Students receiving a Tuition Aid Grant award may also accept a Garden State Scholarship or an Educational Opportunity Fund Grant if offered by the institution they attend or plan to attend. Students cannot simultaneously hold an Educational Opportunity Fund Grant and a Garden State Scholarship ***[or]*** ***but students can simultaneously receive a*** Distinguished Scholarship ***and an Educational Opportunity Fund Grant*** in any single semester. The total amount of financial aid received by a student may not exceed the college budget as defined by the institution. Tuition Aid Grants will in general be reduced so that the student's resources will not exceed the financial aid officer's estimate of the student's need, to a minimum grant of \$100.00. This policy will permit students to accept other offers of student assistance as well as facilitate their acceptance into the Educational Opportunity Fund Program.

(a)

STUDENT ASSISTANCE BOARD

Garden State Scholars

Eligibility Requirements; Fiscal

Responsibilities; Renewal of Scholarships Awarded Prior to March 1, 1978

Adopted Amendments: N.J.A.C. 9:7-4.1 and 4.7

Adopted Repeal: N.J.A.C. 9:7-4.8

Proposed: April 1, 1985 at 17 N.J.R. 787(b).

Adopted: June 7, 1985 by Student Assistance Board, Joseph Streit, Chairman.

Filed: June 10, 1985 as R.1985 d.339, with **substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:71-26.6, 18A:71-26.8 and P.L. 1984, c.94.

Effective Date: July 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 13, 1988.

Summary of Public Comments and Agency Responses:

Comments: Five letters were received from New Jersey college officials commenting on the proposed amendment to N.J.A.C. 9:7-4.1. Three requested that students be allowed to receive an Educational Opportunity Fund Grant and a Distinguished Scholarship simultaneously, one letter supported the regulation as noticed and the final letter offered a compromise position that would permit students to receive recognition as a Distinguished Scholar if they received consideration under the Educational Opportunity Fund Program.

Response: The Department reviewed all of the written comments and considered other statements made by members of an advisory group to the Student Assistance Board. The Department amended the noticed regulation to reflect these comments and thus enable students to simultaneously receive a Distinguished Scholarship and an Educational Opportunity Fund Grant.

The Board's staff will be proposing to the Board an amendment at its next meeting which will more fully set forth the eligibility requirements for the Distinguished Scholarship Program.

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]***).

9:7-4.1 Eligibility requirements

(a) Undergraduate Garden State Scholarship recipients must meet minimum academic requirements as defined below, demonstrate financial need as defined herein, and be selected by the institution they attend or plan to attend. In addition to the financial need determination explained in N.J.A.C. 9:7-2.4 and 2.9, undergraduates must have demonstrated financial need to qualify for an award. Demonstrated financial need is the difference between the applicant's total resources (Estimated Family Contribution and other aid) and the total cost of college attendance (college budget). The undergradu-

ate's demonstrated financial need will be reviewed annually by the institution to determine renewal eligibility.

(b) Distinguished Scholarship recipients must meet the academic requirements as defined by the Student Assistance Board. Such scholarships may be awarded on the basis of indicators of academic merit defined by the Board, without consideration of financial need, and must satisfy the requirements as stipulated in N.J.A.C. 9:7-2.9. Distinguished Scholarship recipients must attend an eligible New Jersey institution and are eligible to receive a Garden State Scholarship. This scholarship *[may not]* ***can*** be awarded in conjunction with an Educational Opportunity Fund Grant. Distinguished Scholarship recipients will be selected without regard to their course of study and awards will not be limited by institutions. Distinguished Scholarships are renewable for up to *[4]* ***four*** or *[5]* ***five*** years, depending upon the course of study and providing the student continues to achieve satisfactory academic progress. Eligible scholars may receive assistance under the Tuition Aid Grant Program.

(c) Garden State Scholarship and Distinguished Scholarship recipients who transfer to another eligible New Jersey institution may transfer their awards provided they have demonstrated satisfactory academic progress and, in the case of Garden State Scholarship recipients, have demonstrated financial need at the institution they will attend. Graduate fellows will be selected primarily on the basis of academic merit.

9:7-4.7 Fiscal responsibilities

Institutions must maintain separate accounts for Garden State Scholarship, Distinguished Scholarship, and Garden State Graduate Fellowship funds received. Institutional records must include full student identification including name, address, social security number, date and amount of the award, the academic index, estimated family contribution (Garden State Scholars), and other information defined by the Student Assistance Board. An accounting must be kept of expended and unexpended funds, the latter being promptly refunded to the State of New Jersey in accordance with the most recent administrative directive.

9:7-4.8 (Reserved)

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

**Public Assistance Manual
Sending Data to Receiving County When
Client Has Moved**

Adopted Amendment: N.J.A.C. 10:81-3.27

Proposed: April 15, 1985 at 17 N.J.R. 878(a).
Adopted: June 7, 1985 by George J. Albanese, Commissioner, Department of Human Services.
Filed: June 10, 1985 as R.1985 d.344, **without change**.
Authority: N.J.S.A. 44:7-6 and 44:10-3.

Effective Date: July 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): July 20, 1988.

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

Full text of the adoption follows.

10:81-3.27 Change of county residence

(a) (No change.)

(b) A temporary visit by either the recipient family or any member thereof shall not be considered to be a change of county residence until that visit has continued for more than a three-month period. (See N.J.A.C. 10:81-3.32 and 3.34.)

1.-2. (No change.)

3. The county of origin shall initiate and the receiving county shall, on request, immediately cooperate in accomplishing a full investigation of the circumstances surrounding the move. If the move is permanent, each county shall execute its respective responsibilities in accordance with this paragraph.

i. The county of origin has the responsibility to:

(1) Transfer, within five working days from the date it is notified of the actual move, a copy of pertinent case material to the receiving county. Such material shall include, at a minimum, a copy of the first application and the most recent PA-1J form; the most recent CODES 105A and B forms; Social Security numbers or copies of SS-5 forms; a copy of Form CSP-158, Case Preparation Information Sheet (see N.J.A.C. 10:81-11.9(e)); all birth verifications; and, where ongoing recovery of overpayments is involved, the amounts and net balances;

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

ii.-iv. (No change.)

(b)

DIVISION OF PUBLIC WELFARE

**Public Assistance Manual
Minimum Support Assessment
Recommendation**

Adopted Amendment: N.J.A.C. 10:81-11.18

Proposed: April 15, 1985 at 17 N.J.R. 879(a).
Adopted: June 7, 1985 by George J. Albanese, Commissioner, Department of Human Services.
Filed: June 10, 1985 as R.1985 d.343, **without change**.
Authority: N.J.S.A. 44:7-6 and 44:10-3.

Effective Date: July 1, 1985.

Operative Date: July 1, 1985, contingent on enactment of this State's Appropriations Act for Fiscal Year 1986 authorizing the proposed increase in public assistance allowance standards.

Expiration Date pursuant to Executive Order No. 66(1978): April 16, 1989.

HUMAN SERVICES

ADOPTIONS

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

Full text of the adoption follows.

10:81-11.18 Support assessment

(a) The CWA shall recommend a minimum amount of support for consideration in support proceedings in accordance with individual county procedures. The recommended minimum weekly support amount shall be determined in accordance with the following steps.

1.-4. (No change.)

5. The amount remaining is the absent parent's adjusted income. This amount is compared to Table I. The amount indicated for the number of persons for whom support is sought is the minimum recommended support amount.

TABLE I
SUPPORT ASSESSMENT
 (No change.)

TABLE II
WEEKLY SECOND FAMILY ADJUSTMENT

Number of Dependents (Excluding Absent Parent)	Adjustment Amount
1	\$ 36.00
2	71.00
3	93.00
4	107.00
5	121.00
6 +	add \$14.00 for each additional dependent

(a)

DIVISION OF PUBLIC WELFARE

Assistance Standards Handbook
Increase in AFDC Allowance Standards and
Legally Responsible Relative Schedule

Adopted Amendment: N.J.A.C. 10:82-1.2,
2.13, 3.11, and 5.11

Proposed: April 15, 1985 at 17 N.J.R. 880(a).

Adopted: June 7, 1985 by George J. Albanese, Commissioner, Department of Human Services.

Filed: June 10, 1985 as R.1985 d.341, **without change.**

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

Effective Date: July 1, 1985.

Operative Date: July 1, 1985, contingent on enactment of this State's Appropriations Act for Fiscal Year 1986 authorizing the proposed increase in public assistance allowance standards.

Expiration Date pursuant to Executive Order No. 66(1978): July 20, 1988 for 10:82-1, 2 and 3; November 29, 1988 for 10:82-5.

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

Full text of adoption follows.

10:82-1.2 Schedule of allowances

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

(c) Public Assistance Allowance Standards AFDC Program.

Schedule I AFDC-C AFDC-F	Number in Eligible Unit	Schedule II AFDC-N
\$154	1	\$ 103
307	2	205
404	3	269
465	4	310
526	5	351
587	6	391
648	7	432
709	8	473
770	9	513
831	10	554
add \$161 each person	more than 10	add \$41 each person

(d) AFDC eligibility shall not exist for any month if the total income of the eligible unit exceeds the amount indicated in Schedule III for the appropriate eligible unit size and program segment. For this purpose, total income shall include all income of the eligible unit (without benefit of the disregards in N.J.A.C. 10:82-4.4 or 4.5) including the income of stepparents and alien sponsors determined available to the eligible unit in N.J.A.C. 10:82-2.9 and 3.13. Total income includes the earned income of the AFDC children except for earnings disregarded by provisions of N.J.A.C. 10:82-4.7(g). Child support payments, except for the first \$50.00 monthly current child support received on behalf of the eligible unit, whether received directly by the household or collected through the CSP process, shall be counted in the determination of total income. See N.J.A.C. 10:82-2.13(f) for companion cases.

1. The AFDC grant shall not be considered as income for this purpose.

2. Funds exempted under N.J.A.C. 10:82-1.7 and 3.2(b)6 through 10 and monies disregarded under N.J.A.C. 10:82-4.6 shall not be considered income for this purpose.

Schedule III
Maximum Income Levels

AFDC-C AFDC-F	Number in Eligible Unit	AFDC-N
\$ 285	1	\$ 191
568	2	379
747	3	498
860	4	574
973	5	649
1086	6	723
1199	7	799
1312	8	875
1425	9	949
1537	10	1025
Add \$113 each person	More than 10	Add \$76 each person

ADOPTIONS

HUMAN SERVICES

10:82-2.13 Companion cases

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

(e) When any member of the eligible unit has income, earned or unearned, proceed as follows:

1.-2. (No change.)

3. Deduct the total income from the total allowance to determine the adjusted allowance (and grant) for the eligible unit.

Delete existing table in N.J.A.C. and replace with the following table:

Per Capita Table for Companion Cases		Number in -C or -F Segment								
Total Eligible Unit		1	2	3	4	5	6	7	8	9
2	\$154									
3	135	269								
4	116	233	349							
5	105	210	316	421						
6	98	196	293	391	489					
7	93	185	278	370	463	555				
8	89	177	266	355	443	532	620			
9	86	171	257	342	428	513	599	684		
10	83	166	249	332	416	499	582	665	748	

Per Capita Table for Companion Cases		Number in -N Segment								
Total Eligible Unit		1	2	3	4	5	6	7	8	9
2	\$103									
3	90	179								
4	78	155	233							
5	70	140	211	281						
6	65	130	196	261	326					
7	62	123	185	247	309	370				
8	59	118	177	237	296	355	414			
9	57	114	171	228	285	342	399	456		
10	55	111	166	222	277	332	388	443	499	

(f) The Maximum Income Level: Per Capita Tables below shall be used to determine AFDC income eligibility for companion cases of two to 10 members. For cases of more than 10 members the maximum income level shall be the per capita of the standard for the total eligible unit on Schedule III, N.J.A.C. 10:82-1.2, multiplied by the number of members in that segment.

Delete existing table in N.J.A.C. and replace with the following table:

Maximum Income Level-Per Capita Table		Number in -C or -F Segment								
Total Eligible Unit		1	2	3	4	5	6	7	8	9
2	\$284									
3	249	498								
4	215	430	645							
5	195	389	584	778						
6	181	362	543	724	905					
7	171	343	514	685	856	1028				
8	164	328	492	656	820	984	1148			
9	158	317	475	633	792	950	1108	1267		
10	154	307	461	615	769	922	1076	1230	1383	

Number in -N Segment

Total Eligible Unit	1	2	3	4	5	6	7	8	9
2	\$190								
3	166	332							
4	144	287	431						
5	130	260	389	519					
6	121	241	362	482	603				
7	114	228	342	457	571	685			
8	109	219	328	438	547	656	766		
9	105	211	316	422	527	633	738	844	
10	103	205	308	410	513	615	718	820	923

10:82-3.11 Determining amount of support

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

(d) The method for determining capacity to support is:

1.-5. (No change.)

6. The LRR's obligatory contribution shall not exceed the per capita share of the eligible unit's adjusted allowance for the person(s) for whom the LRR is liable.

Schedule IV—Monthly Income Standards

Part A		Part B	
Parents of AFDC children	Family size	All other LRRs	
\$ 405	1	\$1120	
540	2	1560	
675	3	2010	
740	4	2455	
810	5	2825	
875	6	3125	
945	7	3420	
1015	8	3720	
plus \$70	Each additional person	plus \$300	

Schedule V (No change.)

10:82-5.11 AFDC supplemental payments

(a)-(g) (No change.)

(h) AFDC supplement payment eligibility standards.

AFDC-C AFDC-F	Number in Eligible Unit	AFDC-N
\$103	1	\$ 69
205	2	137
269	3	179
310	4	207
351	5	234
391	6	261
432	7	288
473	8	315
513	9	342
554	10	369
Add \$41 each person	more than 10	Add \$27 each person

(i)-(j) (No change.)

(a)

DIVISION OF PUBLIC WELFARE

**General Assistance Manual
Increase in General Assistance Standards and
Legally Responsible Relative Schedules**

**Adopted Amendment: N.J.A.C. 10:85-4.1
and 9.4**

Proposed: April 15, 1985 at 17 N.J.R. 882(a).
Adopted: June 7, 1985 by George J. Albanese, Commissioner, Department of Human Services.
Filed: June 10, 1985 as R.1985 d.342, **without change**.
Authority: N.J.S.A. 44:8-111(d).

Effective Date: July 1, 1985.
Operative Date: July 1, 1985, contingent on enactment of this State's Appropriations Act for Fiscal Year 1986 authorizing the proposed increase in public assistance allowance standards.
Expiration Date pursuant to Executive Order No. 66(1978): July 25, 1988 for 10:85-4; February 17, 1989 for 10:85-9.

Summary of Public Comments and Agency Responses:

Comment from the New Jersey Municipal Welfare Association, Bergen-Hudson County Unit, expressed approval of the proposal.

Comments from the New Jersey Catholic Conference deem the five percent increase as inadequate and view the increase as an interim measure only and urge that the standards be raised by a higher percentage.

In response to that agency's observations the Department notes that the five percent increase in allowance levels is predicated on legislative appropriations which could, at this time, be realistically anticipated for fiscal year 1986. Thus, the public assistance standards could not be unilaterally increased without the necessary legislative support.

Full text of adoption follows.

10:85-4.1 State and local responsibilities
(a)-(b) (No change.)

Schedule I

Monthly Assistance Allowances
(Limited to persons determined unable to accept employment)

Number in Household	Eligible Unit	
	1	2
1	\$200	
2	138	275
3	124	248
4	110	221
5	102	204
6	96	191
7	82	164
8	79	158
9	75	149

10	71	143
11	70	141
12	69	139
13	67	134
14	66	132
15	65	130

Schedule II

Monthly Assistance Allowances
(For eligible units in which at least one person is employable)

Delete existing table in the N.J.A.C. and replace with the following table:

Number in Household	Number in Eligible Unit														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1	\$133														
2	92	183													
3	77	155	232												
4	67	134	200	267											
5	61	122	183	244	305										
6	57	114	172	229	286	343									
7	54	108	162	217	271	325	379								
8	52	104	156	208	260	312	364	416							
9	50	100	149	199	249	299	348	398	448						
10	48	96	143	191	239	287	335	382	430	478					
11	47	94	140	187	234	281	328	375	421	468	515				
12	46	92	138	184	230	276	321	367	413	459	505	551			
13	45	91	136	182	227	272	318	363	408	454	499	545	590		
14	44	89	133	178	222	267	311	355	400	444	489	533	578	622	
15	44	87	131	174	218	261	305	348	392	435	479	522	566	609	653

In eligible units of more than 15, add \$30 for each additional member.

(c) (No change.)

10:85-9.4 Determining amount of support
(a)-(b) (No change.)

Schedule IV—Monthly Income Standards

Part A Spouse or Parent of Child Under Age 18	Family Size	Part B All Other LRRs
\$ 405	1	\$1120
540	2	1560
675	3	2010
740	4	2455
810	5	2825
875	6	3125
945	7	3420
1015	8	3720
+ \$70	Each Additional Person	+ \$300

Schedule V
(No change.)

(a)

DIVISION OF PUBLIC WELFARE**Food Stamp Program
Verification Cross-Checks for Duplicate
Participation; Delay Caused by Household
in Processing Application; Expedited
Service for Migrant Households;
Collection of Multiple Food Stamp
Overissuance Claims****Adopted Amendments: N.J.A.C. 10:87-2.21,
2.24, 2.28, 2.31, 2.35, 9.7 and 11.29**

Proposed: April 15, 1985 at 17 N.J.R. 883(a).

Adopted: June 10, 1985 by George J. Albanese, Commissioner, Department of Human Services.

Filed: June 10, 1985 as R.1985 d.346, **without change.**

Authority: N.J.S.A. 30:4B-2; 7 CFR 273.2(i)(4)(iii)(B); 7 CFR 274.1(d).

Effective Date: July 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): March 1, 1989.

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

10:87-2.21 Mandatory verification

(a) The CWA shall verify the following information prior to certification for households initially applying for food stamp benefits.

1.-9. (No change.)

10. Duplicate participation cross-checks: The CWAs shall check each household member by name through the ALFX file to verify that each individual is not already participating in the Food Stamp Program as part of another household (see N.J.A.C. 10:87-2.24).

10:87-2.24 ALFX file

The ALFX file is an alphabetical listing, within the State's computerized Central Operation for Data Exchange and Services (CODES) system, of the names of all individuals receiving AFDC and food stamp benefits in New Jersey. The ALFX file is available on computer terminal, and enables a worker to locate an individual's case record, when the case number is not known, by alphabetic cross-reference to all cases and recipients in the State.

10:87-2.28 Verification subsequent to initial certification

(a) At recertification, the CWA shall verify a change in income, medical expenses or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than \$25.00 since the last time they were verified.

1. (No change.)

2. Changes: Changes reported during the certification period shall be subject to the same verification procedures that apply at initial certification, except that the CWA is not required to verify income, medical expenses or actual utility expenses if the source has not changed and the amount has

changed by \$25.00 or less since the last time they were verified.

i. Change in household composition: If the change reported is a change in household composition, the CWA shall verify through the ALFX system that no household member is participating in the Food Stamp Program as part of another household (see N.J.A.C. 10:87-2.24).

3. (No change.)

10:87-2.31 Delays in processing

(a) If the CWA does not determine a household's eligibility and provide an opportunity to participate within 30 days of the date the application was filed, the CWA shall take action as indicated below.

1.-3. (No change.)

4. Delays caused by the household: If, by the 30th day, the CWA cannot take any further action on the application due to the fault of the household, the household shall lose its entitlement to benefits for the month of application.

i. (No change.)

ii. Households found eligible in second 30-day period: If the household was at fault for the delay in the first 30-day period but is found to be eligible during the second 30-day period, the CWA shall provide benefits only from the date the household took the required action.

5. (No change.)

6. Delays beyond 60 days: The following procedures apply as appropriate when a delay occurs in the second 30-day period.

i. Complete case record: If the CWA is at fault for not completing the application process by the end of the second 30-day period, and the case record is otherwise complete, the CWA shall continue to process the original application until an eligibility determination is reached.

(1) (No change.)

(2) Household fault in initial delay: If the initial delay was the household's fault, the household shall receive benefits retroactive to the date the household took the required action. The CWA shall use the original application to determine the household's eligibility in months following the 60 day period.

ii.-iii. (No change.)

10:87-2.35 Special procedures for expediting service

(a) The CWA shall use the following procedures when expediting certification and issuance.

1. Verification procedure: In order to expedite the certification process, the CWA shall use the following verification procedures:

i.-iv. (No change.)

v. Migrant households determined eligible for expedited service after the 15th of the month and assigned a certification period of more than one month shall be notified in writing of the following:

(1) Postponed verification from sources within the State must be provided before the second full month's benefits will be issued.

(2) Postponed verification from out-of-State sources must be provided before the third full month's benefits will be issued.

vi. Migrant households shall be entitled to a postponement of out-of-State verification only once each season. If the household has already been granted a postponement of out-of-State verification, such verification may be postponed for the initial month's benefits only.

vii. If verification results in a change in the household's eligibility or benefit level, the CWA shall act on the change without advance notice.

2.-5. (No change.)

10:87-9.7 Changes

(a) When changes occur within the certification period which affect a household's eligibility or coupon allotment, action must be taken to adjust the household's eligibility. Household and CWA responsibilities are outlined below:

1. (No change.)

2. CWA responsibilities: The CWA shall not impose any food stamp reporting requirements on households except as noted above. Neither shall the CWA treat the submission of the report of change as a waiver of the household's right to a notice of adverse action.

i. (No change.)

ii. Action on reported change: The CWA shall advise the household of its responsibilities to report changes within the required time period. The CWA is required to take prompt action on all changes reported by the household to determine if the change affects the household's eligibility or allotment. Even if there is no change in allotments, the CWA shall document the change in the case record, provide another change report form to the household, and notify the household of the receipt of the change report and the effect of the change, if any, on its benefits. Restoration of lost benefits shall be provided to any household if the CWA fails to take action on a change which increases benefits within the time limits specified below.

(1) (No change.)

(2) Changes which increase benefits and require issuance of a supplementary ATP: For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of \$50.00 or more in the household's gross monthly income, the CWA shall make the changes effective not later than the first allotment issued 10 days after the date the change was reported. However, in no event shall these changes take effect any later than the month following the month in which the change is reported. Therefore, if the change is reported after the 20th of a month and it is too late for the CWA to adjust the following month's allotment, the CWA shall issue a supplementary ATP by the 10th day of the following month.

(A)-(C) (No change.)

(3) (No change.)

iii. (No change.)

(b) (No change.)

(c) Changes not requiring advance notice: Individual notices of adverse action are not required when:

1.-10. (No change.)

11. The household is a migrant worker household entitled to expedited processing for which verification was postponed and verification, when received, results in a change in eligibility or benefit level.

10:87-11.29 Methods of collection

(a) The CWA shall collect intentional program violation, inadvertent household error and administrative error claims as provided below:

1.-2. (No change.)

3. Allotment reduction: The CWA shall collect payments for inadvertent household error and intentional program violation claims from households currently participating in the program by reducing the household's food stamp allotment.

i. (No change.)

ii. Prior to reducing the household's monthly allotment, the CWA shall advise the household of the appropriate for-

mula to be used to determine the amount of food stamps to be recovered each month, the effect on the coupon allotment and the availability of other methods of repayment. If the household does not select another method of repayment, the CWA shall determine the amount to be recovered each month as follows:

(1)-(4) (No change.)

(5) If the household has multiple claims against it, only one intentional program violation claim and one inadvertent household error claim may be collected at one time without client consent.

4.-7. (No change.)

INSURANCE

(a)

DIVISION OF ACTUARIAL SERVICES

Limited Death Benefit Forms

Readoption with Amendments: N.J.A.C. 11:4-21

Proposed: April 15, 1985 at 17 N.J.R. 891(a).

Adopted: June 3, 1985 by Hazel Frank Gluck, Commissioner, Department of Insurance.

Filed: June 3, 1985 as R.1985 d.325, **without change.**

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e) and 17B:25-18.

Effective Date of Readoption: June 3, 1985.

Effective Date of Amendments: July 1, 1985.

Operative Date of Amendments: September 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): June 3, 1990.

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

Full text of the adoption follows.

SUBCHAPTER 21. LIMITED DEATH BENEFIT FORMS

11:4-21.1 Purpose

(a) The purpose of this subchapter is to establish guidelines for the filing and review of Limited Death Benefit policy forms which will:

1. Make life insurance available to people who would not otherwise be eligible;

2. Reduce through disclosure the likelihood of misunderstanding arising where the sales presentation emphasizes the non-underwriting feature while minimizing or ignoring the limitation on death benefits at early durations;

3. Insure that the applicant is aware that he or she may qualify for an underwritten policy, which may provide greater benefits at lower premiums; and

4. Set standards for the advertising of Limited Death Benefit policy forms so as to eliminate unfair, misleading or deceptive advertising practices.

ADOPTIONS

LAW AND PUBLIC SAFETY

11:4-21.2 Applicability and scope

This subchapter shall apply to all individual life insurance policy forms delivered or issued for delivery after the effective date hereof that limit death benefits at early durations as an alternative to underwriting. For previously-filed limited death benefit forms, revised advertising materials and sales presentations must be submitted to the Department prior to the issuance of any limited death benefit policy forms after the operative date of this subchapter.

AGENCY NOTE: The Department intends to make the amendments to the readopted rule operative 60 days after the publication in the Register of the notice of adoption.

11:4-21.3 Definitions

“Advertising materials and sales presentations” means:

1. Printed and published material, audiovisual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio and television scripts, billboards and similar displays;
2. Descriptive literature and sales aids of all kinds issued by an insurer or agent, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters;
3. Material used for the recruitment, training and education of an insurer’s sales personnel, agents, solicitors, and brokers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, or retain a policy; and
4. Prepared sales talks, presentations, and material for use by sales personnel, agents, solicitors, and brokers.

“Limited Death Benefit Policy” means a policy which limits death benefits at early durations as an alternative to underwriting.

“Prominently” means in such a manner as to make wording conspicuous, obvious and immediately noticeable. For written publications, this would mean type larger and bolder than that of the remainder of the publication appearing at the top or beginning of the publication. For radio or television, this means verbal statements made at the outset of the presentation.

11:4-21.4 Requirements

(a) The policy must prominently display, on its face page, the amount of any death benefit smaller than the face amount of the policy together with the years during which each of the reduced amounts apply. The brief description on the face page shall refer to the limited benefits and specify the period of limitation.

(b) All advertising materials and sales presentations shall prominently advise the prospect of the limited nature of the early death benefits, and that similar, full coverage, underwritten policies, at possibly lower premium rates, may be available from that or some other company.

(c) For companies that offer similar, full coverage, underwritten policies to some or all of those eligible for limited death benefit policies, any difference in the premium rates between the limited benefit policy and the underwritten policy must be prominently shown in advertising and sales presentations. Instructions in the procedure to be followed if the prospect is interested in applying for the underwritten policy must also be included.

(d) A narrative statement of the method by which the policy will be sold, including any instructions to agents, standardized presentation, and any advertising or direct mail material shall be submitted to the Department.

(e) When sold by agents, the commission must be significantly lower on the limited benefit policies to insure that full

coverage, equivalent, underwritten policies will be sold in preference to the limited benefit forms. A statement to this effect must be submitted to the Department.

(f) The limited death benefit shall not be less than the amount of premiums paid with interest at the rate used to determine nonforfeiture values under the policy.

(g) The period during which a limited benefit applies shall not exceed 25 percent of expectation of life at the issue age determined by the mortality table used for nonforfeiture values under the policy.

(h) The face, or ultimate, amount of insurance shall not exceed \$15,000.

(i) The issue age shall not be less than 45.

(j) The policy shall include a provision allowing for the return of the policy for a full refund of premiums within at least 30 days after delivery.

11:4-21.5 Severability

If any section or portion of a section of this subchapter, or the applicability thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of this subchapter, or the applicability to other persons, shall not be affected thereby.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Issuance or Transfer of Municipal Retail Licenses Other Than Club Licenses, By the Director

Readoption: N.J.A.C. 13:2-4.1, 4.7 and 4.10
Readoption with Amendments: N.J.A.C. 13:2-4.2 through 4.6, 4.8, 4.9 and 4.11

Proposed: May 6, 1985 at 17 N.J.R. 1052(a).
Adopted: June 7, 1985 by John F. Vassallo, Jr., Director, Division of Alcoholic Beverage Control.
Filed: June 7, 1985 as R.1985 d.332, **without change**.

Authority: N.J.S.A. 33:1-20, 1-22, 1-23, 1-24, 1-25, 1-26, 1-27, 1-34 and 1-39.

Effective Date for Readoption: June 7, 1985.
Effective Date for Amendments: July 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): June 7, 1990.

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

Full text of the readoption without change appears in the New Jersey Administrative Code at N.J.A.C. 13:2-4.1, 4.7 and 4.10

Full text of the readoption with amendments follows.

SUBCHAPTER 4. ISSUANCE OR TRANSFER OF MUNICIPAL RETAIL LICENSES OTHER THAN CLUB LICENSES BY THE DIRECTOR

13:2-4.2 Application to the director

Application to the director shall be made upon the same prescribed application forms as are used in all applications for municipal licenses (copies are attainable from the clerk of the municipality wherein the premises sought to be licensed are situated). The application shall be fully executed and submitted in triplicate.

13:2-4.3 Fees; new or renewal licenses

(a) Where application is made for a new license or for a renewal of a license, there shall also be submitted supplemental application forms (copies may be obtained from the director), fully executed in triplicate and accompanied by:

1. A fee of \$50.00 in cash, money order or certified check drawn to the order of Division of Alcoholic Beverage Control; and

2. A certification from the municipal clerk or other responsible municipal official stating that the municipal new license or renewal fee has been paid and the amount of such fee.

13:2-4.4 Fee for license transfer to other persons

Applications for transfers of licenses to other persons shall be accompanied by a fee of 10 percent of the full municipal annual or term license fee for said license, which fee shall be paid to the municipality wherein the license is located. In addition to that fee, a fee of \$50.00 shall be paid in cash, money order or certified check drawn to the order of Division of Alcoholic Beverage Control and retained by the director whether or not the transfer is granted, and accounted for as are other license fees.

13:2-4.5 Fee for license transfer to other premises

Applications for transfer of licenses to other premises shall be accompanied by a fee of 10 percent of the full municipal annual or term license fee for said license, which fee shall be paid to the municipality wherein the license is located. In addition to that fee, a fee of \$50.00 shall be paid in cash, money order or certified check drawn to the order of Division of Alcoholic Beverage Control and retained by the director whether or not the transfer is granted, and accounted for as are other license fees.

13:2-4.6 Combined transfers

Transfers of licenses both as to person and place may be applied for simultaneously and in a single application, accompanied by a fee of 20 percent of the full municipal annual or term license fee for said license; which fee shall be paid to the municipality wherein the license is located. In addition to that fee, a fee of \$50.00 shall be paid in cash, money order or certified check drawn to the order of Division of Alcoholic Beverage Control and retained by the director whether or not the transfer is granted, and accounted for as are other license fees. Where there is such a combined transfer application, the applicant may not obtain a person-to-person transfer of the license if the place-to-place transfer is denied.

13:2-4.8 Advertising notice of application

The rules applicable to advertising notice of application for municipal license or the transfer thereof (N.J.A.C. 13:2-2 and N.J.A.C. 13:2-7) shall apply when application is made to the director. However, the notice of application, as published, shall state that such application has been made, and objections, if any, should be addressed to the Director of the

Division of Alcoholic Beverage Control, Richard J. Hughes Justice Complex, CN 087, Trenton, New Jersey 08625.

13:2-4.9 Refund of fees

If the application for new or renewal license is denied for any reason whatsoever or withdrawn, statutory refund of 90 percent of the fee deposited with the municipality shall be made by said municipality to the applicant. The remaining 10 percent shall be deemed an investigation fee and shall be retained by the municipality. The \$50.00 fee accompanying the application shall be retained by the director.

13:2-4.11 Notice of change in facts in application

The rules applicable to filing with a municipal issuing authority notice of change in the facts set forth in application for retail license and publishing notice of change in corporate structure and furnishing proof thereof (N.J.A.C. 13:2-2.12 through 2.14) shall apply to all retail licensees holding licenses issued by the director. However, the licensee shall file such notice with and furnish such proof to the director and such notice of change in corporate structure, as published, shall state that information concerning the qualifications of any of the current stockholders of the corporate licensee shall be addressed to the Director of the Division of Alcoholic Beverage Control, Richard J. Hughes Justice Complex, CN 087, Trenton, New Jersey 08625.

(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Transportation by Licensees; Transit Insignia

Readoption with Amendments: N.J.A.C.

13:2-20

Proposed: May 6, 1985, at 17 N.J.R. 1054(a).

Adopted: June 7, 1985 by John F. Vassallo, Jr., Director, Division of Alcoholic Beverage Control.

Filed: June 7, 1985 as R.1985 d.333, **without change**.

Authority: N.J.S.A. 33:1-1(x) and (y), 1-2, 1-3, 1-10, 1-11, 1-12, 1-13, 1-14, 1-23, 1-25, 1-26, 1-28, 1-28.1 through 28.4, 1-35, 1-39, 1-50, 1-55 and 1-66.

Effective Date for Readoption: June 7, 1985.

Effective Date for Amendments: July 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): June 7, 1990.

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

Full text of the readoption follows.

13:2-20.1 Transit insignia; transportation of alcoholic beverages

No licensee shall transport alcoholic beverages into, out of, or within the State of New Jersey in any vehicle unless it is owned, leased or contracted for by the licensee. Such vehicle, while so used, shall first have issued thereto a transit insignia or special transportation permit sticker as provided in N.J.A.C. 13:2-20.6.

ADOPTIONS

LAW AND PUBLIC SAFETY

13:2-20.2 Transportation by retail licensee; delivery slip

(a) No retail licensee shall deliver or transport any alcoholic beverages into, out of, or within the State of New Jersey in any vehicle unless the driver of the vehicle has in his possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill, or similar document stating the date of delivery, the bona fide name and address of the purchaser or consignee, and the brand, size of container, quantity and price of each item of the alcoholic beverages being delivered or transported. The original or true copy of such delivery slip, invoice, manifest, waybill or similar document shall be retained by the licensee at his licensed premises for a period of one year from the date of delivery, and shall be available for inspection by any person authorized to enforce the provisions of the Alcoholic Beverage Law, N.J.S.A. 33:1-1, et seq., unless the director shall have granted to the licensee written permission to keep such documents at another designated place.

(b) No such licensee shall peddle, barter, or otherwise sell any alcoholic beverages from any vehicle.

13:2-20.3 Transportation by State licensee with retail privileges; delivery slip or route card

(a) No State licensee privileged to sell alcoholic beverages at retail shall deliver or transport any alcoholic beverages in any vehicle, unless:

1. The driver of the vehicle has in his possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill, or similar document stating the bona fide name and address of the purchaser or consignee, and the brand, size of container, quantity and price of each item of the alcoholic beverages being delivered or transported; or

2. The driver of the vehicle has in his possession a route card which shall contain the name, address and standing order of the customer, and the entry at the time of delivery of the date of delivery, the brand, size of container, quantity delivered and the price charged. In addition to such route cards, there must be carried in the vehicle a loading list setting forth the total quantity of alcoholic beverages loaded for delivery, indicating as to each brand loaded the total quantity of each size of container; and

3. The original or true copy of such delivery slip, invoice, manifest, waybill, route card or similar document shall be retained by the licensee at his licensed premises for a period of one year from the date of delivery, and shall be available for inspection by any person authorized to enforce the provisions of the Alcoholic Beverage Law, N.J.S.A. 33:1-1 et seq., unless the director shall have granted to the licensee written permission to keep such documents at another designated place.

(b) The holder of a New Jersey Plenary or Farm Winery license with retail privileges may authorize the shipment of wine purchased in person at retail on the licensed premises to a designation within this State by a parcel delivery service subject to the following terms and conditions:

1. The New Jersey Plenary or Farm Winery licensee with retail privileges must first file an application for authorization to utilize a parcel delivery service before it makes any such deliveries to consumers. The application is made on a form provided by the Division and must be accompanied by an annual fee of \$150.00. All parcel delivery service permits are for the calendar year and expire on December 31 and must be renewed annually; and

2. The parcel delivery service must first be registered and approved by the Director. Application for approval shall be

made on a form to be provided by the Division. No fee is required. Once approved, a parcel delivery service shall not be required to obtain a Transportation License under N.J.S.A. 33:1-13 or any Transit Insignia or Permits under N.J.S.A. 33:1-28 or N.J.A.C. 13:2-20.1 et seq.; and

3. An invoice must be attached to every package stating the purchaser's name, address, destination, quantity of wine being shipped and place of purchase. A copy of the original invoice must be made available for inspection by any person authorized to enforce the provisions of the Alcoholic Beverage Law, N.J.S.A. 33:1-1 et seq. for a period of three years at the office of the licensee; and

4. It is the duty of personnel delivering the wine for a licensee in accordance with N.J.S.A. 33:1-28.1 et seq. and this subsection to seek to determine that, at the time of delivery of wine, the party signing a delivery receipt is of legal age to purchase and consume alcoholic beverages.

(c) No such licensee shall peddle, barter, or otherwise sell any alcoholic beverage from any vehicle to any consumer.

13:2-20.4 Transportation by other State licensees, importers and manufacturers; delivery documents

(a) No manufacturer, importer or wholesaler shall deliver or transport, directly or indirectly, any alcoholic beverages into, out of, or within the State of New Jersey in any vehicle unless the driver of the vehicle has in his possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill or similar document stating the name, address and New Jersey State assigned license number (if applicable) of the purchaser or consignee, the brand, size of container, terms of sale, quantity and price of each kind of alcoholic beverages being delivered or transported. Such document shall further bear a printed or stamped legend reading substantially as follows:

"The undersigned licensee hereby acknowledges that all of the alcoholic beverages itemized above have been ordered and were received on

(Date)

....."
(Signature by or for licensee)

(b) Two copies of such delivery slip, invoice, manifest, waybill or similar document shall be truly dated and signed by the licensee or his agent at the time and on the date of actual delivery of any alcoholic beverage. One copy shall be retained for a period of three years from the date thereof by the manufacturer, importer or wholesaler and the other by the purchasing licensee for a like period at its respective licensed premises, and shall be available for inspection by any person authorized to enforce the provisions of the Alcoholic Beverage Law, N.J.S.A. 33:1-1 et seq., unless the director shall have granted written permission to the manufacturer, importer, wholesaler or retailer to keep its copies at another designated place.

(c) Except that with regard to the following:

1. Sales or transfers from manufacturers or importers to wholesalers or distributors, when the nature of the documentation and transaction precludes the immediate availability of all documents required in (a) and (b) above, compliance shall be deemed to have occurred when all such records are available within a reasonable time following the sale, transfer, delivery and receipt; and

2. Sales or deliveries of keg beer or ale only to retail licensees, when the nature of the documentation and transac-

LAW AND PUBLIC SAFETY

ADOPTIONS

tion precludes the immediate availability of all documents required in (a) and (b) above, compliance shall be deemed to have occurred when all such records are available upon completion of the operative period of the terms of such sales which shall have been set forth and shall be consistent with the seller's Marketing Manual and Current Price List pursuant to N.J.A.C. 13:2-24.

13:2-20.5 Eligibility for transit insignia or special transportation permit

(a) No transit insignia or special transportation permit shall be issued to a bonded warehouse bottling licensee, public warehouse licensee, or warehouse receipts licensee, unless such licensee also holds a license of some type which authorizes the transportation of alcoholic beverages.

(b) No transit insignia or special transportation permit shall be issued for any motor vehicle not properly registered in accordance with State law applicable to such vehicles.

(c) No transit insignia or special transportation permit will be issued for any leased vehicle unless said lease by its terms transfers to the licensee the right to exclusive possession, control and operation of such vehicle when utilized in connection with the licensed business. A copy of the lease must be annexed to any application.

(d) No transit insignia or special transportation permit shall be issued until after the basic manufacture, transportation, wholesale or retail license is issued, and in case of a municipally issued retail license, until the issuance of the license shall have been certified to the director by the municipal issuing authority.

13:2-20.6 Application; fees

(a) Applications for transit insignia shall be filed upon a prescribed form with the director accompanied by the full fee of \$25.00 for each insignia, in cash, money order or certified check payable to the order of the Division of Alcoholic Beverage Control.

(b) Applications for special transportation permit, which may be issued for passenger type vehicles and consist of a sticker that is less conspicuous than a transit insignia, shall be filed upon a prescribed form with the director accompanied by the full fee of \$25.00 for each permit, in cash, money order or certified check payable to the order of the Division of Alcoholic Beverage Control.

13:2-20.7 Term of transit insignia or special transportation permit; renewal

All transit insignia and special transportation permit expire on August 31 following their issuance unless previously terminated by order of the director or by surrender, revocation or expiration of the basic license which authorized issuance of the insignia or permit. Renewals must be applied for in the same manner as a new insignia or permit.

13:2-20.8 Affixing transit insignia or special transportation permit sticker to vehicle

(a) Transit insignia must be directly and securely affixed at the time of receipt to the exterior of the body of the vehicle on the left side thereof, so as to be clearly visible at all times.

(b) Special transportation permit stickers must be directly and securely affixed at the time of receipt to the rearmost side window on the driver's side of the vehicle. The sticker shall be placed in the lower left corner of such window, shall be affixed from the inside facing outward and shall be clearly visible at all times.

13:2-20.9 Restrictions applicable to vehicles bearing transit insignia or special transportation permit

(a) No licensee shall allow, permit or suffer any vehicle for which a transit insignia or special transportation permit is issued to him to be used to transport alcoholic beverages except solely for the licensee's or employer's own business.

(b) When any transit insignia or special transportation permit sticker shall become marred, defaced or damaged, the licensee shall forthwith notify the director in writing, so that there may be appropriate replacement, if necessary, of such insignia or sticker.

(c) Transit insignia or special transportation permit are not transferable and may be used only for the vehicle for which issued, provided however, that nothing herein contained shall prohibit the transportation of alcoholic beverages by a transferee of a license in a vehicle for which a transit insignia or special transportation permit was issued to his transferor for a period not exceeding seven days subsequent to the effective date of the transfer of license to such transferee.

(d) Except as provided in (c) above, no licensee shall sell or otherwise dispose of any vehicle to which a transit insignia or special transportation permit sticker is affixed, without having first removed said insignia or sticker and having notified the director of such removal.

13:2-20.10 Search of licensed vehicle

By acceptance of a transit insignia or special transportation permit, the licensee consents to the inspection and search of the vehicle for which such insignia or permit is issued, without search warrant, by any person authorized to enforce the provisions of the Alcoholic Beverage Law, N.J.S.A. 33:1-1 et seq.

13:2-20.11 through 20.15 are deleted.

NOTE: The current text of 13:2-20.11 through 20.15 is deleted. The basic, if not identical, terms of these sections have been recited in different sections of the readoption with amendments. A conversion chart for these sections follows:

- (a) 13:2-20.11 is now set forth in 13:2-20.8
- (b) 13:2-20.12 is now set forth in 13:2-20.9(b)
- (c) 13:2-20.13 is now set forth in 13:2-20.9(d)
- (d) 13:2-20.14 is now set forth in 13:2-20.7
- (e) 13:2-20.15 is now set forth in 13:2-20.10

(a)

**DIVISION OF ALCOHOLIC BEVERAGE CONTROL
AMUSEMENT GAMES CONTROL BUREAU**

Conduct of Licensees and Operation of Licensed Games; Types of Prizes Permitted; Value and Award of Prizes; Certification of Games

Adopted Amendments: N.J.A.C. 13:3-3.5, 3.6 and 7.9

ADOPTIONS

LAW AND PUBLIC SAFETY

Proposed: May 6, 1985 at 17 N.J.R. 1058(a).
Adopted: June 7, 1985 by John F. Vassallo, Jr., Director, Division of Alcoholic Beverage Control, and Amusement Games Control Commissioner.

Filed: June 7, 1985 as R.1985 d.334, **without change.**

Authority: N.J.S.A. 5:8-79, 8-79.1, 8-85 and 8-107.

Effective Date: July 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): January 17, 1988 for 13:3-3.5 and 3.6; August 1, 1988 for 13:3-7.9.

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

Full text of the adoption follows.

13:3-3.5 Types of prizes permitted; value of prize

(a) No licensee shall offer or give, directly or indirectly, any prize in any single amusement game except merchandise other than alcoholic beverages; drug or narcotic paraphernalia; or obscene, indecent, filthy, lewd, lascivious or disgusting recordings, printings, writings, pictures or other matter.

(b) The retail value of such merchandise prize or prizes to be so offered and given in any such game or for an accumulation of wins from a series of games or plays shall not exceed an average retail value of \$500.00.

(c) (No change.)

13:3-3.6 Determination of value of prizes

(a) No licensee shall offer, give or display any prize in the licensed premises unless its average retail value is not in excess of \$500.00.

(b) (No change.)

13:3-7.9 Permissible amusement games certifications

(a) Pursuant to P.L. 1959, c.108 and this subchapter there is hereby granted certification of permissibility for licensing of the following amusement games:

1. (No change.)

2. Certification No. 2. Arcade games wherein a single player upon payment of fee is permitted to play a machine or device to obtain a prize or attain a score upon the basis of which a prize is awarded, generally known as Baseball Machine, Basketball Machine, Bouncing Ball Machine, Bowling Machine, Crane Machine, Dexterity Tester Machine, Digger Machine, Football Machine, Golf Machine, Gun Machine, Hockey Machine, Intelligence Tester Machine, Pinball Machine, Pokerino Machine, Pool Table Machine, Pusher Machine, Roll Down Machine, Rotary Arm Machine, Shooting Machine, Shuffle Alley Machine, Skee Ball Machine, Skill Tester Machine and Strength Tester Machine, and such similar games, including electronic games, as may from time to time be certified pursuant to this subchapter.

i. There is no restriction on the number of machines or devices that may be installed or available under one arcade license.

ii. If any machine or device has more than one player position, each player position shall be considered a separate machine or device in calculating the State license fee.

iii. Any machine or device that awards tickets or tokens pursuant to N.J.A.C. 13:3-3.5(c) shall be set or adjusted so as to have a ticket or token payout for winning at the minimum ratio of one ticket or token paid out for each coin inserted as

a charge to play or operate the machine or device, calculated on an average of 8,000 plays.

3.-8. (No change.)

(a)

BOARD OF DENTISTRY

Announcement of Practice in a Speciality Area; Professional Advertising

Notice of Correction: N.J.A.C. 13:30-8.4 and 8.6

Take notice that errors appear in the Summary of Public Comments and Agency Responses published in the May 20, 1985 issue of the New Jersey Register at 17 N.J.R. 1321 concerning Non-Price Information. The Summary of Public Comments and Agency Responses should have appeared as follows:

Summary of Public Comments and Agency Responses:

...

Non-Price Information

Both FTC and OC object to N.J.A.C. 13:30-8.6(c)2, prohibiting claims of superiority, because they feel that this will restrict comparative advertising and will reduce competition. They allege that identifiable and factual claims are prohibited by this section. They are not correct. The regulation will only prohibit statements that services and materials are superior to others without qualification. Nothing in this regulation prohibits, for example, information regarding additional training, post graduate degrees, or experience residencies as part of an advertisement so long as it is true. What is prohibited is the unqualified statement of superiority. Essentially dental services depend on the skill of the operator. Further, while an individual practitioner might be more skilled in one phase of dentistry he may be less adept at another. The Board does not perceive that the consumer is benefited by a statement that a particular dentist does the "finest" fillings or the "best" extractions.

Both the FTC and OC object to prohibition of testimonials contained in N.J.A.C. 13:30-8.6(c)5 and feel that such advertising is a proper reflection of consumer experience. The Board has carefully considered the merits of such statements and their informational potential against their potential for abuse. As OC correctly points out, testimonials regarding the quality of care cannot be properly regulated. OC argues that testimonials regarding the experiences of patients at their office may be helpful to consumers. The Board must differ. The Board questions whether such testimonials are prompted, solicited, edited, paid for and who can and will verify their claims as truthful.

The FTC objects to the requirement in N.J.A.C. 13:30-8.6(d) which provides that the Board may require the substantiation to ANY claim for its truthfulness and suggests that the requirement for material claims only. The Board finds the FTC question one of semantics in this case and as a matter of practice only questions material claims for truthfulness.

The FTC objects to the requirement in N.J.A.C. 13:30-8.4 that advertising of specialties be limited to [light] eight recog-

PUBLIC UTILITIES

ADOPTIONS

nized specialties and that their permit number be listed in advertisements. The FTC contends that this regulation prevents dentists with "other" specialties from advertising and that listing their names and permit numbers in advertisements is burdensome. The Board must point out to the FTC that there are in fact only [light] **eight** bona fide specialties in dentistry. These specialties are clearly identifiable, with set qualifications, and the Board is able to certify only those areas. As noted above, should a dentist have additional, post graduate training in any phase of the practice of dentistry he may so state in an advertisement. In this situation, however, the characterization of specialist as suggested by the FTC is inappropriate and conveys misleading information to the public.

Since the Board has jurisdiction over the licensee and not the place of practice, the names and specialty numbers are required to be included in the advertisements. The FTC infers that in large volume practices that the names of *all* the dentists employed are required to be in the advertisement. The required listing of names applies only to the owners who are responsible for the advertisement, and the specialists and their certificate numbers who are practicing at that facility. In its experience, the Board has often encountered advertisers who have falsely claimed the availability of specialists, without, in fact, these specialists being associated with the facility and the specialty services, in fact, being rendered by general practitioners, or the specialists are unavailable when the consumer is in need of the specialist's services. The purpose of this provision is to eliminate this deceptive practice.

.....

PUBLIC UTILITIES
(a)

BOARD OF PUBLIC UTILITIES

Office of Cable Television
Rules of Practice and Procedure

Adopted New Rule: N.J.A.C. 14:18-3.10

Proposed: Monday, March 4, 1985 at 16 N.J.R. 563(a).
Adopted: June 6, 1985 by Rinaldo D'Argenio, Deputy Director, Office of Cable Television.
Filed: June 10, 1985 as R.1985 d.337, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 48:5A-10 and N.J.S.A. 48:5A-49.

Effective Date: July 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): July 1, 1990.

Summary of Public Comments and Agency Responses:

Comments:

The proceeding began as a Notice of Pre-Proposal with notice published in the New Jersey Register on August 6, 1984 (16 N.J.R. 2069). A public hearing was held on September 12, 1984. The proposed rule appeared in the March 4, 1985, edition of the New Jersey Register. The period for comments expired on April 4, 1985.

In addition to the initial appearances, comments and replies which assisted in forming the basis of the proposed rule, the following parties submitted comments subsequent to publication:

The New Jersey Cable Television Association, UA-Columbia Cablevision, Cablevision of New Jersey, Sammons Communications, Vision Cable, Suburban Cablevision, Monmouth, Ocean and Jackson Cablevision Associates, Laurelton Mobilehome Park and Sales, Lanidex Corporation, Clusters at Washington, the Property Owners Association and the law firm of Gross and Hanlon representing numerous apartment complexes and mobilehome parks.

UA Columbia Cablevision and Vision Cable, cable television companies operating in northern New Jersey, both support the rule as proposed. The following is a summary of the remaining comments filed:

New Jersey Cable Television Association—The firm of Holzapfel, Perkins and Kelly, on behalf of the Association offered detailed comments on the proposed rule. The following amendments were suggested:

1) Paragraph (a) be amended by adding the following clause at the very beginning:

In the absence of authorization of the fee owner or agent to install cable television service . . . a cable television operator shall serve . . .

The Association's concerns relate to a situation wherein a cable company, subscriber and property owner have already entered into proper agreements for access. It was also suggested that reference to fee owner be changed to read fee owner *or agent*.

2) The procedure for the service of notice and the form and content of the notice should be part of the rule. Neither the procedure nor form should be left for later determination. A proposed form of notice was supplied.

3) The removal of section (a)4. It is the position of the Association that the requirement that names of persons seeking cable service be provided may be a violation of the Cable Communications Policy Act of 1984. The Association further posits that the rule presupposes tenant pre-occupancy.

4) Section (6) be revised as follows:

Upon the expiration of thirty days and the failure of the parties to agree with respect to such installation, the cable television company may enter upon such lands and buildings, taking reasonable care to avoid unnecessary damage to the premises, for the purpose of installing cable television facilities to provide service therein. Notwithstanding the provisions herein, the Director may, in his discretion, upon a showing by the fee owner or agent that the proposed installation will result in irreparable harm to the premises, order that such installation be postponed for a period of twenty days affording the cable television company an opportunity to respond, pursuant to subsection (d) hereof. Upon consideration of the papers filed, the Director may either permit the installation or continue the postponement until resolution of the manner of installation. A determination under this subsection (b) shall not preclude a subsequent proceeding under subsection (c).

It is the Association's position that the proposed section would fully realize the rule's intention.

5) Section (c)3 should be modified to add that the criteria, data and methods be provided in order to fully present the information to make a proper evaluation.

6) Section (c)5 should be revised to exclude from the example reference to "maintenance to cable facilities" and "collection of equipment" and modified to read:

Any extraordinary, reasonable and necessary costs to be borne. . . .

ADOPTIONS

PUBLIC UTILITIES

7) Section (d) should be modified to add at the end thereof: Any written access agreements must be maintained by the CATV company and available for inspection by the Office of Cable Television.

8) That some form of compensation be determined as part of the rule. The figure of \$1.00 was suggested.

Sammons Communication—Robert A. Giegerich, Jr., Esq., submitted comments on behalf of Sammons Communications. Sammons proposes that compensation be set at \$1.00 rather than zero to avoid an argument that zero compensation is, in actuality, no compensation at all. Its position finds a basis in *Loretto v. Teleprompter Manhattan CATV Corp.*, 102 S.Ct. 3164 (1982) where the Supreme Court determined that the physical attachment of cable equipment was a compensable taking as defined by the "Takings Clause" of the Fifth Amendment. Sammons notes the Court's specific language that a party aggrieved by the taking "entertains an . . . expectation of compensation."

Suburban Cablevision—Suburban Cablevision as represented by Greenwood and Sayovitz, Esqs., offers the following comments on the proposed rule:

1) That a section noting the amount of compensation be included in the rule and that the amount be set at \$1.00 in order to meet the "Takings Clause" requirement of compensation for nominal takings.

2) Subsection (a) be modified to include a provision allowing the cable operator to install service without liability for trespass "if no response to the notice is forthcoming within 30 days."

3) That a cable television operator be authorized to provide access to subscribers even though compensation issues remain unresolved under section (b) and (c) of the proposed rule.

Cablevision Company—Represented by the firm of Waters, McPherson, McNeill, Esqs., Cablevision Company offered the following summarized comments:

1) Access should be promptly provided even if issues over compensation remain unresolved.

2) That notice be presented to either the fee owner, landlord or landlord agent at the building. Additionally, that the rule be clarified so that subsequent trips to the site to service new customers not require the same notice requirements.

3) That section (a)(4) be deleted. Cablevision posits that such a provision mandates pre-solicitation and raises questions of privacy.

4) That section (c) include a provision allowing the cable television company the right to review any material submitted under an application for compensation by an owner. Cablevision further proposes that applications for additional compensation be strictly limited to circumstances where the value of the property has been adversely affected by the standards in section (c).

Monmouth, Ocean, Jackson Cablevision Associates—Represented by Meyner and Landis, Esqs., Monmouth, Ocean and Jackson Cablevision Associates offered the following suggested clarifications and changes:

1) That section (a)4 be deleted because requiring the cable operator to set forth names of persons seeking cable service would create duplicative marketing efforts and thwart a cable operator's ability to pre-wire and joint-trench along with utilities.

2) With regard to section (b) when no response to a cable operator's notice is received within 30 days, access to the premises is granted by operation of law. It is proposed that provision be made for a Board Order granting access to issue administratively.

3) That a new section be added to parallel section (e) dealing with the event wherein a timely forthcoming response received under section (a) constitutes a "contested case" under the Administrative Procedure Act.

Lanidex Corporation—Frank F. Harding, Esq., filed comments on behalf of Lanidex Corporation which is involved in constructing and planning over 5,000 condominium units in northern New Jersey. Lanidex proposed that the regulation provide that in valuing the property being affected by the franchise operator's entry, the value before the "taking" should include the fair value of the developer and/or condominium association operating a master antenna system or similar system without interference by the franchise holder. This proposal was based on two economic factors:

1) Operating a master antenna system for a condominium project is a profitable enterprise that should inure to the benefit of the owners and occupants of the lands involved; and,

2) The developer of a condominium project has every right to expect to realize reasonable profits from all aspects of the development, not just from those that are directly related to the sale of units.

Property Owners Association of New Jersey, Inc.—The Property Owners Association of New Jersey consists of approximately 600 multi-family residential landlords. A committee on behalf of the organization filed the following comments:

1. That the CATV operator present a certificate of liability insurance with a minimum face value of \$1,000,000 to the owner, prior to commencing any work. In addition, the operator give written indemnification to the landlord with respect to any claims which might be made against the landlord during the time that an installer is in the building.

2. That a release be provided from the operator to the landlord, both during and after installation, directly from the operator prior to the installation.

3. Installation be required to be done in an aesthetic manner. For example cleaning be done after installation and no crisscrossing of wires occur.

4. That construction be performed in a sound and workmanlike manner and that the rule be specific as to same, requiring conformance with all construction and municipal regulations.

5. That the landlord be entitled to the written specifics of the proposed installation prior to any work commencing.

6. With respect to the monetary compensation due the landlord the following should be applicable.

(a) The owner should be reimbursed for any out-of-pocket expenses. This would include the providing of any supervisory personnel, such as the superintendent, who must give access to basements, electric boxes, tenant's apartments, etc. The landlords should be compensated for the monies paid by them to their superintendent for the time of the superintendent taken by the installer.

(b) Landlord should receive a \$15 flat fee every time an installation takes place within a tenants' apartment.

7. The rulemaking should develop additional guidelines as to how the installation should be done. For example, installers should not be permitted to run wires from the middle of walls, but should be required to have wires come out of walls at the baseboard or in some other unobtrusive manner.

8. That the landlord be indemnified for what a tenant might do to the cable company's property, both during the tenancy and after the tenancy.

PUBLIC UTILITIES

ADOPTIONS

The Clusters at Washington Condominium Association—William D. Lavery, Jr., Esq., filed comments on behalf of the Clusters at Washington Condominium Association. The Association's concerns related to the following:

- 1) That the thirty-day notice and entry provision allows for a taking of property by a cable television company absent a proceeding before an adjudicatory body. To meet this concern an eminent domain proceeding is proposed.
- 2) That a procedure be established to meet the event when an owner responds to the notice and objects to the proposed method of installation.
- 3) That the thirty-day rule should not apply when a SMATV system is currently providing service to tenants or individual property owners since same are already receiving cable television service.

Laurelton Mobilehome Park and Sales—Philip Baratta, Jr., co-owner of Laurelton filed comments regarding Mobilehome Parks. Laurelton objects to the burden of proof being placed on the owner to demonstrate reasons why it should be awarded compensation. It was reasoned that since ownership of poles and the responsibility associated therewith is the Mobilehome Park owners' then compensation is therefore a given and a burden of proof is unwarranted. Costs of repairing and maintaining poles that cable television companies attach facilities to was the basis of Laurelton's comments.

Law Firm of Gross and Hanlon—Christopher J. Hanlon, Esq., filed comments on behalf of the numerous apartment complexes and mobilehome parks represented by his firm. Gross and Hanlon, Esqs. proposed the following changes:

- 1) Specific guarantees that construction will not interfere with the lives of tenants and that construction will not damage the premises. It was stressed that the existing procedural mechanism provides enough delay to encourage pure negotiation of the incidents of access and that the thirty-day "default" period may prejudice landlords and tenants by expeditiously addressing statutory protections. A reasonable period to negotiate said incidents of access was proposed along with a requirement that a specific description of the proposed method of installation and the location of all facilities be provided.
- 2) That no delay in granting access to cable operators occur provided that issues related to indemnification and protection of property are satisfied. The rule could specifically provide if the only issue to be resolved is compensation, then access be granted by the Board without delay.
- 3) That the proposed compensatory scheme is not justified by virtue of the taking that occurs when a cable company gains access to the property. This premise was based on the following:
 - a) Loretto ruled that installation of cable television facilities does constitute a compensable taking.
 - b) That landlords/property owners rights not be balanced against tenants rights.
 - c) That the value of rental property be analyzed by the income capitalization method.
 - d) Since cable television facilities do not belong to the landlord, such installation cannot improve the value of the landlord's property.
 - e) That the proposed rule does not consider the contractual property rights taken away from landlords/property owners.

Responses:

The Board of Public Utilities (BPU) has carefully reviewed and considered the transcripts, filings, comments, case law and the recommendations of the Office of Cable Television while deliberating on this long awaited rule.

The Board finds jurisdiction in this matter firmly based in judicial precedent and statutory interpretation. In *Loretto v. Teleprompter Manhattan CATV Corp.* 102 S.Ct. 3164, 3179 (1982) the United States Supreme Court clearly stated that:

The issue of the amount of compensation that is due, on which we express no opinion, is a matter for the state courts to consider on remand.

In New York, where the Loretto case originated, compensation was reserved for consideration by the New York Commission on Cable Television. Under New Jersey law, the state courts reached the same conclusion referring the issue of compensation to this Board. In *Princeton Cablevision, Inc. v. Union Valley Corp.* 195 N.J. Super 257, Judge Richard Cohen decided that:

The fixing of just compensation is the job of the BPU. It has been granted comprehensive authority to regulate the cable television industry. It may, for example:

institute all proceedings and investigations, hear all complaints, issue all process and orders, and render all decisions necessary to enforce the provisions of this act . . . [N.J.S.A. 48:5A-9(c).]

It is the BPU that will determine the circumstances and incidents of access. It is therefore sensible to use the familiarity it gains with the particular property and the proposed installation to fix compensation, in the same or a later proceeding. It can proceed much as it does in cases arising under N.J.S.A. 48:5a-20. In such cases, the BPU has the authority to order joint use of poles, lines or other equipment by a franchised cable company and another public utility, to set terms and conditions and to fix reasonable compensation to be paid to the party whose property is ordered to be shared.

The BPU will ultimately decide how best to handle the compensation issue in access cases. I go no further than to hold that the Constitution requires fair compensation to an owner whose property is to be physically occupied by cable television facilities, and that proceedings to fix compensation will be in the BPU in accordance with rules and regulations the BPU will develop for the purpose.

This determination was followed by Judge Harold B. Wells, III in a hearing on April 27, 1984 in *In the Matter of NYT Cable TV v. Homestead at Mansfield, Inc.* Homestead at Mansfield Homeowners Association, Inc., Michael Laino, Daniel Quigley. Judge Wells following his Superior Court colleague noted in his remarks from the bench that:

New York Times Cable TV Company is entitled to access to Homestead at Mansfield pursuant to N.J.S.A. 48:5(A)-49, but only under circumstances and conditions to be determined by the New Jersey Board of Public Utilities Commissioners, to which the matter is hereby referred for such further proceedings and determination as it deems appropriate.

These pronouncements by the Supreme Court of the United States and New Jersey Superior Courts coupled with the Board's special expertise in cable television matters imbues the Board with the authority to determine just compensation for the taking of property resulting from the installation of cable television facilities in multi-unit dwellings. Installation of cable television facilities in multi-unit dwellings constitutes a compensable taking of property under the 5th Amendment as made applicable to the States by the 14th Amendment.

In accordance with this finding the Board feels that \$1.00 dollar adequately satisfies the requirements of the "Takings Clause" unless facts to the contrary can be demonstrated by the fee owner under N.J.A.C. 14:18-3.10(d)5 as adopted.

Although the Board realizes that a property owner's investment begets certain expectations which demand remuneration it is the Board's conclusion that the average cable television

ADOPTIONS

installation effects only a nominal taking. By awarding \$1.00 compensation the Board incorporates the constitutional taking argument and accepts the comments of various operators and the NJCTA. The notice provisions of the rule are prospective in nature, however, the rule does not limit fee owners from applying for compensation.

The notice provision is the procedural fulcrum of the rule. Thus, it is essential that it meet the needs of all parties and accomplish its purpose in the public interest. The changes the Board accepts concern both form and procedure. To insure proper service the Board adopts an acknowledgment through certified mail. Additionally, the Board has adopted amendments proposed by the NJCTA and several cable operators. They deal with the form of notice, specifically the former subsection (a)4 dealing with the requirement that names of persons seeking cable service be provided. The Board finds no requirement of preoccupation in N.J.S.A. 48:5A-49. The reason for the former subsection (a)4 was to protect the fee owner from unplanned and expeditiously imposed installation of cable television facilities on its property. The Board feels that the rule as adopted prevents such indiscriminate events from occurring and is not a potential invasion of privacy of a tenant or subscriber.

The majority of the comments submitted were concerned with the situation wherein no response from the fee owner was forthcoming. The NJCTA and most of the operators propose that installation of cable facilities be allowed after a fee owner's failure to respond within 30 days. The owners on the other hand, request that such installation not be allowed without some further recourse and protection from the administrative process. The Board fully embraces the fee owners concerns and feels that the statutory requirement and obligations to protect "the safety, functioning, appearance and value of the premises and the convenience, safety and well being of other tenants" would be more precisely met if the Board adopts the following amendments:

(c)(1) if no response to the notice is forthcoming within 30 days the cable operator has a statutory right and a franchise obligation to provide cable television service. In order to enforce this right and satisfy said obligation a company must apply for an administrative approval for access. To apply said company must submit to the Board of Public Utilities, copies of its notice and a specific description of the proposed method of installation.

This section allows the Board an opportunity to fully review compliance with the notice provision of the rule and ascertain whether the specific description of installation meets the statutory obligations of section 49 before granting an order of access.

(2) If a response is received pursuant to (b) and an agreement for access is not reached within 45 days of said response the cable operator may apply to the Director for approval to install its cable television facilities. At such time the Director will either recommend to the Board that such an administrative order issue or alternatively deem such matter contested. In the event of the latter the matter shall be handled in accordance with the Administrative Procedure Act, N.J.A.C. 52:14B-1 et seq. and rules of the Office of Administrative Law, N.J.A.C. 1:1-1.1 et seq.

Here, the Board wants to allow the parties a sufficient time to negotiate the incidents of access without resorting to the administrative and legal process. This section insures a good faith, arms length negotiation of access and provides for an expeditious review process in the event the parties are unable to reach an accord.

PUBLIC UTILITIES

(e) The Director may, upon good cause shown, permit the filing of additional information to supplement the application. Copies of the application filed with the Office of Cable Television shall be served upon the cable television company in compliance with N.J.A.C. 14:17-5.1 et seq. Answers, if any shall be filed within 20 days in compliance with N.J.A.C. 14:17-8.1 et seq. If said filing is limited to an application for compensation, the Director may permit the installation of cable television facilities provided that all issues relating to indemnification and protection of property have been satisfied.

Most of the parties concur with the adoption of this section wherein access will be allowed if compensation is the only issue to be decided.

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

14:18-3.10 Compensation for taking because of installation of cable television facilities

(a) A cable television operator shall award \$1.00 to a fee owner, as defined by N.J.S.A. 48:5A-49(b)(1), in consideration of the access granted pursuant to the Cable Television Act, N.J.S.A. 48:5A-49.

[(a)]* *(b) Unless cable television service is being currently provided to a certain multi-family property* a cable television operator shall serve written notice to the fee owner *, landlord or agent* of its intent to install cable television service or facilities upon the fee owner's property at least 30 days prior to commencing such installation. The Director of the Office of Cable Television *[shall prescribe the procedure for service of such notice,]* ***has prescribed that notice be served by certified mail and that the form and content of such notice, ***[which shall]*** include at a minimum:**

1. The name and address of the cable operator;
2. The name and address of the fee owner, manager or superintendent;
3. The approximate date of the installation;
- *[4. The names of persons seeking cable service;]***
- *[5.]* *4.* Citations from the Cable Television Act and New Jersey Administrative Code specifically N.J.S.A. 48:5A-49 and N.J.S.A. 48:5A-51, and N.J.A.C. 14:18-3.10;**
- *[6.]* *5.* A general description of the proposed method of installation.**

6. Notice that the amount of \$1.00 in consideration for the access granted pursuant to the Cable Television Act will be tendered when an agreement is signed.

[(b)]* *(c) If no response to the notice is forthcoming within 30 days, the cable operator has a statutory right and ***a franchise*** obligation to provide ***cable television*** service ***[to tenants who have requested service]***. ***In order to enforce this right and satisfy said obligation, a company must apply for an administrative approval for access. To apply, said company must submit to the Board of Public Utilities, copies of its notice and a specific description of the proposed method of installation.**

1. If a response is received pursuant to (b) above and an agreement for access is not reached within 45 days of said response the cable operator may apply to the Director for approval to install its cable television facilities. At such time the Director will either recommend to the Board that such an administrative order issue or alternatively deem such matter contested. In the event of the latter, the matter shall be handled in accordance with the Administrative Procedure Act,

STATE

ADOPTIONS

N.J.S.A. 52:14B-1 et seq. and the rules of the Office of Administrative Law, N.J.A.C. 1:1-1.1 et seq.*

[(c)] *(d)* Upon notice served pursuant to *[(a)]* *(b)* above, ***except when such notice does not apply to multi-family properties currently receiving cable television service*** fee owners may apply to the Office of Cable Television for just compensation. The owner has the burden of proof to clearly demonstrate:

1. The value of the applicant's property before the installation of cable television facilities;
2. The value of the applicant's property subsequent to the installation of cable television facilities;
3. The ***criteria, data,*** method or methods used to determine such values;
4. Out of pocket costs directly attributed to the installation ***and presence*** of cable television facilities in the multi-unit dwelling;
5. Any extraordinary costs to be borne by the applicant associated with the installation ***and presence*** of cable television facilities ***[(for example, supervision of installation, maintenance of cable facilities, facilitation of access, collection of equipment, etc.)]***.

[(d)] *(e)* The Director may, upon good cause shown, permit the filing of additional information to supplement the application. Copies of the application filed with the Office of Cable Television shall be served upon the cable television company in compliance with N.J.A.C. 14:17-5.1 et seq. Answers, if any, shall be filed ***[with]* *within*** 20 days in compliance with N.J.A.C. 14:17-8.1 et seq. ***If said filing is limited to an application for compensation, the Director may permit the installation of cable television facilities provided that all issues relating to indemnification and protection of property have been satisfied.***

[(e)] *(f)* The Director shall determine whether an application filed consistent with *[(c)]* *(d)* above establishes a contested case for compensation pursuant to *[(c)]* *(d)*. In such an event the matter shall be handled in accordance with the Administrative Procedure Act, N.J.A.C. 52:14B-1 et seq. and the rules of the Office of Administrative Law, N.J.A.C. 1:1-1.1 et seq.

[(f)] *(g)* All executed access agreements must be filed with the Office of Cable Television pursuant to N.J.S.A. 48:5A-9(b).

STATE (a)

DIVISION OF COMMERCIAL RECORDING

Expedited Service Rules

Adopted Amendments: N.J.A.C. 15:2-1.1, 1.3 and 1.4

Proposed: April 15, 1985 at 17 N.J.R. 897(a).

Adopted: May 31, 1985 by Jane Burgio, Secretary of State.

Filed: June 3, 1985 as R.1985 d.327, **without change.**

Authority: N.J.S.A. 52:16A-35 et seq., specifically 52:16A-41, and 42:2A-1 et seq., specifically 42:2A-71 and 72.

Effective Date: July 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): March 7, 1988.

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

Full text of the adoption follows.

15:2-1.1 Services which will be provided on an expedited basis

(a) The Division of Commercial Recording shall provide expedited over the counter corporate services for the following requests:

1. Any information contained in the annual report of a corporation or a limited partnership;
2. A certificate of standing, either long form, short form, or certificate listing charter documents;
3. A certified or uncertified copy of any document filed with the Division of Commercial Recording;
4. A certificate as to the existence or nonexistence of any document on record with the Division of Commercial Recording;
5. The availability of a corporate name or a limited partnership name;
6. Filing corporate documents or limited partnership documents;
7. The name and address of the registered agent of a corporation or limited partnership;
8. The filing date of a certificate of incorporation for a domestic corporation or the filing date of a certificate of limited partnership or the filing date for a certificate of qualification for a foreign corporation or limited partnership;
9. The name and address of the corporation's or a limited partnerships registered agent;
10. A U.C.C. 1 filing pursuant to N.J.S.A. 12A:9-401 et seq.;
11. A U.C.C. 3 filing pursuant to N.J.S.A. 12A:9-401 et seq.;
12. A U.C.C. 11 search pursuant to N.J.S.A. 12A:9-401 et seq., provided that the U.C.C. 11 search shall not exceed 20 filings. Searches over 20 filings can be expedited but may not be completed within the same day.

(b) The Division of Commercial Recording shall provide expedited telephone service for the following requests:

1. The availability of a corporate name or limited partnership name;
2. Whether or not a corporation's certificate of incorporation or authority has been voided or revoked;
3. The name and address of the registered agent of a corporation or limited partnership;
4. The filing date of a certificate of incorporation for a domestic corporation or limited partnership or the filing date for a certificate of qualification for a foreign corporation or limited partnership;
5. The name and address of the registered agent of a corporation or limited partnership which has filed a fictitious/alternate name certificate ;
6. The date when the last annual report was filed for a corporation or limited partnership.

15:2-1.3 Exception: computer breakdown

Expedited service shall be rendered as soon as possible but may extend beyond the same day if the computer system utilized by the commercial recording division is down, making response impossible.

ADOPTIONS

TRANSPORTATION

15:2-1.4 Fees for expedited service

(a) Fees for over the counter expedited service shall be as follows:

1.-3. (No change.)

4. Status report(s) which includes name availability, the name and address of the registered agent, corporation or limited partnership name, whether corporation charter is still valid, and whether the corporation or limited partnership has filed a fictitious/alternate name. Fees for report(s) requested, at the same time are as follows:

i.-x. (No change.)

5.-8. (No change.)

(b) (No change.)

(c) Expedited telephone service shall be provided for:

1. Status reports which include:

i. Availability of a corporate name or a limited partnership name;

ii. Whether a corporation's certificate of incorporation or a limited partnership certificate has been voided or revoked;

iii. The date of incorporation or the date of formation of a limited partnership or the date of qualification of a foreign corporation or limited partnership;

iv. The name and address of the registered agent of a corporation or limited partnership which has filed a fictitious name certificate;

v. The corporation's number;

vi. The date when the last annual report was filed.

2. (No change.)

(a)

DIVISION OF COMMERCIAL RECORDING

Expedited Service Method of Payment of Fees

Adopted New Rule: N.J.A.C. 15:2-1.5

Proposed: April 15, 1985 at 17 N.J.R. 898(a).

Adopted: May 31, 1985 by Jane Burgio, Secretary of State.

Filed: June 3, 1985 as R.1985 d.326, **without change**.

Authority: N.J.S.A. 52:16A-35 et seq., specifically 52:16A-41.

Effective Date: July 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): March 7, 1988.

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

Full text of the adoption follows.

15:2-1.5 Method of payment of fees for expedited service

(a) All fees for expedited service performed by the Division of Commercial Recording may be paid via a pre-paid deposit account or charged against a major credit card held by the service user.

1. When a credit card is utilized as a method of payment, the user may be charged a separate fee to cover reasonable

bank fees that are incurred by the Department in processing the credit charge.

2. Major approved credit cards shall be defined for the purposes of this section as those credit cards accepted by the Secretary of State.

TRANSPORTATION

(b)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Routes U.S. 9 in Ocean County, 28 in Somerset County, U.S. 30 in Camden County, 45 in Gloucester County and U.S. 46 in Bergen County

Adopted Amendments: N.J.A.C.

16:28A-1.7, 1.19, 1.21, 1.31 and 1.32

Proposed: April 15, 1985 at 17 N.J.R. 898(b).

Adopted: May 17, 1985.

Filed: June 4, 1985 as R.1985 d.328, **without change** but with **16:28A-1.35** still **pending**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139 and 39:4-199.

Effective Date: July 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1978.

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

Full text of the adoption follows.

16:28A-1.7 Route U.S. 9

(a) (No change.)

(b) The certain parts of State highway Route U.S. 9 described in this section 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.-33. (No change.)

34. Along the northbound (easterly) side in Berkeley Township, Ocean County:

i. Far side bus stops:

(1) Bay Boulevard—Beginning at the northerly curb line of Bay Boulevard and extending 110 feet northerly therefrom.

(2) Morris Boulevard—Beginning at the northerly curb line of Morris Boulevard and extending 130 feet northerly therefrom.

16:28A-1.19 Route 28

(a) The certain parts of State highway Route 28 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

TRANSPORTATION

ADOPTIONS

- 1.-7. (No change.)
- 8. No stopping or standing in Somerville Borough, Somerset County:
 - i. Along the eastbound side:
 - (1) Beginning at the westerly curb line of Union Street and extending 50 feet westerly therefrom.
 - (2) Beginning at Meadow Street to South Gaston Avenue.
 - (3) Beginning at the easterly curb line of North Gaston Avenue extending to the Borough Line (Rehill Avenue).
 - ii. Along the westbound side:
 - (1) Union Avenue:
 - (A) Beginning at the Borough Line (opposite Rehill Avenue) and extending to North Gaston Avenue.
 - (2) North Gaston Avenue:
 - (A) Beginning at the northerly curb line of Bartine Street and extending 59 feet northerly therefrom;
 - (B) Beginning at the southerly curb line of Bartine Street and extending 56 feet southerly therefrom;
 - (C) Beginning at the northerly curb line of East Cliff Street and extending 81 feet northerly therefrom;
 - (D) Beginning at the southerly curb line of East Cliff Street and extending 81 feet southerly therefrom;
 - (E) Beginning at the northerly curb line of East High Street and extending 245 feet northerly therefrom;
 - (F) Beginning at the southerly curb line of East High Street and extending 111 feet southerly therefrom;
 - (G) Beginning at the northerly curb line of East Main Street and extending 173 feet northerly therefrom.
 - iii. Along the northbound side:
 - (1) Beginning at a point 150 feet from the westerly curb line of North Gaston Avenue and extending westerly to Park Avenue;
 - (2) Beginning at the prolongation of the westerly curb line of Hamilton Street and extending 68 feet easterly therefrom;
 - (3) Beginning at the easterly curb line of Mechanic Street and extending 45 feet easterly therefrom;
 - (4) North Gaston Avenue:
 - (A) Beginning at the northerly curb line of East Main Street and extending 174 feet northerly therefrom.
 - (B) Beginning at the southerly curb line of East High Street and extending 147 feet southerly therefrom.
 - (C) Beginning at the northerly curb line of East High Street and extending 98 feet northerly therefrom.
 - (D) Beginning at the southerly curb line of East Cliff Street and extending 81 feet southerly therefrom.
 - (E) Beginning at the northerly curb line of East Cliff Street and extending 48 feet northerly therefrom.
 - (F) Beginning at the northerly curb line of Reimer Street and extending 71 feet northerly therefrom.
 - (G) Beginning at the southerly curb line of Union Avenue and extending 108 feet southerly therefrom.
 - 9.-13. (No change.)
 - (b) (No change.)
 - (c) The certain parts of State highway Route 28 described in this section shall be designated and established as "no parking loading zone" where parking is prohibited at all times. In accordance with N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established Loading Zones.
 - 1. (No change in text.)
 - 2. (No change in text.)
 - 3. Along the eastbound side in Somerville Borough, Somerset County:
 - i. Beginning 35 feet westerly of the projection of the curb line of Davenport Street and extending 62 feet westerly therefrom.

- 4. Along the westbound side in Somerville Borough, Somerset County:
 - i. Beginning 35 feet westerly of the westerly curb line of Maple Street and extending 64 feet westerly therefrom.
 - (d)-(e) (No change.)
- 16:28A-1.21 Route U.S. 30
 - (a) (No change.)
 - (b) The certain parts of State highway Route U.S. 30 described in this section 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.-7. (No change.)
 - 8. Along (White Horse Pike) westbound on the northerly side in Lawnside Borough, Camden County:
 - i. Far side bus stops:
 - (1) Mouldy Road—Beginning at the westerly curb line of Mouldy Road and extending 100 feet westerly therefrom.
 - (2) Emlen Avenue—Beginning at the westerly curb line of Emlen Avenue and extending 100 feet westerly therefrom.
 - 9. Along (White Horse Pike) eastbound on the southerly side in Lawnside Borough, Camden County:
 - i. Mid-block bus stop:
 - (1) Between Gloucester Pike and Emlen Avenue—Beginning 390 feet east of the easterly curb line of Gloucester Avenue and extending 135 feet easterly therefrom.
 - 16:28A-1.31 Route 45
 - (a) (No change.)
 - (b) The certain parts of State highway Route 45 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:
 - 1. (No change.)
 - 2. Along the northbound (easterly) side in the City of Woodbury, Gloucester County:
 - i. Near side bus stops:
 - (1) Barber Avenue—Beginning at the southerly curb line of Barber Avenue and extending 110 feet southerly therefrom.
 - (2) Newton Avenue—Beginning at the southerly curb line of Newton Avenue and extending 105 feet southerly therefrom.
 - 3. Along (Broad Street) southbound on the westerly side in the City of Woodbury, Gloucester County:
 - i. Far side bus stop:
 - (1) West Red Bank Avenue—Beginning at the southerly curb line of West Red Bank Avenue and extending 100 feet southerly therefrom.
 - ii. Near side bus stop:
 - (1) Delaware Street—Beginning at the northerly curb line of Delaware Street and extending 115 feet northerly therefrom.
 - 16:28A-1.32 Route U.S. 46
 - (a) (No change.)
 - (b) The certain parts of State highway Route U.S. 46 described in this section 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.-9. (No change.)
 - 10. Along the eastbound (southerly) side in Saddle Brook Township, Bergen County:

ADOPTIONS

- i. Near side bus stop:
 - (1) Sixth Street—Beginning at the westerly curb line of Sixth Street and extending 108 feet westerly therefrom.
- ii. Mid-block bus stop:
 - (1) President Street and 10th Street—Beginning 150 feet east of the easterly curb line of President Street and extending 135 feet easterly therefrom.
- 11. Along the westbound (northerly) side in Saddle Brook Township, Bergen County:
 - i. Mid-block bus stop:
 - (1) Sixth Street—Beginning 108 feet east of the easterly curb line of Sixth Street and extending 168 feet easterly therefrom.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

**Administration
Signature Cards**

Adopted Amendment: N.J.A.C. 17:1-1.8

Proposed: May 6, 1985 at 17 N.J.R. 1068(a).
 Adopted: June 10, 1985 by Douglas R. Forrester, Director, Division of Pensions.
 Filed: June 11, 1985 as R.1985 d.348, **without change**.
 Authority: N.J.S.A. 52:18A-96 et seq.

Effective Date: July 1, 1985.
 Expiration Date pursuant to Executive Order No. 66(1978): June 6, 1988.

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

Full text of the adoption follows.

17:1-1.8 Disbursement; limitations
 All disbursements returned by the Federal post office as "undelivered" shall be redeposited promptly, and in no event shall any disbursement be made except by check delivered by the post office.

(b)

DIVISION OF PENSIONS

Police and Firemen's Retirement System

Readoption as a New Rule: N.J.A.C. 17:4

OTHER AGENCIES

Proposed: April 1, 1985 at 17 N.J.R. 805(a).
 Adopted: June 4, 1985 by Anthony Ferrazza, Secretary, Police and Firemen's Retirement System.
 Filed: June 6, 1985 as R.1985 d.330, **without change**.

Authority: N.J.S.A. 43:16A-13(7).

Effective Date: July 1, 1985.
 Expiration Date pursuant to Executive Order No. 66(1978): July 1, 1990.

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. 17:4.

OTHER AGENCIES

(c)

CASINO CONTROL COMMISSION

**Procedures for Granting Credit, and
Recording Checks Exchanged, Redeemed,
or Consolidated**

Notice of Correction: N.J.A.C. 19:45-1.27

Take notice that an error appears in the May 20, 1985 issue of the New Jersey Register at 17 N.J.R. 1329 concerning procedures for granting credit, and recording checks exchanged, redeemed, or consolidated. N.J.A.C. 19:45-1.27(a)8 should have appeared as follows:

19:45-1.27 Procedures for granting credit, and recording checks exchanged, redeemed, or consolidated

(a) A credit file for each patron shall be prepared by a general cage cashier or credit department representative with no incompatible functions either manually or by computer prior to the casino licensee's approval of a patron's credit limit. All patron credit limits and changes thereto shall be supported by the information contained in the credit file. Such file shall contain a credit application form upon which shall be recorded, at a minimum, the following information provided by the patron:

- 1.-7. (No change.)
- 8. The name of each casino where the patron has a casino credit limit *[and the amount of the credit limit and outstanding balance]*;
- 9.-11. (No change.)
- (b)-(o) (No change.)

EMERGENCY

ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Rules of Special Applicability Department of Environmental Protection Emergency Water Supply Allocation Plan Cases

Adopted Emergency New Rule and Concurrent Proposal: N.J.A.C. 1:7

Emergency New Rule Adopted: June 4, 1985 by Ronald I. Parker, Acting Director, Office of Administrative Law.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): June 10, 1985.

Emergency New Rule Filed: June 11, 1985 as R.1985 d.347.

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

Emergency New Rule Effective Date: June 11, 1985.

Emergency New Rule Expiration Date: August 12, 1985.

Concurrent Proposal Number: PRN 1985-374.

Submit comments by July 31, 1985 to:

Steven L. Lefelt, Deputy Director
Office of Administrative Law
Quakerbridge Plaza, Bldg. 9
Quakerbridge Road, CN 049
Trenton, N.J. 08625

This new rule was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see: N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently the provisions of this emergency new rule are being proposed for re-adoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The re-adopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see: N.J.A.C. 1:30-4.4(d)).

The agency emergency adoption and concurrent proposal follows:

Summary

On April 17, 1985, Governor Thomas Kean issued Executive Order No. 102 which declared a state of water emergency in New Jersey. Subsequently, the State Drought Coordinator, Dr. Richard Dewling, implemented phase I of the drought emergency, including a ban on adjustable water uses, throughout the State and phase II including water rationing, in selected counties.

Under the Emergency Water Supply Allocation Plan Regulations, N.J.A.C. 7:19A-1.1 et seq. adopted by the Department of Environmental Protection (DEP), individuals affected by the ban on adjustable water uses or by water rationing may apply for a hardship exemption. If the Water Emergency Task Force denies the application, the individual may request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

The Task Force is currently receiving hardship exemption applications and has already denied a number of these applications. Thus, there is an immediate need to adopt new rules that will govern these cases upon transmittal to the OAL.

The rules provide that, in accordance with N.J.A.C. 7:19A-10.2, the DEP will attempt to settle each case prior to transmittal to the OAL. If the matter cannot be settled, the applicant for the hardship exemption may request that the matter be heard either on the papers or in person.

Thus, in a relatively straightforward manner, the applicant could complete a certification at the time of settlement conference which would explain the reason for requesting the hardship exemption. The DEP would then transmit the matter to the OAL requesting that the OAL conduct the hearing. The applicant could submit any supporting documentation either at the time of the settlement conference or within 10 days after receiving the OAL Notice of Filing and Hearing. Once the file is assembled, the OAL would assign an administrative law judge for review of the documents and the issuance of an initial decision.

In more complex matters, the applicant would have the option of presenting the basis for the hardship exemption at an in-person hearing. In any case, the judge is authorized to convert an on the papers hearing to an in-person hearing if the case so requires.

The rules also limit discovery to the relevant Departmental records relating to the hardship exemption request. Since the Water Emergency Task Force exemption decision is based primarily upon the information supplied by the applicant, no other discovery should be necessary in most cases.

The rules also permit an applicant who has requested an in-person hearing to change his/her mind by simply submitting a certification form and any other necessary documentation to the OAL prior to the hearing date. In that case, the matter will be processed as an on the papers hearing.

Finally, the rules provide that an individual who fails to supply the certification or other documentation for an on the papers hearing, or to appear at an in-person hearing, shall be deemed to have abandoned the hearing request.

Social Impact

The rules will permit the OAL to expeditiously and unfairly handle requests for hardship exemptions from the ban on adjustable water uses or from water rationing during the drought emergency.

Economic Impact

The use of the paper hearing procedures may significantly reduce the time and cost involved in these hearings to the benefit of both the applicant and the government. No other significant economic impact is foreseen.

Full text of the emergency adoption and concurrent proposal follows.

EMERGENCY ADOPTIONS

ADMINISTRATIVE LAW

CHAPTER 7 DEPARTMENT OF ENVIRONMENTAL PROTECTION EMERGENCY WATER SUPPLY ALLOCATION PLAN CASES

SUBCHAPTER 1. APPLICABILITY

1:7-1.1 Applicability

(a) The rules in this chapter shall apply to hearings arising under N.J.A.C. 7:19A-1.1 et seq. concerning the denial of an application for a hardship exemption from water rationing or the ban on adjustable water uses. To the extent that these Rules of Special Applicability are inconsistent with the Uniform Administrative Procedure Rules (UAPR) contained in N.J.A.C. 1:1-1 et seq., these rules shall apply.

SUBCHAPTER 2. DEFINITIONS

1:7-2.1 Definitions

(a) "Applicant" is an individual or entity who is aggrieved by a decision of the Water Emergency Task Force, established by N.J.A.C. 7:19A-4.2.

(b) A "hearing on the papers" is a summary proceeding conducted without any personal appearance or confrontation of the parties before the judge. The hearing is conducted through the submission of pleadings, affidavits, records and other documents to the Office of Administrative Law (OAL), for a decision by an administrative law judge.

SUBCHAPTER 3. SETTLEMENT/PREHEARING CONFERENCE

1:7-3.1 Settlement/Prehearing conference

(a) In a case dealing with an application for a hardship exemption from water rationing or the ban on adjustable water uses, the Department of Environmental Protection (DEP) shall attempt to settle the dispute through appropriate conferences within 30 days of receiving a hearing request.

(b) If settlement is not reached at the conference, the applicant shall choose whether to submit his or her case on the papers or to appear at an in-person hearing.

1. If the applicant chooses to proceed on the papers, at the settlement conference the applicant shall complete a certification explaining why the exemption is necessary to avoid extraordinary hardship and why no reasonable alternative exists other than to grant the exemption. The applicant may also submit any additional documentation supporting the claim.

2. At or immediately after the conference, the DEP shall supply the applicant with any materials requested pursuant to N.J.A.C. 1:7A-5.1(a) (Discovery).

(c) The DEP shall transmit the case to the OAL including each document upon which the Water Emergency Task Force based its decision to deny the hardship exemption, and, if a hearing on the papers has been requested, the applicant's certification and any other documents provided by the applicant.

SUBCHAPTER 4. NOTICE OF FILING AND HEARING

1:7-4.1 Notice of filing and hearing

(a) The notice for a hearing on the papers or an in-person hearing will be mailed to the applicant by OAL after receiving the case from the DEP. The notice for hearing shall constitute both the notice of filing and notice of hearing.

1:7-4.2 Notice of filing and in-person hearing

(a) The notice scheduling an in-person hearing shall permit the applicant to submit a certification or other documents prior to the hearing in lieu of making a personal appearance

at the hearing. If the applicant does not appear at the in-person hearing and fails to forward the certification form and any accompanying documents within the time specified in the notice, the judge shall in an initial decision deem the applicant to have abandoned the hearing request and return the matter to the DEP.

1:7-4.3 Notice of Filing and on the Papers Hearing

(a) If the applicant elects to proceed on the papers but does not complete the written certification at the prehearing conference or wishes to submit other written documents, the applicant may submit these documents within 10 days of receipt of the Notice of Filing and on the Papers Hearing.

(b) If the applicant fails to forward the documents within the 10 days, the judge shall decide the case based upon the documents which have been submitted by the applicant. If the applicant fails to submit any documentation, the judge shall in an initial decision deem the applicant to have abandoned the hearing request, and return the matter to the DEP.

SUBCHAPTER 5. DISCOVERY

1:7-5.1 Discovery

(a) Discovery shall be limited to the records of the Department, including all documents relied upon by the Water Emergency Task Force, with respect to the case.

(b) The Department shall supply the applicant with a copy of all discovery at or forthwith after the settlement conference.

SUBCHAPTER 6. CONDUCT OF HEARING

1:7-6.1 Conversion of on the papers hearing to conference hearing or plenary hearing

(a) In the interest of providing a full and fair hearing, considering the circumstances of the case, the judge may, on his or her own or on the request of the DEP official conducting the settlement/prehearing conference, convert a case scheduled as a hearing on the papers into a conference hearing or plenary hearing.

(b) Reasons for such conversion include:

1. Discovery disputes or genuine need for more extensive discovery;
2. Inability of a party to communicate adequately in writing;
3. Proofs on a disputed material fact which require oral presentation by a party or a party's witness;
4. Other genuine need for personal appearance or more extensive procedure.

1:7-6.2 Conduct of hearing on the papers

(a) At the conclusion of any time allotted for the submission of supplemental documents, the record in the case shall be closed.

(b) Upon closing the record, the OAL shall assign the record for review and determination by an administrative law judge. The judge shall issue an initial decision no later than 45 days after he or she receives the record of the case.

1:7-6.3 Plenary and conference hearings in Emergency Water Supply Allocation Plan cases

(a) Plenary hearings in Water Emergency cases shall be conducted pursuant to the Uniform Administrative Procedure Rules at N.J.A.C. 1:1-1 et seq.

(b) Conference hearings in Water Emergency cases shall be conducted pursuant to the conference hearing procedures at N.J.A.C. 1:2-2.1 et seq.

LABOR/HEALTH

EMERGENCY ADOPTIONS

LABOR/HEALTH

(a)

DIVISION OF WORKPLACE STANDARDS OCCUPATIONAL AND ENVIRONMENTAL HEALTH SERVICES

Asbestos Licenses and Permits

Jointly Adopted Emergency New Rule and Concurrent Proposal: N.J.A.C. 12:120-1, 2, 3, 4, 5 and 7, and 8:60-1, 2, 3, 4, 5 and 7

Emergency New Rule Adopted: June 18, 1985 by Charles Serraino, Commissioner of Labor, and J. Richard Goldstein, M.D., Commissioner of Health. Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): June 18, 1985.
Emergency New Rule Filed: June 18, 1985 as R.1985 d.361.

Authority: N.J.S.A. 34:5A-39 (P.L. 1984 c.173).

Emergency New Rule Effective Date: June 18, 1985.
Emergency New Rule Expiration Date: August 18, 1985.

Current Proposal Number: PRN 1985-395.

Submit comments by July 31, 1985 to:
William J. Clark, Director
Division of Workplace Standards
New Jersey Department of Labor
CN 504
Trenton, New Jersey 08625-0054

With a copy to:

Joseph Schirmer
Occupational Disease Prevention and
Information Program
New Jersey Department of Health
CN 360
Trenton, New Jersey 08625

This new rule was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency rule are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The re-adopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The agency emergency adoption and concurrent proposal follows:

Summary

These rules were originally proposed under normal rule making procedures in the Monday, April 1, 1985 New Jersey Register at 17 N.J.R. 788(a). The rules proposed for emer-

gency adoption are the same as the proposed under 17 N.J.R. 788(a) except:

a) Wherever the word "asbestos contractor" appeared, it has been changed to the word "employer," and the term "asbestos employee" has been changed to the word "employee," and

b) Where the term "the application or enclosure or encapsulation or safe removal of asbestos" has been used, the word "safe" has been deleted, and

c) The definition of "employer" has been revised to include contractors and subcontractors, and the terms "contractors" and "subcontractors" have been revised, and

d) Applications that have been denied cannot be resubmitted by the applicant for six months, and

e) A section has been added to allow an emergency waiver of the licensing and permitting requirements for incidental asbestos work necessary during the course of performance of a larger general construction project. Conditions for granting the emergency waiver are limited, and

f) The scope has been revised to be more definitive as to the meaning of the word "repair", and

g) Provision has been made for suspension of licenses and permits prior to a hearing provided the hearing is held within 10 days of the suspension.

It is necessary that these rules be adopted on an emergency basis in order that asbestos employers can be licensed and asbestos employees be issued permits in order to meet the summer asbestos abatement programs in the public schools.

The Asbestos Control and Licensing Act (P.L. 1984 c.173) requires that all employees engaged in asbestos application, enclosure, removal, or encapsulation obtain a permit from the Department of Labor. Permit applicants (except those meeting the criteria for "experienced asbestos workers") must successfully complete a training program certified by the Department of Health. Employers performing asbestos work must obtain a license from the Department of Labor.

The Departments of Health and Labor are jointly proposing rules covering permitting of employees, licensing of contractors, and the certification of training courses.

The chapter consists of seven subchapters. Subchapter 1 is rules relating to purpose, scope, and general provisions. Subchapter 2 covers definitions and has been adopted on an emergency basis and concurrently proposed (along with subchapter 6) in the March 18, 1985 New Jersey Register. Subchapter 3 addresses administration. Subchapter 4 contains the standards for the licensing of asbestos contractors. Subchapter 5 contains the standards for the permitting of asbestos employees. Subchapter 6 covers certification of training courses and has been adopted on an emergency basis and concurrently proposed (along with subchapter 2) in the March 18, 1985 Register. Subchapter 7 addresses the availability of standards and publications referred to in this chapter.

Social Impact

Licensing of asbestos contractors and permitting of asbestos workers, upon successful completion of a certified training program, will reduce the public's exposure to life-threatening asbestos by assuring that asbestos operations are performed by knowledgeable and competent workers in accordance with scientifically accepted work practices.

Building owners contracting with licensed asbestos contractors and contractors hiring permitted asbestos workers will know that the work is being performed by individuals who have received adequate training and demonstrated competency in correct asbestos handling procedures.

EMERGENCY ADOPTIONS

LABOR/HEALTH

Certification of training programs will assure license and permit applicants that successful completion of such a program means they have the information necessary to perform asbestos work without endangering either their health or that of other building occupants.

The public will be assured that buildings in which asbestos work is performed will be safe for occupancy.

Economic Impact

Building owners will benefit from the assurance that they are paying qualified, competent and knowledgeable personnel to perform asbestos work.

Licensed contractors and permitted workers will benefit from the elimination of unfair competition from unqualified contractors and their employees performing asbestos work in violation of accepted good practice.

The public will benefit from reductions in wage loss, insurance, medical expenses, disability compensation payments and other costs resulting from asbestos-related disability and death.

License and permit fees are reasonable. The costs incurred due to compliance with mandated work practices are more than offset by the benefits set forth above.

Full text of the emergency new rule and concurrent proposal follows.

CHAPTER 120 (CHAPTER 60) ASBESTOS LICENSING AND PERMITS

SUBCHAPTER 1. GENERAL PROVISIONS

12:120-1.1 and 8:60-1.1 Title and citation

This chapter shall be known and may be cited as N.J.A.C. 12:120, Asbestos Licenses and Permits.

12:120-1.2 and 8:60-1.2 Authority

These rules are promulgated pursuant to the authority of the Asbestos Control and Licensing Act, N.J.S.A. 34:5A-32 et seq.

12:120-1.3 and 8:60-1.3 Purpose

(a) The purpose of this chapter is to provide reasonable standards for:

1. Licensing of employers;
2. Permitting of employees; and
3. Certifying training courses.

12:120-1.4 and 8:60-1.4 Scope

(a) This chapter shall apply to:

1. The licensing of employers;
2. The examination and issuance of permits to employees;
3. Certification of training courses;
4. Employers having a contractual relationship for asbestos work with the owner of a building or structure or equipment for the application or enclosure or encapsulation or removal or disposal of asbestos;
5. Employers using their own employees for the application or enclosure or encapsulation or removal or disposal of asbestos; and
6. Any public or private building, structure or equipment on which asbestos work is performed, except as provided in (b) below.

(b) This chapter shall not apply to:

1. The repair of asbestos on any pipe, duct, boiler, tank, structural member or similar equipment by applying duct tape, rewettable glass cloth, canvas, cement or other sealable material to seal exposed areas where asbestos fibers may be released; or

2. The stripping or removal of 10 feet or less of asbestos from piping; or

3. The stripping or removal of 26 square feet or less of asbestos from any duct, boiler, tank, structural member or similar equipment; or

4. The sale, storage or use of asbestos.

12:120-1.5 and 8:60-1.5 Documents referred to by reference

The availability of standards and publications referred to in this chapter is explained in N.J.A.C. 12:120-7 and 8:60-7.

12:120-1.6 and 8:60-1.6 Validity

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

SUBCHAPTER 2. DEFINITIONS

12:120-2.1 and 8:60-2.1 Definitions

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

“Act” means the Asbestos Control and Licensing Act, N.J.S.A. 34:5A-32 et seq.

“Approved” means acceptable to the Commissioner of Labor.

“Asbestos” means the asbestiform varieties of chrysotile; crocidolite; amosite; anthophyllite; tremolite; or antinolite and includes any asbestos containing material.

“Asbestos containing material” means any material which contains more than one percent asbestos by weight.

“Asbestos work” means the application or enclosure or encapsulation or removal or disposal of asbestos.

“Commissioner” means the Commissioner of Labor or his authorized designee.

“Commissioner of Health” means the Commissioner of Health or his authorized designee.

“Contractor” means an employer who hires employees to perform asbestos work or performs the asbestos work directly.

“Control” means to exercise restraint or direction over any activity concerning asbestos for the purpose of reducing the number of airborne asbestos fibers.

“Department of Health” means the Occupational Health Program in the New Jersey Department of Health, CN 360, Trenton, N.J. 08625-0860.

“Division of Workplace Standards” means the Division of Workplace Standards of the New Jersey Department of Labor, CN 054, Trenton, N.J. 08625-0054.

“Employee” means:

1. Any person including supervisory personnel suffered or permitted to work by an employer, or

2. A member of either a board, corporation, partnership, proprietorship, joint venture, fund, authority or similar entity directly performing asbestos work.

“Employer” means a body, board, person, corporation, partnership, proprietorship, joint venture, fund, authority or similar entity employing, permitting or suffering another to work or directly performing the asbestos work. This term shall apply to private employers and to the State, its political subdivisions and any boards, commissions, schools, institutions or authorities created or recognized thereby. This term also includes contractors and subcontractors.

“Experienced asbestos worker” see N.J.A.C. 12:120-5.4(b) and 8:60-5.4(b).

“License” means a certificate documenting acceptance by the commissioner or an employer as competent to perform the

LABOR/HEALTH

EMERGENCY ADOPTIONS

application or enclosure or encapsulation or removal of asbestos.

“N.J.A.C.” means the New Jersey Administrative Code.

“N.J.S.A.” means the New Jersey Statutes Annotated.

“Permit” means a certificate documenting acceptance by the commissioner of an employee as competent to perform the application or enclosure or encapsulation or removal of asbestos.

“Shall” means a mandatory requirement.

“Subcontractor” means an employer who hires employees to perform asbestos work or performs the asbestos work directly.

SUBCHAPTER 3. ADMINISTRATION

12:120-3.1 and 8:60-3.1 Scope of subchapter

This subchapter shall apply to the administration of the licensing, permitting and certification standards mandated by this chapter.

12:120-3.2 and 8:60-3.2 Compliance

(a) Every employer doing the application or enclosure or encapsulation or removal of asbestos shall comply with the provisions of this chapter and shall have a license.

(b) Every employee doing the application or enclosure or encapsulation or removal of asbestos shall comply with the provisions of this chapter as they pertain to the employee and shall have a permit.

(c) Every employer shall take all prudent measures to comply with written recommendations made by the Commissioner of Labor or the Commissioner of Health, as the case may be.

(d) Until June 15, 1986, the commissioner may waive compliance with any of the provisions of this chapter to the employer and his employees upon certification from the employer of the following:

1. The work of application or enclosure or encapsulation or removal of asbestos is incidental to the performance of other primary, non-asbestos construction or renovation or demolition work; and
2. The owner or owner’s representative has attempted to secure a licensed employer and has been unable to do so; and
3. Halting the construction project for the purpose of securing licensed employers or permitted employees or both will result in undue hardship to the building owner. The nature and degree of the undue hardship shall be specified.

12:120-3.3 and 8:60-3.3 Interface of State agencies

(a) The Department of Labor shall under the provisions of this chapter:

1. Issue licenses to qualified employers;
2. Issue permits to qualified employees;
3. Collect the fees for licenses and permits;
4. Determine that employers have a valid license; and
5. Determine that employees have a valid permit.

(b) The Department of Health shall under the provisions of this chapter:

1. Certify the course of training and the examination thereon given to the employee;
2. Have the authority to determine that an employer has a valid license; and
3. Have the authority to determine that an employee has a valid permit.

12:120-3.4 and 8:60-3.4 Disorderly persons offense

(a) In accordance with N.J.S.A. 34:5A-41, any person who violates a provision of this chapter is guilty of a disorderly persons offense and liable to a fine of \$1,000.00 or imprisonment not in excess of six months, or both.

(b) The Commissioner of Labor or the Commissioner of Health, as the case may be, as an alternative or in addition to the fines and imprisonment specified in (a) above, may impose administrative penalties in accordance with N.J.A.C. 12:120-3.5 and 8:60-3.5.

12:120-3.5 and 8:60-3.5 Administrative penalties

(a) Employers shall be required to pay the administrative penalties of Table 3.5(a) for each violation of the Act or this chapter.

Table 3.5(a)
Employer Penalties

Employer Violation	Penalty Up To
1. Performing as employer without license	\$1000.00
2. Allowing an employee to work without a permit	\$1000.00
3. Submitting false information on application for license	\$1000.00
4. Failure to perform quality asbestos work	\$1000.00
5. Other violations of the act or this chapter	\$ 500.00

(b) Employees shall be required to pay the administrative penalties of Table 3.5(b) for each violation of the Act or this chapter.

Table 3.5(b)
Employee Penalties

Employee Violation	Penalty Up To
1. Working as an employee without a permit	\$ 500.00
2. Submitting false information on application for a permit	\$ 200.00
3. Other violations of the act or this chapter	\$ 100.00

(c) In addition to other sanctions in this chapter or the Act, the Commissioner of Labor or the Commissioner of Health, as the case may be, shall have the authority to require:

1. The immediate correction of any violation;
2. The removal of the employer from the job site within the meaning and purposes of the Act; and
3. The removal of the employee from the job site within the meaning and purposes of the Act.

12:120-3.6 and 8:60-3.6 Hearings

(a) When the Commissioner of Labor or Health, as the case may be, assesses an administrative penalty under N.J.A.C. 12:120-3.5 and 8:60-3.5, the employer or the employee shall have the right to an informal hearing under (b) below or a formal hearing under (c) below or both.

(b) An informal hearing before the Commissioner of Labor or Health, as the case may be, may be held provided a written request is submitted within ten days after the assessment of an administrative penalty under N.J.A.C. 12:120-3.5 and 8:60-3.5. When the hearing is held before the Commissioner of Labor or Health, as the case may be, he shall state his findings and conclusions in writing and transmit a copy to the employer or the employee.

(c) The employer or employee shall have the right to a formal hearing pursuant to the Administrative Procedure

EMERGENCY ADOPTIONS

LABOR/HEALTH

Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

SUBCHAPTER 4. LICENSING OF EMPLOYERS

12:120-4.1 and 8:60-4.1 Scope of subchapter

This subchapter shall apply to the procedures required to obtain a license as an employer.

12:120-4.2 and 8:60-4.2 Application for license

(a) The application to obtain a license as an employer shall be typewritten or neatly and legibly printed in ink.

(b) All applications shall be carefully completed.

(c) Applicants applying for a license in accordance with the terms of N.J.A.C. 12:120-4.3(a)1 and 8:60-4.3(a)1 shall furnish evidence of applicable full time experience. This experience shall have been completed within five years of the filing of the application. This experience shall be listed by job name, location, time involved, and cost of contract.

(d) Incomplete or improper applications shall not be accepted.

(e) Applicants denied licenses shall not be permitted to resubmit an application for six months from the date of the original application.

(f) An application for a license shall be made on forms provided by the Division of Workplace Standards.

(g) No license shall be granted to an employer:

1. If he is less than 18 years of age; or
2. If he has been found in non-compliance with N.J.A.C. 12:120-4.3 and 8:60-4.3.

(h) All correspondence relative to applications for licenses shall be addressed to the Division of Workplace Standards.

(i) The Division of Workplace Standards shall be notified by the employer of any change of residence. When writing, the license number shall be specified.

(j) The application fee for a license shall be \$100.00.

(k) The fee shall accompany the application.

(l) The fee for a license shall be a check or money order made payable to the order of the Commissioner of Labor.

(m) No liability shall be assumed by the Division of Workplace Standards for loss in the transmission of the fee.

12:120-4.3 and 8:60-4.3 Eligibility for license

(a) The applicant to be eligible for a license as an employer shall:

1. Provide evidence of having successfully completed the training course for supervisors approved by the Commissioner of Health as provided in N.J.A.C. 12:120-6.2 and 8:60-6.2; or

2. Have with the firm a job supervisor who can comply with (a)1 above; or

3. Have with the firm an experienced asbestos worker who has received a permit under N.J.A.C. 12:120-5.4(b) and 8:60-5.4(b) and who serves in a supervisor's capacity; and

4. Disclose and attach all information in the application form supplied by the Department of Labor including but not limited to i. through ix. below and such information shall demonstrate reliability and responsibility:

i. A copy of his certificate of insurance stipulating the name of insurance carrier, policy number, and policy period under which the entire New Jersey Workers' Compensation obligation is insured;

ii. A listing of respiratory protective equipment including serial numbers and proof of purchase or availability;

iii. A list of all other equipment and its location specific to asbestos abatement including serial numbers and proof of purchase or availability;

iv. Any and all citations of violations issued by the Occupational Safety and Health Administration;

v. Any and all citations of violations issued by the Environmental Protection Agency;

vi. Any previous and pending civil litigation;

vii. Any previous and pending criminal litigation;

viii. Any previous and pending litigation pertaining to other State, Federal, local laws or regulations or both; and

ix. A list of all public and private asbestos abatement projects performed within the past five years.

5. Establish that the applicant is of good moral character.

If the applicant is a corporation, this requirement shall apply both to the corporation and to those corporate officers who are responsible for the day-to-day operation of the corporation.

12:120-4.4 and 8:60-4.4 Granting of license

(a) A license shall be granted in accordance with (b) below, when an employer can comply with N.J.A.C. 12:120-4.3 and 8:60-4.3.

(b) The license for an employer shall:

1. Be in writing;
2. Contain the date of issuance;
3. Contain an expiration date;
4. Contain the name and address of the employer to whom it is issued;
5. Be valid for one year from the date of issuance; and
6. Be signed by the Commissioner of Labor or his designee.

12:120-4.5 and 8:60-4.5 Identification of license

(a) The license shall be available at the worksite for examination by the Commissioner of Labor, Commissioner of Health, the contracting agency, and the owner or the representative of the owner.

(b) A licensed employer shall post a sign "LICENSED BY THE STATE OF NEW JERSEY FOR ASBESTOS WORK—LICENSE NUMBER _____" in letters more than four inches in height, readily visible, outdoors at the worksite.

(c) All commercial vehicles used in connection with the application or enclosure or encapsulation or removal of asbestos shall be visibly marked with the employer's license number.

(d) The employer shall have a duplicate of the original license available at more than one job site. This duplicate of the original license shall be available at a cost of \$5.00.

(e) All business correspondence shall display the employer's license number.

12:120-4.6 and 8:60-4.6 Quality of work

(a) Every license shall assure that work performed conforms to the following standards:

1. Section 1910.1001 Asbestos of 29 CFR Part 1910;

2. Section 1910.20 Access to Employee Exposure and Medical Records of 29 CFR 1910;

3. Subpart E, Personal Protective Equipment of 29 CFR 1926, Construction Industry Standards;

4. Subparts A and B of 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants; and

5. N.J.A.C. 7:26, Non-Hazardous Waste Regulations.

(b) Every licensee who performs work described in (a) above shall provide for supervision and inspection while the work is in progress and a final inspection upon completion of the work. This supervision shall include visual inspection and air monitoring.

(c) Every licensee shall be responsible for correcting immediately and at no additional charge to the customer, any

LABOR/HEALTH

violation of the standards of (a) above discovered in the work performed by the licensee.

12:120-4.7 and 8:60-4.7 Suspension or revocation of license

(a) Any employer may have his license suspended or revoked for:

1. Incompetence; or
2. Negligence; or
3. Failure to comply with contract specifications.

(b) Any employer shall have his license suspended or revoked for:

1. Being loaned, abandoned or allowed to pass from the personal control of the owner; or
2. Being debarred under the Act or any other State law; or
3. Any valid reason establishing that the licensee is unfit to hold a license; or
4. Any good cause within the meaning and purposes of the Act.

(c) The temporary suspension of a license for violations of this section or this subchapter shall be permitted by the commissioner provided that orally or in writing:

1. Notice is given to the employer of the violations; and
2. The employer has the opportunity to respond to the charges.

(d) All licenses shall expire unless renewed on or before the anniversary month of the original license.

(e) A license shall be automatically cancelled on the date of its expiration. Any person performing the duties of a licensee and holding an expired license shall be subject to the penalty provisions of the Act.

(f) Any person using fraudulent means to obtain a license shall be subject to prosecution under the Act. Any license acquired through such means shall be invalid.

12:120-4.8 and 8:60-4.8 Renewal of license

(a) When applying for the annual renewal of a license, it shall be necessary to submit a fee of \$100.00.

(b) An application for renewal of a license shall not be approved until all outstanding penalties lawfully imposed on the applicant under the Act have been paid.

(c) An application for renewal of a license shall be submitted at least 30 days prior to the date of its expiration. When the application for renewal of a license is submitted within the required time period, the license shall continue in effect until the commissioner renders a determination on the application.

(d) An application for renewal of a license that has expired may be treated as an original application.

(e) A duplicate, altered, defaced, mutilated, or lost license shall be replaced at a cost of \$5.00 only after review by the commissioner. Photostats, photographs or reproduction of a license shall have no status, and shall not be recognized.

12:120-4.9 and 8:60-4.9 Hearings for employers

(a) When in the judgment of the Commissioner of Labor or the Commissioner of Health, as the case may be, for the protection of employee health or public health before a hearing, the commissioner may suspend a license pending the hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq., N.J.S.A. 56:14F-1, et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1, et seq. When the license has been suspended, the employer shall have the right to a hearing within 10 days of suspension.

(b) In all other cases where the commissioner proposes to revoke or suspend a license, refuses to renew a license, or denies an application for a license, the employer shall have the right to an informal hearing under (c) below or a formal hearing under (c) below or both.

EMERGENCY ADOPTIONS

(c) An informal hearing before the commissioner may be held provided a written request is submitted within five days after due notice has been given that the commissioner proposes to revoke or suspend a license, refuses to renew a license or denies an application for a license. When the hearing is held before the commissioner, he shall state his findings and conclusions in writing and transmit a copy to the employer.

(d) The employer shall have the right to a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq., N.J.S.A. 56:14F-1, et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1, et seq.

SUBCHAPTER 5. PERMITTING OF ASBESTOS EMPLOYEES

12:120-5.1 and 8:60-5.1 Scope of subchapter

This subchapter shall apply to the procedures required to obtain a permit as an employee.

12:120-5.2 and 8:60-5.2 Application for permit

(a) The application to obtain a permit as an employee shall be typewritten or neatly and legibly printed in ink.

(b) All applications shall be carefully completed.

(c) Incomplete, improper, or false applications shall not be accepted.

(d) An application for a permit shall be made on forms provided by the Division of Workplace Standards.

(e) No permit shall be granted to a person less than 18 years of age.

(f) All correspondence relative to applications for permits shall be addressed to the Division of Workplace Standards.

(g) The Division of Workplace Standards shall be notified by the asbestos employee of any change of his address. When writing, the permit number shall be specified.

(h) The applicable fee for a permit shall be \$10.00.

(i) The fee shall accompany the application.

(j) The fee for a permit shall be a check or money order made payable to the order of the Commissioner of Labor.

(k) No liability shall be assumed by the Division of Workplace Standards for loss in the transmission of the fee.

12:120-5.3 and 8:60-5.3 Examinations

(a) An applicant for a permit as an employee, other than an experienced asbestos worker, shall successfully complete a training course as required by N.J.A.C. 12:120-6 and 8:60-6 and an examination thereon.

(b) Examination shall be conducted by the Department of Health on the first Wednesday of each month at Trenton or at various other times and places throughout the State when warranted.

(c) Applications shall be notified when and where to appear for examination.

(d) An applicant who fails to appear at the appointed time for the examination shall forfeit the application fee, unless the applicant can present to the Commissioner of Health a satisfactory explanation for the failure to appear.

(e) Failure to appear for examination or to obtain a passing grade shall not entitle the applicant to a refund of any fee.

(f) Examinations for an employee's permit shall be conducted in a written form and shall consist of as many questions and be of such nature as the Commissioner of Health shall consider appropriate.

(g) An applicant may, upon prior request, be examined through a reader or interpreter accompanying the applicant, provided the reader or interpreter is acceptable to the Commissioner of Health.

EMERGENCY ADOPTIONS

LABOR/HEALTH

(h) Questions used in an examination shall not be copied by any applicant or retained by the applicant after examination, or taken from the presence of the authorized agent of the Commissioner of Health during the examination. Violation of this subsection shall be sufficient cause for disapproving the application for the permit.

(i) Evidence of the successful completion of the training course and examination thereon shall be issued in the name of the employee and transmitted directly to the employee.

12:120-5.4 and 8:60-5.4 Granting a permit

(a) A permit shall be granted by the commissioner to an employee who has demonstrated the ability to perform the application or enclosure or encapsulation or removal of asbestos in accordance with the current state-of-the-art technology:

1. When the commissioner receives evidence of successful completion of a training course and examination thereon approved by the Commissioner of Health; or

2. When the conditions of (b) below are met.

(b) A permit shall be granted to an experienced asbestos worker without examination provided the asbestos employee:

1. Has experience with the application or enclosure or encapsulation or removal of asbestos; and

2. Has submitted proof of having completed a training course prior to promulgation of this chapter with a minimum of 24 hours of instruction which has been approved by the Commissioner of Health as substantially complying with asbestos training programs as provided in N.J.A.C. 12:120-6 and 8:60-6; and

3. Has submitted proof of having had a qualitative fit test of a respirator administered by a qualified industrial hygienist or health professional; and

4. Submits the application in accordance with N.J.A.C. 12:120-5.2 and 8:60-5.2; and

5. Submits the application on or before November 1, 1985.

(c) The permit for an employee shall:

1. Be in writing;

2. Contain the date of issuance;

3. Contain an expiration date;

4. Contain the name and address of the employee to whom it is issued;

5. Contain his social security number; and

6. Be signed by the Commissioner of Labor or his designee.

(d) The permit shall be valid for one year from the date of issuance.

12:120-5.5 and 8:60-5.5 Identification of permittee

(a) The permit shall be carried upon the employee's person.

(b) The permit shall be available for examination by the Commissioners of Labor and Health, as the case may be, the contracting agency, owner and employee's representative.

12:120-5.6 and 8:60-5.6 Suspension or revocation of permit

(a) Any permit may be suspended or revoked for incompetence, negligence, or for any other valid reason establishing that the permittee is unfit to hold a permit.

(b) The permit shall be suspended and immediately revoked if for any purpose, it is loaned, abandoned or allowed to pass from the personal control of the owner.

(c) The temporary suspension of a permit for violations of this section or this subchapter shall be permitted by the commissioner provided that orally or in writing:

1. Notice is given to the employee of the violations; and

2. The employee has the opportunity to respond to the charges.

(d) All permits shall expire unless renewed on or before the anniversary month of the original permit.

(e) A permit shall be automatically cancelled on the date of its expiration. Any person performing the duties of a permittee and holding an expired permit shall be subject to the penalty provisions of the Act as is his employer.

(f) Any person using fraudulent means to obtain a permit shall be subject to prosecution under the Act. Any permit acquired through such means shall be invalid.

12:120-5.7 and 8:60-5.7 Renewal of permit

(a) When applying for the annual renewal of a permit, the permittee, except as otherwise provided by (b) below, shall:

1. Enclose the fee of \$10.00; and

2. Provide evidence of any continuing education that may be required by the Commissioner of Health in consultation with the Commissioner of Labor.

(b) When applying for the first renewal of a permit, a permittee who is an experienced asbestos worker shall:

1. Enclose the fee of \$10.00; and

2. Provide evidence of successful completion of the training course and examination thereon described in N.J.A.C. 12:120-5.4(a)1 and 8:60-5.4(a)1.

(c) A permit shall be renewed within 30 days prior to the date of its expiration.

(d) An application for a renewal of an expired permit shall be approved provided:

1. A fee of \$10.00 is enclosed for one year;

2. The application is made within three years of the expiration date of the expired permit; and

3. All penalties lawfully imposed on the applicant under the Act have been paid.

(e) Application for renewal of a permit expired more than three years shall be treated as an original application.

(f) An altered, defaced, mutilated or lost permit shall be replaced at a cost of \$10.00, only after review by the commissioner. Photostats, photographs or reproduction of a permit shall have no status, and shall not be recognized.

12:120-5.8 and 8:60-5.8 Hearing for employees

(a) When in the judgment of the Commissioner of Labor or the Commissioner of Health, as the case may be, for the protection of employee health or public health before a hearing, the commissioner may suspend a permit pending the hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq., N.J.S.A. 56:14F-1, et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1, et seq. When the permit has been suspended, the employee shall have the right to a hearing within 10 days of suspension.

(b) In all other cases where the commissioner proposes to revoke or suspend a permit, refuses to renew a permit, or denies an application for a permit, the permittee shall have the right to an informal hearing under (c) below or a formal hearing under (d) below or both.

(c) An informal hearing before the commissioner may be held provided a written request is submitted within five days after due notice has been given that the commissioner proposes to revoke or suspend a permit, refuses to renew a permit or denies an application for a permit. When the hearing is held before the commissioner, he shall state his findings and conclusions in writing and transmit a copy to the employee.

(d) The employee shall have the right to a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq., N.J.S.A. 56:14F-1, et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1, et seq.

LABOR/HEALTH

EMERGENCY ADOPTIONS

SUBCHAPTER 6. CERTIFICATION OF TRAINING COURSES

OFFICE OF ADMINISTRATIVE LAW NOTE: This subchapter concerning certification of training courses has previously been adopted on an emergency basis (see 17 N.J.R. 741(a)). The emergency rule was readopted effective May 3, 1985 (see 17 N.J.R. 1417(b)) and may be found in the New Jersey Administrative Code at N.J.A.C. 12:120-6 and N.J.A.C. 8:60-6.

SUBCHAPTER 7. STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

12:120-7.1 and 8:60-7.1 Documents referred to by reference

(a) The full title and edition of each of the standards and publications referred to in this chapter are as follows:

1. 29 CFR Part 1910, General Industry Standards;
2. 29 CFR Part 1926, Construction Industry Standards;
3. 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants;
4. N.J.A.C. 1:1, Uniform Administrative Rules of Practice;
5. N.J.A.C. 7:26, Non-Hazardous Waste Regulations;
6. N.J.S.A. 34:5A-32 et seq., Asbestos Control and Licensing Act; and
7. N.J.S.A. 52:14B-1 et seq., Administrative Procedures Act.

12:120-7.2 and 8:60-7.2 Availability of documents for inspection

A copy of each of the standards and publications referred to in this chapter is on file and may be inspected at the following office of the Division of Workplace Standards be-

tween the hours of 9:00 A.M. and 4:00 P.M. on normal working days:

New Jersey Department of Labor
Division of Workplace Standards
36 West State Street, Room 313
Trenton, New Jersey 08625

12:120-7.3 and 8:60-7.3 Availability of documents from issuing organization

Copies of the standards and publications referred to in this chapter may be obtained from the organizations listed below. The abbreviations preceding these standards and publications have the following meaning, and are the organizations issuing the standards and publications listed in N.J.A.C. 12:120-7.1 and 8:60-7.1.

CFR—Code of Federal Regulations
Copies available from:
Superintendent of Documents
Government Printing Office
Washington, D.C. 20402

N.J.A.C.—New Jersey Administrative Code
Copies available from:
Division of Workplace Standards
New Jersey Department of Labor
CN 386
Trenton, N.J. 08625-0386

N.J.S.A.—New Jersey Statutes Annotated
Copies available from:
Division of Workplace Standards
New Jersey Department of Labor
CN 386
Trenton, N.J. 08625-0386

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Amendments to Tri-County Water Quality Management Plan

Public Notice

Take notice that the Delaware Valley Regional Planning Commission (DVRPC) has submitted for approval, two amendments to the Tri-County Water Quality Management (WQM) Plan. The first amendment provides for the Mount Holly Township sewage treatment plant to accept and treat sewage from the proposed Eastampton Farms subdivision in Eastampton Township, Burlington County. The area to be served is indicated as Lots 1 and 2 of Eastampton Tax Map Block 1100. The second amendment provides for the Harrison Township sewage treatment plant to accept and treat sewage from the proposed Cedarwoods development in Harrison Township Gloucester County. The area to be served is indicated as Lot 18 on the Harrison Tax Map Block 36. These amendments have been recommended for approval by the Delaware Valley Regional Planning Commission, the designated areawide WQM planning agency. The amendments will show the area as a proposed sewer service area on map 4-3 of the Tri-County Water Quality Management Plan.

This notice is being given to inform the public that two plan amendments have been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendments is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08628. It is available for inspection between 8:30 a.m. and 4:00 p.m., Monday through Friday.

Interested persons may submit written comments on the amendments to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment requests.

Any **interested person** may request in writing that NJDEP hold a nonadversarial public hearing on the amendments. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

PUBLIC UTILITIES

(b)

BOARD OF PUBLIC UTILITIES

Petition for Rulemaking

Mandatory Notice to Municipal Fire Officials by Gas and Electric Utilities of Involuntary Service Disconnections to Residential Customer of Record and Premises

Petitioners: New Jersey Fire Safety Commission and the Department of Community Affairs.

Authority: N.J.S.A. 48:2-12, 48:2-13, 52:14B-4(f) and N.J.A.C. 1:30-3.6.

Take notice that on May 3, 1985, the Board of Public Utilities received a letter-petition for rulemaking from the New Jersey Fire Safety Commission and the Department of Community Affairs requesting an amendment to N.J.A.C. 14:3-7.15, entitled Notification to Municipalities of Discontinuance of Gas and Electric Service to Residential Customers.

“to insure that a daily list of the residential customer of record and premises located within a municipality at which electric or gas service has been disconnected involuntarily on the preceding day be sent by first-class mail to each appointed Department of Community Affairs Certified Fire Official(s) in each of the State’s municipalities, whether or not such list has been requested by the municipality.”

The purpose of this amendment is to require and insure that the appropriate local fire fighting organization is informed when there is a discontinuance of service to a given structure so said organization can take fire prevention measures.

N.J.A.C. 14:3-7.15(a) presently provides that all electric and gas public utilities shall annually notify all municipalities located within their service areas that, upon request, they will be sent a daily list of the residential customer of record and premises located within the municipality at which gas or electric service was discontinued involuntarily on the preceding day. N.J.A.C. 14:3-7.15(b) specifies the information which said list shall contain, N.J.A.C. 14:3-7.15(c) provides that said list may be sent by ordinary mail and N.J.A.C. 14:3-7.15(d) and (e) provides that said utilities shall report certain information to the Board of Public Utilities concerning said lists.

This notice is given for the purpose of eliciting views of interested parties prior to the filing of a formal rule proposal, N.J.S.A. 52:14B-4(e).

Interested persons may submit in writing data, views or arguments relevant to the petition for rulemaking by July 31, 1985 to:

Eugene J. Byrne, Esq.
Regulatory Officer
Board of Public Utilities, Room 209
1100 Raymond Blvd.
Newark, New Jersey 07102

OTHER AGENCIES

MISCELLANEOUS NOTICES

Reference the Board of Public Utilities docket number, OX 8505531, in any submissions.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Prohibited Entertainment Activities

Notice of Correction: N.J.A.C. 19:52-1.4

Take notice that an error appears in the New Jersey Administrative Code at 19:52-1.4(a) concerning prohibited entertainment activities. The proposal notice for this rule was published in the December 8, 1977 issue of the New Jersey Register at 9 N.J.R. 603(b) and the adoption notice was published in the February 9, 1978 Register at 10 N.J.R. 82(b). N.J.A.C. 19:52-1.4 should appear as follows:

19:52-1.4 Prohibited entertainment activities

(a) **No motion pictures shall be exhibited within any casino hotel complex either by direct projection or by closed circuit television in violation of the obscenity statutes of this State.**

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

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule changes proposed in this issue will be entered in the Index of the next Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the date of the latest update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the May 6, 1985 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to timely adopt a proposed rule requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1984 d.300 means the three hundredth rule adopted in 1984.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date verifying the currency of rules found in each Title of the New Jersey Administrative Code: rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to quickly find the issue of publication of a rule proposal or adoption.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
16 N.J.R. 1407 and 1634	June 18, 1984	16 N.J.R. 3337 and 3518	December 17, 1984
16 N.J.R. 1635 and 1832	July 2, 1984	17 N.J.R. 1 and 140	January 7, 1985
16 N.J.R. 1833 and 2026	July 16, 1984	17 N.J.R. 141 and 236	January 21, 1985
16 N.J.R. 2027 and 2184	August 6, 1984	17 N.J.R. 237 and 338	February 4, 1985
16 N.J.R. 2185 and 2318	August 20, 1984	17 N.J.R. 339 and 502	February 19, 1985
16 N.J.R. 2319 and 2390	September 4, 1984	17 N.J.R. 503 and 634	March 4, 1985
16 N.J.R. 2391 and 2474	September 17, 1984	17 N.J.R. 635 and 762	March 18, 1985
16 N.J.R. 2475 and 2708	October 1, 1984	17 N.J.R. 763 and 858	April 1, 1985
16 N.J.R. 2709 and 2864	October 15, 1984	17 N.J.R. 859 and 1006	April 15, 1985
16 N.J.R. 2865 and 3066	November 5, 1984	17 N.J.R. 1007 and 1158	May 6, 1985
16 N.J.R. 3067 and 3240	November 19, 1984	17 N.J.R. 1159 and 1358	May 20, 1985
16 N.J.R. 3241 and 3336	December 3, 1984	17 N.J.R. 1359 and 1460	June 3, 1985
		17 N.J.R. 1461 and 1608	June 17, 1985
		17 N.J.R. 1609 and 1700	July 1, 1985

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
-------------------	-----------------------------------	-----------------	-----------------------------------

ADMINISTRATIVE LAW—TITLE 1

1:1, 1:2	Readopt General Hearing and Summary Proceedings rules	17 N.J.R. 2(a)	R.1985 d.292	17 N.J.R. 1403(a)
1:7	Emergency Water Supply Allocation Plan cases	Emergency	R.1985 d.347	17 N.J.R. 1674(a)
1:1-11.2, 11.3	Discovery and countervailing factors	17 N.J.R. 1008(a)		
1:21	Trade secret claims	17 N.J.R. 1009(a)		

(TRANSMITTAL 11, dated March 18, 1985)

AGRICULTURE—TITLE 2

2:16-2	Seed certification standards	17 N.J.R. 636(a)	R.1985 d.278	17 N.J.R. 1403(b)
2:16-4	Field corn standards (commercial hybrids)	17 N.J.R. 638(a)	R.1985 d.277	17 N.J.R. 1404(a)
2:16-5	Sweetcorn standards (inbred lines)	17 N.J.R. 639(a)	R.1985 d.276	17 N.J.R. 1404(b)
2:16-6	Sweetcorn standards (single cross hybrids)	17 N.J.R. 639(b)	R.1985 d.275	17 N.J.R. 1404(c)
2:16-7	Small grain standards	17 N.J.R. 640(a)	R.1985 d.274	17 N.J.R. 1405(a)
2:16-9	Soybean standards	17 N.J.R. 641(a)	R.1985 d.273	17 N.J.R. 1405(b)
2:16-10	Vegetable standards	17 N.J.R. 641(b)	R.1985 d.272	17 N.J.R. 1405(c)
2:16-13	Turfgrass sod standards	17 N.J.R. 642(a)	R.1985 d.271	17 N.J.R. 1405(d)
2:16-15	Vegetatively propagated grass standards	17 N.J.R. 643(a)	R.1985 d.269	17 N.J.R. 1406(a)
2:16-16	Asparagus seed standards	17 N.J.R. 643(b)	R.1985 d.270	17 N.J.R. 1406(b)
2:16-17	Asparagus crown standards	17 N.J.R. 644(a)	R.1985 d.268	17 N.J.R. 1406(c)
2:16-19	Flatpea certification standards	17 N.J.R. 644(b)	R.1985 d.267	17 N.J.R. 1407(a)
2:24-1.1, 1.2	Disease of bees: reeple Acarine mite quarantine	17 N.J.R. 860(a)	R.1985 d.304	17 N.J.R. 1542(a)
2:24-1.3, 1.4, 1.5	Bee diseases: Tracheal mite quarantine	17 N.J.R. 985(a)	R.1985 d.301	17 N.J.R. 1542(b)
2:24-1.6	Honeybee tracheal mite quarantine	Emergency	R.1985 d.322	17 N.J.R. 1589(a)
2:52-2, 3, 4.1, 7	Readopt rules concerning milk processors, dealers and subdealers	17 N.J.R. 1011(a)	R.1985 d.336	17 N.J.R. 1645(a)
2:52-2.1, 3.1	Sale of yogurt	17 N.J.R. 1012(a)	R.1985 d.335	17 N.J.R. 1645(b)
2:53-4	Milk processors, dealers and subdealers	17 N.J.R. 1011(a)	R.1985 d.336	17 N.J.R. 1645(a)
2:53-4.1	Sale of yogurt	17 N.J.R. 1012(a)	R.1985 d.335	17 N.J.R. 1645(b)
2:69-1.11	Commercial values of fertilizers and soil conditioners	17 N.J.R. 764(a)	R.1985 d.266	17 N.J.R. 1407(b)
2:70-1	Liming materials: readopt fineness classification	17 N.J.R. 765(a)	R.1985 d.265	17 N.J.R. 1407(c)
2:71-2.2-2.7	Jersey Fresh Logo program	17 N.J.R. 765(b)	R.1985 d.282	17 N.J.R. 1407(d)
2:90-1	State Soil Conservation Committee: readopt General Provisions	17 N.J.R. 1160(a)		
2:90-2.24	Cost share rates for soil and water conservation projects	17 N.J.R. 861(a)	R.1985 d.303	17 N.J.R. 1542(c)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
2:90-3.6	Soil and water conservation management problems	17 N.J.R. 861(b)	R.1985 d.302	17 N.J.R. 1543(a)

(TRANSMITTAL 30, dated April 15, 1985)

BANKING—TITLE 3

(TRANSMITTAL 27, dated April 15, 1984)

CIVIL SERVICE—TITLE 4

4:1-6.8	Nondiscriminatory titles	17 N.J.R. 1012(b)		
4:1-12.12	Restorations to promotional lists	17 N.J.R. 645(a)		
4:1-12.15	Appointment of eligible certified	17 N.J.R. 10(a)	R.1985 d.227	17 N.J.R. 1257(a)
4:1-16.7	Suspension, fine and demotion for disciplinary purposes	17 N.J.R. 1360(a)		
4:1-18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:1-21.3	Prohibition against political activity	17 N.J.R. 1013(a)		
4:2-6.1, 6.2	Nondiscriminatory titles	17 N.J.R. 1012(b)		
4:2-7.13	Ninth step salary maximum	17 N.J.R. 1014(a)	R.1985 d.345	17 N.J.R. 1645(c)
4:2-18.1, 18.2, 18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:3-6.2, 6.3	Nondiscriminatory titles	17 N.J.R. 1012(b)		
4:3-14.1	Seasonal positions	17 N.J.R. 1015(a)		

(TRANSMITTAL 24, dated March 18, 1985)

COMMUNITY AFFAIRS—TITLE 5

5:18-1.1, 1.3, 1.4, 1.5, 2.4, 2.5, 2.7, 2.8, 2.12, 3.1, 3.2	Uniform Fire Code	17 N.J.R. 1015(b)		
5:18-1.1, 1.4, 1.5, 1.6, 2.3, 4	Uniform Fire Code, Fire Safety Code	17 N.J.R. 1161(a)		
5:18A-2.1—2.4, 2.6, 3.2, 3.3, 4.1, 4.3, 4.4	Fire Code Enforcement	17 N.J.R. 1015(b)		
5:18B-3.2	High Level Alarms	17 N.J.R. 1015(b)		
5:23-1.4, 2.14, 4.18, 4.20	Uniform Construction Code: annual permits	17 N.J.R. 1029(a)		
5:23-2.15	Uniform Construction Code: contractor seals	17 N.J.R. 1462(a)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 645(b)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 1033(a)		
5:23-2.15, 5.7	UCC: applying for construction permit; renewal of enforcement license	17 N.J.R. 1031(a)		
5:23-3.11, 4.22, 4.24, 4.25	Uniform Construction Code: premanufactured construction	17 N.J.R. 1169(a)		
5:23-3.14, 3.21	One and two-family dwelling construction subcode	17 N.J.R. 861(c)	R.1985 d.324	17 N.J.R. 1646(a)
5:23-4.5	UCC: duties of construction officials	17 N.J.R. 340(a)	R.1985 d.232	17 N.J.R. 1257(b)
5:23-4.21, 5.4	UCC: private enforcing agency fees; trainees	17 N.J.R. 1032(a)		
5:23-5.4	UCC: private enforcing agencies and trainee positions	17 N.J.R. 341(a)	R.985 d.231	17 N.J.R. 1258(a)
5:23-8	Asbestos hazard abatement subcode	17 N.J.R. 767(a)		
5:27	Readopt rules on Rooming and Boarding Houses	17 N.J.R. 341(b)		
5:27-1.6	Rooming and boarding houses: owner and operator training	17 N.J.R. 777(a)	R.1985 d.300	17 N.J.R. 1543(b)
5:28	Readopt State Housing Code	17 N.J.R. 1174(a)		
5:31-7.5	Local authorities: audit reports	17 N.J.R. 504(a)	R.1985 d.283	17 N.J.R. 1409(b)
5:51-1.4, 1.5	Local provision of recreational services for handicapped persons	17 N.J.R. 1463(a)		
5:80	Rules of the Housing and Mortgage Finance Agency	17 N.J.R. 505(a)	R.1985 d.241	17 N.J.R. 1258(b)
5:80-4	Housing and Mortgage Finance	17 N.J.R. 1174(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:80-17, 18	Housing and Mortgage Finance: prevailing wages; debarment from contracting	17 N.J.R. 1174(b)		
(TRANSMITTAL 29, dated April 15, 1985)				
DEFENSE—TITLE 5A				
5A:2	Leaves of absence for members of National Guard	17 N.J.R. 646(a)	R.1985 d.242	17 N.J.R. 1267(a)
EDUCATION—TITLE 6				
6:3-1.10	Standards for determining seniority	17 N.J.R. 1033(b)		
6:3-1.17, 1.23	School facility planning services	17 N.J.R. 650(a)		
6:20-2	Readopt Local Bookkeeping and Accounting rules	17 N.J.R. 1361(a)		
6:20-5.3, 5.4	State facility pupil assignments: district of residence	17 N.J.R. 344(a)	R.1985 d.208	17 N.J.R. 1076(a)
6:20-5.5	Asbestos removal and encapsulation reimbursement	17 N.J.R. 863(a)	R.1985 d.340	17 N.J.R. 1648(a)
6:21-1	Readopt Pupil Transportation Standards	17 N.J.R. 1365(a)		
6:21-5	Standards for school buses	17 N.J.R. 1035(a)		
6:22	School facility planning services	17 N.J.R. 650(a)		
6:28-3.2, 3.6, 6.1, 6.3, 8.3	Special Education	17 N.J.R. 345(a)	R.1985 d.209	17 N.J.R. 1077(a)
6:29-6.4	Athletics procedures	17 N.J.R. 659(a)	R.1985 d.281	17 N.J.R. 1410(a)
6:30-1.4	Fees for GED test	17 N.J.R. 1367(a)		
6:68-2	Library assistance: readopt Incentive Grant Program rules	17 N.J.R. 346(a)	R.1985 d.207	17 N.J.R. 1078(a)
(TRANSMITTAL 30, dated April 15, 1985)				
ENVIRONMENTAL PROTECTION—TITLE 7				
7:1C-1	90-day construction permits	16 N.J.R. 3243(a)	R.1985 d.316	17 N.J.R. 1544(a)
7:1E	Readopt rules on Discharges of Petroleum and Other Hazardous Substances	17 N.J.R. 865(a)		
7:1F	Industrial Survey Project rules: waiver of Executive Order No. 66	17 N.J.R. 866(a)		
7:1F	Industrial Survey Project rules: new expiration date	_____	_____	17 N.J.R. 1139(b)
7:1G	Right to Know Act: Federal district court ruling	_____	_____	17 N.J.R. 1139(c)
7:1H	Readopt County Environmental Health administrative rules	17 N.J.R. 1463(b)		
7:2-2.14, 3.4, 3.5	Use of State Park lands	17 N.J.R. 778(a)		
7:2-12	Open lands management	17 N.J.R. 866(b)		
7:7E	Readopt Coastal Resource and Development Policies	17 N.J.R. 1465(a)		
7:7E	Revisions to Coastal Resources and Development rules	17 N.J.R. 1466(a)		
7:7E-7.2	Correction to Administrative Code: Coastal Resource and Development Policies	_____	_____	17 N.J.R. 1140(a)
7:9-4, 5	Surface water quality and treatment of wastewater discharges	16 N.J.R. 3080(a)	R.1985 d.249	17 N.J.R. 1270(a)
7:11-2.3, 2.5, 2.8-2.12	Delaware and Raritan Canal water supply system	17 N.J.R. 11(a)		
7:12-1.3, 1.4	Shellfish-growing water classifications	17 N.J.R. 661(a)	R.1985 d.290	17 N.J.R. 1412(a)
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	16 N.J.R. 1306(a)	R.1985 d.218	17 N.J.R. 1080(a)
7:13-7.1(c)17	Redelineation of Delaware River in Harmony Township, Warren County	17 N.J.R. 151(a)	R.1985 d.319	17 N.J.R. 1550(a)
7:13-7.1(c)30	Floodway delineation along Paulins Kill	16 N.J.R. 2397(a)	R.1985 d.217	17 N.J.R. 1080(b)
7:13-7.1	Paulins Kill floodway delineation: public hearing	16 N.J.R. 2885(a)		
7:13-7.1(d)50	Floodway delineation along North Branch Foulerton's Brook	16 N.J.R. 2398(a)	R.1985 d.320	17 N.J.R. 1551(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:13-7.1(d)51	Floodways along North Branch Raritan (Project U)	16 N.J.R. 1307(a)	R.1985 d.329	17 N.J.R. 1648(b)
7:13-7.1(h)	Floodway delineations in Hackensack Basin	17 N.J.R. 1175(a)		
7:13-7.1(i)	Floodway delineations in Central Passaic Basin (Projects G and R)	17 N.J.R. 1176(a)		
7:14A-1.8	Fee schedule for NJPDES permits and applicants	17 N.J.R. 13(a)	R.1985 d.315	17 N.J.R. 1551(b)
7:19-5.11	Correction: Acquisition costs			17 N.J.R. 1559(a)
7:20	Dam Safety Standards	16 N.J.R. 790(a)	R.1985 d.214	17 N.J.R. 1081(a)
7:25-2	Readopt rules on Use of Land and Water Areas under DEP control	16 N.J.R. 1309(a)	Expired	
7:25-4.2, 4.14, 4.17	Possession of endangered and nongame species	17 N.J.R. 516(a)	R.1985 d.251	17 N.J.R. 1289(a)
7:25-4.13, 4.17	Status of the osprey	17 N.J.R. 350(a)	R.1985 d.215	17 N.J.R. 1091(a)
7:25-5	1985-86 Game Code	17 N.J.R. 1177(a)		
7:25-7.10, 7.11	Taking of oysters and mussels	16 N.J.R. 3385(a)		
7:25-12.1	Close of sea clam season			17 N.J.R. 1142(a)
7:25-16.1	Readopt freshwater fishing license lines	16 N.J.R. 2044(a)		
7:25-18	Readopt Marine Fisheries rules	17 N.J.R. 1188(a)		
7:25-18.5	Marine fisheries: general net rules	Emergency	R.1985 d.240	17 N.J.R. 1334(a)
7:25-22.2	Purse seine fishing of menhaden	16 N.J.R. 1668(a)		
7:25-23	Permit to kill wild deer	17 N.J.R. 350(b)	R.1985 d.250	17 N.J.R. 1289(b)
7:25A	Oyster management	17 N.J.R. 352(a)	R.1985 d.216	17 N.J.R. 1092(a)
7:26	Solid and hazardous waste collector-haulers: Disclosure Statement Forms	16 N.J.R. 1425(a)		
7:26-1.4, 9.3	Above-ground tank storage of hazardous waste	17 N.J.R. 1501(a)		
7:26-1.7	Waste management: on-site disposal of construction debris	17 N.J.R. 1040(a)		
7:26-1.7	Solid waste disposal: exemption from registration	17 N.J.R. 1368(a)		
7:26-3	Waste management: readopt Collection and Haulage rules	17 N.J.R. 1041(a)		
7:26-6.5	Solid waste flow: Atlantic County	17 N.J.R. 517(b)	R.1985 d.317	17 N.J.R. 1560(a)
7:26-6.5	Solid waste flow: Hunterdon County	17 N.J.R. 517(a)		
7:26-7.4, 8.3, 8.15, 9.2, 10.6, 10.8	Restriction of land disposal of hazardous waste	17 N.J.R. 779(a)		
7:26-8.13, 8.16	Hazardous waste from non-specific sources; hazardous constituents	17 N.J.R. 354(a)	R.1985 d.248	17 N.J.R. 1290(a)
7:26-8.15	Hazardous waste management: warfarin and zinc phosphide	17 N.J.R. 356(a)		
7:26-9.10, 9.11, App. A.	Hazardous waste facilities: closure letters of credit	17 N.J.R. 241(a)	R.1985 d.247	17 N.J.R. 1291(a)
7:26-10.5	Tank storage containment requirements	17 N.J.R. 152(a)	R.1985 d.318	17 N.J.R. 1560(b)
7:26-14	Resource Recovery grants and loans	16 N.J.R. 3385(b)		
7:26-14	Resource Recovery grants and loans: extension of comment period	17 N.J.R. 242(a)		
7:26-16.4	Solid and hazardous waste: transporters and facilities	17 N.J.R. 518(a)		
7:27	Air quality standards: State Implementation Plan for lead	16 N.J.R. 1669(a)		
7:27-13.1, 13.2, 13.5-13.8	Ambient air quality standards	16 N.J.R. 1676(a)	R.1985 d.252	17 N.J.R. 1292(a)
7:27-14.3	Diesel-powered motor vehicles: idle standard	16 N.J.R. 2887		
7:27-15.4	Air pollution and gas-fueled motor vehicles	17 N.J.R. 781(a)	R.1985 d.331	17 N.J.R. 1649(a)
7:27-15.6	Gas-fueled motor vehicle: idle standard	16 N.J.R. 2889		
7:27B-4.6	Lead test paper procedure	17 N.J.R. 781(a)		
7:27B-4.6, 4.7	Air pollution and gas-fueled motor vehicles	17 N.J.R. 781(a)	R.1985 d.331	17 N.J.R. 1649(a)
7:28-12	Transportation of radioactive material	17 N.J.R. 1369(a)		
7:29-1.1-1.5	Noise control: extension of comment period	16 N.J.R. 2405(a)		
7:30	Pesticide Control Code	17 N.J.R. 242(b)		
7:36	Green Acres Program	16 N.J.R. 2405(b)		

(TRANSMITTAL 30, dated April 15, 1985)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
HEALTH—TITLE 8				
8:7-1	Licensure of persons for public health positions	17 N.J.R. 1503(a)		
8:13-2.1, 2.4, 2.6-2.11, 2.13, 2.14	Depuration of soft shell clams	17 N.J.R. 1370(a)		
8:19	Readopt Newborn Hearing Screening rules	17 N.J.R. 869(a)		
8:21A-2.55	Drug manufacturing: medical gas lot or control numbers	16 N.J.R. 1685(a)		
8:31-26.3, 26.4	Health care facilities: employee physicals; child abuse	16 N.J.R. 3249(a)		
8:31-26.5	Health care facilities: licensure fees	17 N.J.R. 664(a)		
8:31B-2, 3, 4	Hospital Rate Setting rules: temporary waiver of expiration	16 N.J.R. 2733(a)		
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	16 N.J.R. 2848(b)		
8:31B-3.23	Correction: Hospital reimbursement	16 N.J.R. 2733(b)		
8:31B-3.72	Hospital reimbursement: periodic rate adjustments	17 N.J.R. 872(a)	R.1985 d.349	17 N.J.R. 1652(a)
8:31B-3.79	Hospital reimbursement: post-acute care patients	17 N.J.R. 873(a)		
8:33	Certificate of Need application and review process	17 N.J.R. 1190(a)		
8:33A-1.1	New and expanded surgical services: deferral of need applications	16 N.J.R. 2734(a)		
8:33E-2.1-2.5, 2.10, 2.12, 2.13	Cardiac surgical centers: need review	16 N.J.R. 2196(a)		
8:33F-1.4	Renal disease services: acute hemodialysis standards	17 N.J.R. 874(a)		
8:33G-1	Computerized tomography services	17 N.J.R. 1214(a)		
8:33H	Long-Term Care Facilities and Services: readopt Certificate of Need rules	17 N.J.R. 1216(a)		
8:43-4	Residential Health Care Facilities: readopt Administration rules	17 N.J.R. 1231(a)		
8:43A	Licensure of ambulatory care facilities	16 N.J.R. 3254(a)		
8:43B-1.14	Hospital facilities: psychiatric patient rights	17 N.J.R. 665(a)		
8:43B-8.33-8.44	Newborn care services: physical plant standards	17 N.J.R. 519(a)		
8:43E-1	Hospital Policy Manual: Certificate of Need rules	17 N.J.R. 1220(a)		
8:45	Clinical laboratory services	17 N.J.R. 268(a)	R.1985 d.243	17 N.J.R. 1294(a)
8:57-1	Readopt Reportable Diseases rules	17 N.J.R. 784(a)		
8:57-4.15	Immunization of school children: mumps vaccine	17 N.J.R. 358(a)	R.1985 d.264	17 N.J.R. 1414(a)
8:60-1-5, 7	Asbestos licenses and permits	17 N.J.R. 788(a)		
8:60-2, 6	Asbestos training courses	17 N.J.R. 741(a)	R.1985 d.262	17 N.J.R. 1417(b)
8:65-1	Controlled Dangerous Substances: readopt Registration rules	17 N.J.R. 1508(a)		
8:65-5	Controlled dangerous substances: records and reports of registrants	17 N.J.R. 524(a)		
8:65-6	Controlled dangerous substances: Federally-required order forms	17 N.J.R. 528(a)		
8:65-7.3	Controlled dangerous substances: issuing of prescriptions	17 N.J.R. 876(a)		
8:65-10.1	Add 3-Methylfentanyl to Schedule I	17 N.J.R. 1511(a)		
8:65-10.5	Reschedule Buphenorphine to Schedule V	17 N.J.R. 1234(a)		
8:65-11.2	Narcotic treatment programs: registration fee	17 N.J.R. 359(a)		
8:71	Generic drug list additions (see 16 N.J.R. 2672(b), 17 N.J.R. 200(b), 957(b), 1296(a))	16 N.J.R. 1436(a)	R.1985 d.295	17 N.J.R. 1561(a)
8:71	Generic drug list additions (see 17 N.J.R. 201(a), 957(c), 1296(b))	16 N.J.R. 2483(a)	R.1985 d.297	17 N.J.R. 1562(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:71	Additions to generic drug list (see 17 N.J.R. 1295(a))	17 N.J.R. 158(a)	R.1985 d.296	17 N.J.R. 1562(a)
8:71	Generic drug list additions	17 N.J.R. 1043(a)		
(TRANSMITTAL 27, dated April 15, 1985)				
HIGHER EDUCATION—TITLE 9				
9:2-1	Minority Faculty Advancement Loan Program	17 N.J.R. 1512(a)		
9:2-1, 2, 3, 8, 9	Repeal (See 9:6)	16 N.J.R. 2209(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:2-4, 6, 7, 12, 13	Readopt Administrative Policies for colleges and universities	16 N.J.R. 2216(a)	R.1985 d.309	17 N.J.R. 1563(a)
9:2-11	Recodify as 9:7-7	16 N.J.R. 2218(a)		
9:2-12.1, 12.2	Teacher education: degree standards	17 N.J.R. 1515(a)		
9:2-12.2	Teacher education: curriculum	17 N.J.R. 22(b)		
9:6	State College: policies and standards	16 N.J.R. 2209(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:6-1.2, 3.1, 3.4, 3.5, 3.6, 3.11, 4.4, 4.7, 5.2, 5.13	State Colleges: policies and standards	17 N.J.R. 160(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:7-2.4, 2.9	Student assistance programs: eligibility; award combinations	17 N.J.R. 787(a)	R.1985 d.338	17 N.J.R. 1653(a)
9:7-4.1, 4.7, 4.8	Distinguished Scholars Program	17 N.J.R. 787(b)	R.1985 d.339	17 N.J.R. 1654(a)
9:7-7	Readopt Veteran's Tuition Credit Program	16 N.J.R. 2218(a)		
9:8	Jobs, Science and Technology Bond Act: policies and procedures	17 N.J.R. 1516(a)		
9:9-1.2	Guaranteed Student Loan Program: second borrowing	17 N.J.R. 1518(a)		
9:9-1.6	Student loan applications: prohibited fee	16 N.J.R. 3281(b)	R.1985 d.311	17 N.J.R. 1564(a)
9:14	Readopt Independent College and University Assistance rules	17 N.J.R. 25(a)	R.1985 d.245	17 N.J.R. 1303(a)
(TRANSMITTAL 25, dated April 15, 1985)				
HUMAN SERVICES—TITLE 10				
10:44A-1.1-1.5, 2.2, 2.4, 3.1, 3.3, 4.3, 5.2, 9	Community residences for developmentally disabled; Supportive Living Programs	16 N.J.R. 1438(a)	R.1985 d.258	17 N.J.R. 1304(a)
10:47	Private Licensed Facilities for Developmentally Disabled	16 N.J.R. 2902(a)		
10:48	Division of Mental Retardation: appeal procedures	17 N.J.R. 876(b)		
10:49-1	Administration Manual: readopt General Provisions	17 N.J.R. 532(a)	R.1985 d.246	17 N.J.R. 1307(a)
10:49-1.1	Medicaid eligibility	16 N.J.R. 2219(a)		
10:49-1.4	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:49-7	Reinstatement of Medicaid provider	17 N.J.R. 1519(a)		
10:50	Transportation Services: HCFA Common Procedure Coding System	17 N.J.R. 1519(b)		
10:50-1.2, 1.5, 1.6	Invalid coach services: oxygen equipment; carrier charges	17 N.J.R. 1373(a)		
10:51-1.13, 1.14, 3.12, App. A	Pharmaceutical services: "vaccine" reimbursement	17 N.J.R. 1237(a)		
10:51-1.17, 3.15	Pharmaceutical services: dispensing fee and capitation rates	17 N.J.R. 1044(a)		
10:51-5.1, 5.16	PAAD: diabetic testing material	17 N.J.R. 1521(a)		
10:52-1.1, 1.20	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:52-1.16	Termination of pregnancy in licensed health care facilities	17 N.J.R. 1375(a)		
10:52-1.21	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:53-1.1, 1.16	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:53-1.14	Termination of pregnancy	17 N.J.R. 1375(a)		
10:53-2	Special Hospital Services: admission and billing	17 N.J.R. 544(a)	R.1985 d.257	17 N.J.R. 1317(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:54	Physician's Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:54-1.23	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54-3	Procedure Code Manual: immunizations	17 N.J.R. 546(a)	R.1985 d.211	17 N.J.R. 1094(a)
10:54-3	Procedure Code Manual: fees for laboratory services	17 N.J.R. 1376(a)		
10:55	Prosthetic-Orthotic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:55-3.1	Fee increases for shoe appliances	17 N.J.R. 1522(a)		
10:57	Podiatry Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:58	Nurse Midwifery Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59	Medical Supplier Manual: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59-1.2, 1.4, 1.9, 1.12	Medical Supplier Manual: recycling of durable medical equipment	16 N.J.R. 2048(a)		
10:59-1.7, 1.13, 1.14, 3.2	Fee increases for shoe appliances	17 N.J.R. 1522(a)		
10:60	Readopt Home Care Services Manual	17 N.J.R. 28(a)		
10:60-4	Community Care Waiver Program for Elderly and Disabled	16 N.J.R. 3161(a)	R.1985 d.263	17 N.J.R. 1415(a)
10:61	Independent Laboratory Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:61-1.2	Medicaid participation by State, county and municipal labs	16 N.J.R. 3162(a)	R.1985 d.237	17 N.J.R. 1318(a)
10:62	Vision Care: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:63-1.6	Changes in level of long-term care	16 N.J.R. 2049(a)		
10:64	Hearing Aid Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66	Independent Clinic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66-1.1, 1.2, 1.3, 1.6, 1.7, 1.9	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:66-1.2, 1.6, 3.3	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:66-1.5	Independent Clinic Manual: mental health services	17 N.J.R. 1377(a)		
10:66-1.6	Termination of pregnancy	17 N.J.R. 1375(a)		
10:67	Psychological Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:69A-1.2, 2.1, 5.3, 5.6, 6.1, 6.4, 6.6, 6.10, 6.11	Pharmaceutical Assistance for Aged and Disabled	17 N.J.R. 367(a)	R.1985 d.259	17 N.J.R. 1318(b)
10:81-3.27	PAM: transmission of data to receiving county	17 N.J.R. 878(a)	R.1985 d.344	17 N.J.R. 1655(a)
10:81-3.34	PAM: temporary absence of children from home	17 N.J.R. 163(a)	R.1985 d.312	17 N.J.R. 1565(a)
10:81-11.1, 11.4, 11.12	PAM: continuing IV-D services for families that lose AFDC	17 N.J.R. 164(a)	R.1985 d.210	17 N.J.R. 1094(b)
10:81-11.7, 11.9	PAM: child support and health benefits	17 N.J.R. 165(a)	R.1985 d.219	17 N.J.R. 1095(a)
10:81-11.9	PAM: reimbursement by counties to State	17 N.J.R. 369(a)		
10:81-11.9	Public Hearing: County reimbursement to State for Tax Setoff Program for child support enforcement	17 N.J.R. 1526(a)		
10:81-11.18	PAM: weekly second family adjustment	17 N.J.R. 879(a)	R.1985 d.343	17 N.J.R. 1655(b)
10:81-11.19	PAM: distribution of arrearage payments for child support	17 N.J.R. 1238(a)		
10:82-1.2, 2.13, 3.11, 5.11	ASH: AFDC payment standards	17 N.J.R. 880(a)	R.1985 d.341	17 N.J.R. 1656(a)
10:82-2.2	ASH: initial grant computation	17 N.J.R. 546(b)	R.1985 d.299	17 N.J.R. 1566(a)
10:82-2.19	ASH: recovery of overpayments	16 N.J.R. 2055(a)		
10:82-2.19, 3.2	Correction to Administrative Code: Assistance Standards Handbook	_____	_____	17 N.J.R. 1143(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:82-3.13	ASH: eligibility of sponsored alien and sponsor's income	17 N.J.R. 1523(a)		
10:82-4.11, 4.12	ASH: income from apartments, rooms, or housekeeping units	17 N.J.R. 1045(a)		
10:85-3.2	GAM: determination of unemployability	17 N.J.R. 547(a)		
10:85-3.2, 10.6	GAM: willingness to work and penalty period	16 N.J.R. 2741(a)		
10:85-3.3	GAM: monthly assistance payment for residential health care	16 N.J.R. 2742(a)		
10:85-3.3	General Assistance rate in residential health care facilities	_____	_____	17 N.J.R. 485(c)
10:85-3.4	GAM: suits and claims	17 N.J.R. 548(a)	R.1985 d.298	17 N.J.R. 1566(b)
10:85-4.1, 9.4	General Assistance payment levels	17 N.J.R. 882(a)	R.1985 d.342	17 N.J.R. 1658(a)
10:85-5.2	Correction to Administrative Code: General Assistance Manual	17 N.J.R. 1339(b)		
10:87-1.14	Food Stamp Program: disclosure of information	17 N.J.R. 1377(b)		
10:87-2.21, 2.24, 2.28, 2.31, 2.35, 9.7, 11.29	Food Stamp Program revisions	17 N.J.R. 883(a)	R.1985 d.346	17 N.J.R. 1659(a)
10:87-5.7	Food Stamp Program: treatment of moneys used to repay overpayments	17 N.J.R. 986(a)	R.1985 d.313	17 N.J.R. 1567(a)
10:89-2.3	Correction to Administrative Code: Home Energy Assistance Handbook	_____	_____	17 N.J.R. 1444(b)
10:90-4.8	Correction to Administrative Code: Monthly Reporting Policy Handbook	_____	_____	17 N.J.R. 1143(c)
10:94-3.16	Medicaid district offices	17 N.J.R. 38(a)	R.1985 d.291	17 N.J.R. 1416(a)
10:94-4.5, 4.6, 4.7	Medicaid Only: resource eligibility and limits	17 N.J.R. 1525(a)		
10:122-2.3, 2.6 3.2, 3.3, 4.1, 4.3, 4.6, 6.8, 6.9	Child care centers	17 N.J.R. 548(b)	R.1985 d.314	17 N.J.R. 1568(a)
10:123-3	Residential health care and boarding homes: readopt Personal Needs Allowance rules	17 N.J.R. 1526(b)		
10:129-2	Confidentiality of child abuse records	17 N.J.R. 885(a)		
(TRANSMITTAL 28, dated April 15, 1985)				
CORRECTIONS—TITLE 10A				
10A:71	State Parole Board rules	16 N.J.R. 3391(a)	R.1985 d.213	17 N.J.R. 1096(a)
(TRANSMITTAL 10, dated March 18, 1985)				
INSURANCE—TITLE 11				
11:1-2.5-2.8	Property-liability: rate counsel participation	16 N.J.R. 2918(a)		
11:1-16	Request for rate decrease	16 N.J.R. 3169(a)		
11:1-18	Approval of business names	17 N.J.R. 41(a)		
11:1-19	Uniform registration of branch offices	17 N.J.R. 42(a)		
11:2-19	Approval of insurance schools and company training programs	16 N.J.R. 2920(b)		
11:2-20	License renewal: continuing education requirement	16 N.J.R. 2922(a)		
11:2-21	Property and casualty coverage: underwriting guidelines	16 N.J.R. 2924(a)		
11:2-23	Advertisement of life insurance and annuities	16 N.J.R. 2926(a)		
11:3-7	Automobile Reparation Reform Act rules: 90-day waiver of expiration	16 N.J.R. 2414(a)		
11:3-7	Automobile Reparation Reform Act rules	16 N.J.R. 3417(a)		
11:3-8	Nonrenewal of auto insurance policies	16 N.J.R. 2930(a)		
11:3-10	Auto physical damage claims	16 N.J.R. 3170(a)		
11:3-16	Private passenger automobile rate filings	16 N.J.R. 2934(a)		
11:3-17	Automobile rate filings	16 N.J.R. 2936(a)		
11:3-18	Filing review procedures	16 N.J.R. 2937(a)		
11:3-20	Reporting excess profits	17 N.J.R. 370(a)		
11:3-21	Reduced PIP premium charges	16 N.J.R. 3286(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 887(a)		
11:4-9	Annuity and deposit fund disclosure	16 N.J.R. 2939(a)		
11:4-16, 17, 18	Readopt health insurance standards	17 N.J.R. 554(a)	R.1985 d.221	17 N.J.R. 1129(a)
11:4-21	Readopt Limited Death Benefit Forms	17 N.J.R. 891(a)	R.1985 d.325	17 N.J.R. 1660(a)
11:4-25	Social security disability offset	16 N.J.R. 3287(a)		
11:5-1.15, 1.25	Advertising of real estate; sale of interstate property	17 N.J.R. 666(a)		
11:5-1.28	Approved real estate schools: requirements	17 N.J.R. 376(a)		
11:10-1	Dental plan organizations	16 N.J.R. 2230(a)		
11:10-2	Employees' dental benefit plans	17 N.J.R. 45(a)	R.1985 d.220	17 N.J.R. 1129(b)
11:14-1.3, 2.1, 2.4, 3.1, 3.3, 4.1, 4.2	Auto body repair facilities	16 N.J.R. 2235(a)		
11:16	Provider verification of services	17 N.J.R. 47(a)		
11:17-1	Surplus lines insurance guaranty fund surcharge	17 N.J.R. 1045(b)		

(TRANSMITTAL 28, dated April 15, 1985)

LABOR—TITLE 12

12:15-1.1	Unemployment Compensation: contributions, records and reports	16 N.J.R. 2488(b)		
12:15-1.1, 1.2	Unemployment and Temporary Disability benefits programs: purpose and scope	17 N.J.R. 1378(a)		
12:35	Readopt Workfare rules	17 N.J.R. 1048(a)		
12:120	Asbestos licenses and permits	Emergency	R.1985 d.361	17 N.J.R. 1676(a)
12:120-2, 6	Asbestos training courses	17 N.J.R. 741(a)	R.1985 d.262	17 N.J.R. 1417(b)
12:200	Readopt Liquefied Petroleum Gas rules	17 N.J.R. 1379(a)		

(TRANSMITTAL 20, dated April 15, 1985)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

12A	Departmental rules; small business set-aside contracts	16 N.J.R. 1955(a)	R.1984 d.421	16 N.J.R. 2683(a)
-----	--	-------------------	--------------	-------------------

LAW AND PUBLIC SAFETY—TITLE 13

13:1-4.6	Police Training Commission: radar instructor certification	17 N.J.R. 377(a)	R.1985 d.226	17 N.J.R. 1130(a)
13:1-5.1, 6.1, 8.1	Police officer training and certification	17 N.J.R. 1239(a)		
13:2-4	ABC: readopt rules on Issuance or Transfer of Municipal Retail Licenses	17 N.J.R. 1052(a)	R.1985 d.332	17 N.J.R. 1661(a)
13:2-20	ABC: readopt rules on Transportation by Licensees; Transit Insignia	17 N.J.R. 1054(a)	R.1985 d.333	17 N.J.R. 1662(a)
13:2-23.16, -24, -35	ABC preproposal: industry marketing and sales practices	16 N.J.R. 3292(a)		
13:2-33	ABC: readopt Brand Registration rules	17 N.J.R. 794(a)	R.1985 d.279	17 N.J.R. 1423(a)
13:2-40	ABC: readopt rules on Issuances of IDs by County Clerks	17 N.J.R. 1380(a)		
13:3-3.5, 3.6, 7.9	Amusement games control	17 N.J.R. 1058(a)	R.1985 d.334	17 N.J.R. 1664(a)
13:13	Discrimination against handicapped persons	17 N.J.R. 671(a)	R.1985 d.305	17 N.J.R. 1574(a)
13:19-13.1, 13.2, 13.3	Motor vehicle insurance surcharges	17 N.J.R. 893(a)		
13:20-28	Readopt rules on Inspection of New Motor Vehicles	17 N.J.R. 1059(a)		
13:20-32.16	Motor vehicle reinspection centers	17 N.J.R. 676(a)		
13:20-33.6	Glazing inspection standards for motor vehicles	17 N.J.R. 894(a)		
13:21-1.3, 1.4, 1.5	Driver licenses and social security numbers	16 N.J.R. 2746(a)	R.1985 d.307	17 N.J.R. 1579(a)
13:21-4	Readopt rules on Motor Vehicle Titles	17 N.J.R. 377(b)	R.1985 d.200	17 N.J.R. 1131(a)
13:21-14	Readopt rules on licensing of bus drivers	17 N.J.R. 556(a)	R.1985 d.205	17 N.J.R. 1131(b)
13:21-15.6	Auto dealers: acceptance of altered title documents	17 N.J.R. 169(a)		
13:29-1.1-1.6, 1.8-1.12	Board of Accountancy general rules	17 N.J.R. 557(a)	R.1985 d.287	17 N.J.R. 1424(a)
13:29-2.1, 2.2, 2.3	Registered municipal accountants	17 N.J.R. 559(a)	R.1985 d.286	17 N.J.R. 1426(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
13:30-8.1	Board of Dentistry: fee schedule	17 N.J.R. 378(a)		
13:30-8.4, 8.6	Dentistry: specialty practice; professional advertising	17 N.J.R. 378(a)	R.1985 d.253	17 N.J.R. 1320(a)
13:30-8.4, 8.6	Dentistry: specialty practice; professional advertising	_____	_____	17 N.J.R. 1665(a)
13:34-1.1	Marriage counseling: annual license fees and charges	17 N.J.R. 1527(a)		
13:35-2.15	Physician-nurse anesthetist standards	17 N.J.R. 796(a)		
13:35-3.1-3.4	Licensing of medical practitioners	17 N.J.R. 561(a)	R.1985 d.224	17 N.J.R. 1131(c)
13:35-6.4	Pre-proposal: professional conduct of Medical Board licensees	17 N.J.R. 894(b)		
13:35-6.13	Medical examiners board: fee schedule	17 N.J.R. 562(a)	R.1985 d.223	17 N.J.R. 1132(a)
13:36-2.10, 2.12, 4.4, 4.13, 5.1, 5.6, 5.9, 6.8, 7.1, 7.2	Mortuary science rules	17 N.J.R. 797(a)	R.1985 d.293	17 N.J.R. 1580(a)
13:37-1	Programs in nursing education	17 N.J.R. 51(a)	R.1985 d.285	17 N.J.R. 1426(b)
13:37-1.2, 1.21, 1.23-1.25	Programs in nursing education	17 N.J.R. 1528(a)		
13:37-2.1, 2.3, 3.5, 4.1, 4.3-4.6, 5.1, 5.5	Licensing of nurses	17 N.J.R. 1529(a)		
13:38-3.2	Board of Optometrists: reexamination	17 N.J.R. 677(a)		
13:38-5.1	Board of Optometrists: fee schedule	17 N.J.R. 677(a)	R.1985 d.254	17 N.J.R. 1323(a)
13:40-3.2, 4.1, 5.1	Professional engineers and land surveyors: Board rules	17 N.J.R. 799(a)		
13:40-8	Engineers and land surveyors: release of project records	16 N.J.R. 1027(a)	R.1985 d.225	17 N.J.R. 1133(a)
13:40-9	Supervision of engineering and land surveying projects	16 N.J.R. 2067(b)	R.1985 d.222	17 N.J.R. 1134(a)
13:41-1	Board of Professional Planners: readopt Seal rules	17 N.J.R. 1060(a)		
13:41-3.2	Board of Professional Planners: fee schedule	17 N.J.R. 1061(a)		
13:41-4	Board of Professional Planners: readopt preparation of site plan rules	17 N.J.R. 1240(a)		
13:42-1.5	Psychological Board licensees: notification of current address	17 N.J.R. 896(a)		
13:43-3.4	Certified Shorthand Reporting exam: conditional credit	17 N.J.R. 801(a)	R.1985 d.288	17 N.J.R. 1431(a)
13:43-3.5	Shorthand reporting licensees: change of address notification requirement	17 N.J.R. 801(b)	R.1985 d.289	17 N.J.R. 1431(b)
13:44-4.1	Veterinary medicine: training certificate fee	17 N.J.R. 383(a)		
13:44C-1.1	Audiology and Speech Language Pathology Advisory Committee: fees and charges	17 N.J.R. 1062(a)		
13:44D	Public moving and warehousing	17 N.J.R. 1382(a)		
13:45A-9	Merchandise advertising: readopt rules	17 N.J.R. 678(a)	R.1985 d.256	17 N.J.R. 1323(b)
13:45A-16	Home improvement practices: readopt rules	17 N.J.R. 679(a)	R.1985 d.255	17 N.J.R. 1325(a)
13:45A-22	Kosher meat and poultry dealers: inspections and recordkeeping	17 N.J.R. 1241(a)		
13:45A-23	Deceptive watercraft repair practices	17 N.J.R. 680(a)	R.1985 d.306	17 N.J.R. 1581(a)
13:46	Boxing Rules	16 N.J.R. 2962(a)	R.1985 d.284	17 N.J.R. 1432(a)
13:48	Charitable fund raising	17 N.J.R. 1244(a)		
13:51-3.5, 3.6	Chemical breath testing: approved instruments	17 N.J.R. 1531(a)		
13:70-3.46	Thoroughbred rules: horsemen's bookkeeper account	17 N.J.R. 173(a)	R.1985 d.204	17 N.J.R. 1135(a)
13:70-4.15	Thoroughbred racing: farms and training centers	17 N.J.R. 1393(a)		
13:70-6.53	Thoroughbred rules: qualification as New Jersey bred	17 N.J.R. 271(a)	R.1985 d.203	17 N.J.R. 1135(b)
13:71-7.26	Harness racing: farms and training centers	17 N.J.R. 1393(b)		

(TRANSMITTAL 30, dated April 15, 1985)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
PUBLIC UTILITIES—TITLE 14				
14:1-5.2, 5.3	Filings with Board of Public Utilities	17 N.J.R. 802(a)		
14:3-8.1, 8.2	Suggested formulae for extension of utility service	17 N.J.R. 174(a)	R.1985 d.202	17 N.J.R. 1136(a)
14:3-10.9	Petitions by solid waste collectors	16 N.J.R. 3292(b)		
14:9-6.11	Correction: Acquisition costs		_____	17 N.J.R. 1559(a)
14:17-6.8, 6.14, 6.17	CATV: system and stock transfers; rate increase filing procedures; public hearing requirement	17 N.J.R. 1062(b)		
14:18-2.9	CATV pole attachment rate methodology	Emergency	R.1985 d.323	17 N.J.R. 1589(b)
14:18-3.10	CATV installation: compensation for taking	17 N.J.R. 563(a)	R.1985 d.337	17 N.J.R. 1666(a)
14:18-11	Pre-proposal: Renewal of CATV municipal consents and certificates of approval	17 N.J.R. 1394(a)		
14:18-14	Pre-proposal: landlord compensation for installation of cable TV	16 N.J.R. 2069(a)		
(TRANSMITTAL 21, dated April 15, 1985)				
ENERGY—TITLE 14A				
14A:3-4.4	Energy Subcode: thermal efficiency standards	16 N.J.R. 2748(a)		
14A:20-1	Energy conservation planning and evaluation	16 N.J.R. 3293(a)		
(TRANSMITTAL 14, dated October 15, 1984)				
STATE—TITLE 15				
15:2-1.1, 1.3, 1.4	Commercial recording: expedited service	17 N.J.R. 897(a)	R.1985 d.327	17 N.J.R. 1670(a)
15:2-1.5	Commercial recording: fee payment for expedited service	17 N.J.R. 898(a)	R.1985 d.326	17 N.J.R. 1671(a)
(TRANSMITTAL 14, dated January 3, 1984)				
PUBLIC ADVOCATE—TITLE 15A				
(TRANSMITTAL 1, dated March 20, 1978)				
TRANSPORTATION—TITLE 16				
16:1	Records management	17 N.J.R. 564(a)		
16:6	Relocation assistance	17 N.J.R. 565(a)		
16:20A-4.4	Municipalities qualified for depressed rural centers aid	17 N.J.R. 565(b)	R.1985 d.233	17 N.J.R. 1325(b)
16:21	State aid to counties and municipalities: readopt rules	17 N.J.R. 566(a)		
16:28-1.79	Route 94 speed limits, Sussex County	17 N.J.R. 384(a)	R.1985 d.198	17 N.J.R. 1137(a)
16:28A-1.4, 1.31, 1.33	Bus stops on Route 4 in Hackensack and Routes 45 and 47 in Deptford	17 N.J.R. 1396(a)		
16:28A-1.7	Parking on U.S. 9 in Berkeley Township	17 N.J.R. 1063(a)		
16:28A-1.7, 1.19, 1.21, 1.31, 1.32	Parking on Routes U.S. 9, 28, U.S. 30, 45, U.S. 46 and 52	17 N.J.R. 898(b)	R.1985 d.328	17 N.J.R. 1671(b)
16:28A-1.35	Parking on Route 52 in Ocean City			
16:28A-1.7, 1.24	Bus stops on U.S. 9 and 34 in Old Bridge	17 N.J.R. 1064(a)		
16:28A-1.7, 1.45	Parking on U.S. 9 in Ocean County and Route 94 in Sussex County	17 N.J.R. 1250(a)		
16:28A-1.9, 1.19, 1.21, 1.23, 1.33, 1.38, 1.41, 1.57, 1.104	Parking on Routes 17, 28, U.S.30, 33, 47, 71, 77, U.S.206 and U.S.40-322	17 N.J.R. 802(b)	R.1985 d.294	17 N.J.R. 1583(a)
16:28A-1.13, 1.27, 1.30	Bus stops on U.S. 22 in Kenilworth, Routes 38 in Cherry Hill and 44 in Paulsboro	17 N.J.R. 1397(a)		
16:28A-1.18, 1.36	Parking on Routes 27 in Union County and 57 in Warren County	17 N.J.R. 1251(a)		
16:28A-1.20, 1.25, 1.29, 1.64, 1.65	Parking and bus stops on Routes 29, 35, 42, 41 and 15	17 N.J.R. 1398(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
16:28A-1.21, 1.26, 1.31, 1.38, 1.61, 1.71	Parking and bus stops on U.S. 9W, U.S. 30, Routes 36, 45, 67 and 71	17 N.J.R. 1064(b)		
16:28A-1.96	Route 183 parking, Sussex County	17 N.J.R. 384(a)	R.1985 d.198	17 N.J.R. 1137(a)
16:30-6.4	Weight limit on Route 45 in Gloucester County	Emergency	R.1985 d.260	17 N.J.R. 1337(a)
16:31-1.1	No left turn on US 206 in Hillsborough	17 N.J.R. 1250(a)		
16:31-1.4	No left turn on Route 35 in Shrewsbury	17 N.J.R. 566(b)	R.1985 d.206	17 N.J.R. 1138(a)
16:33	Construction control	17 N.J.R. 567(a)		
16:41A-6.1	Outdoor advertising permit fees	17 N.J.R. 385(a)	R.1985 d.230	17 N.J.R. 1325(c)
16:43	Junkyards adjacent to public highways: readopt rules	17 N.J.R. 567(b)		
16:44-5.1	Receipt of bids: requirements	16 N.J.R. 3191(a)		
16:56-4.1	Airport safety improvement aid	17 N.J.R. 1067(a)		
16:62	Air safety and hazardous zoning	16 N.J.R. 860(b)	R.1985 d.173	17 N.J.R. 977(b)
16:78	Senior Citizen and Disabled Resident Transportation Assistance Act Program	17 N.J.R. 1532(a)		

(TRANSMITTAL 29, dated April 15, 1985)

TREASURY-GENERAL—TITLE 17

17:1-1.8	State pension checks and signature cards	17 N.J.R. 1068(a)	R.1985 d.348	17 N.J.R. 1673(a)
17:1-2.3	Alternate Benefit Program: salary reduction and deduction	16 N.J.R. 2350(b)		
17:1-4.11	PERS: purchase of service credit by certain nurses	17 N.J.R. 900(a)	R.1985 d.321	17 N.J.R. 1586(a)
17:3-2.3	Teachers' pension and annuity: full-time employment	17 N.J.R. 60(a)		
17:3-3.2	Teachers' Pension and Annuity: contributory insurance benefits	17 N.J.R. 1252(a)		
17:4	Readopt Police and Firemen's Retirement System rules	17 N.J.R. 805(a)	R.1985 d.330	17 N.J.R. 1673(b)
17:5-5.5	State Police Retirement: outstanding loans	16 N.J.R. 2997(a)		
17:8	Supplemental Annuity Collective Trust: readopt rules	17 N.J.R. 682(a)		
17:9-1.5	State Health Benefits Program: voluntary termination by employer	17 N.J.R. 1399(a)		
17:16-27	Investment Council: certificates of deposit	17 N.J.R. 60(b)		
17:20-5	Revocation or suspension of Lottery agent's license	17 N.J.R. 272(b)	R.1985 d.308	17 N.J.R. 1586(b)

(TRANSMITTAL 29, dated April 15, 1985)

TREASURY-TAXATION—TITLE 18

18:7-1.15, 4.5, 4.11, 11.7	Corporation Business Tax: investment company, subsidiary, indebtedness, timely filing	17 N.J.R. 1537(a)		
18:7-1.17, 11.15	Casino consolidated tax return	16 N.J.R. 2423(a)		
18:7-1.17, 11.15	Consolidated casino business tax returns	17 N.J.R. 901(a)		
18:7-5.1, 5.2, 5.4	Corporation Business Tax: entire net income base	17 N.J.R. 1538(a)		
18:7-14.12, 14.17-14.20	Corporation Business Tax: prior issuance of tax clearance certificate	17 N.J.R. 1252(b)		
18:12A-1.2	County tax boards: member education	17 N.J.R. 683(a)	R.1985 d.261	17 N.J.R. 1439(a)
18:15-2.1-2.6	Farmland assessments	17 N.J.R. 903(a)	R.1985 d.310	17 N.J.R. 1587(a)
18:23A	Tax maps	17 N.J.R. 1068(b)		
18:24-12	Sale of food and drink	17 N.J.R. 178(a)	R.1985 d.280	17 N.J.R. 1440(a)
18:37	Readopt Spill Compensation and Control Tax rules	17 N.J.R. 1074(a)		
18:37-2.2	Transfer of hazardous substances other than petroleum or its products	17 N.J.R. 1540(a)		

(TRANSMITTAL 28, dated April 15, 1985)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
TITLE 19 SUBTITLES A-L-OTHER AGENCIES (Except Casino Control Commission)				
19:1	Repealed rules of New Jersey Mortgage Finance Agency	17 N.J.R. 505(a)	R.1985 d.241	17 N.J.R. 1258(b)
19:4-4.33, 4.35, 4.36, 4.39, 4.40, 4.42, 6.28	Hackensack Meadowlands waterfront recreation zone	16 N.J.R. 3423(b)		
19:4-5.6, 5.6A, 6.28	Zoning changes	16 N.J.R. 2351(a)		
19:4-6.28	Official zoning map	16 N.J.R. 3423(b)	R.1985 d.212	17 N.J.R. 1138(b)
19:4-6.28	Change in zoning designation	17 N.J.R. 385(b)		
19:25-1, 7, 11	Readopt General Provisions, Use of Deposited Funds, Reporting of Contributions	17 N.J.R. 1399(b)		
19:25-2.6	Facsimile signatures	17 N.J.R. 683(b)	R.1985 d.238	17 N.J.R. 1326(a)
19:25-15.3, 15.12, 16.3, 16.10	Continuing political committees	17 N.J.R. 684(a)	R.1985 d.239	17 N.J.R. 1326(b)

(TRANSMITTAL 25, dated February 19, 1985)

TITLE 19 SUBTITLE K-CASINO CONTROL COMMISSION

19:41-2.8	Fire safety unit	16 N.J.R. 3195(a)		
19:43, 45	Pre-proposal: Rules governing casino industry bus operations	17 N.J.R. 1401(a)		
19:45-1.24	Patrons' cash deposits	16 N.J.R. 1710(a)		
19:45-1.27	Patron credit	17 N.J.R. 181(a)	R.1985 d.229	17 N.J.R. 1327(a)
19:45-1.27	Correction: Granting of patron credit	17 N.J.R. 181(a)	R.1985 d.229	17 N.J.R. 1673(c)
19:45-1.27	Patron credit	17 N.J.R. 1254(a)		
19:45-1.28	Depositing gaming-patron checks	16 N.J.R. 2076(a)		
19:45-1.37	Issuance and use of tokens for slot machines	17 N.J.R. 184(a)		
19:46-1.20	Inspection of gaming equipment	16 N.J.R. 1467(a)		
19:46-1.26, 1.27, 1.33	Issuance and use of tokens for slot machines	17 N.J.R. 184(a)		
19:47-2.4, 3.4, 4.3	Opening of the table for gaming	17 N.J.R. 61(a)	R.1985 d.228	17 N.J.R. 1332(a)
19:52-1.4	Correction: Prohibited entertainment activities	_____	_____	17 N.J.R. 1684(a)

(TRANSMITTAL 14, dated March 18, 1985)



OFFICE OF ADMINISTRATIVE LAW PUBLICATIONS

YOUR BASIC RULE RESEARCH STARTS WITH THE 31-VOLUME NEW JERSEY ADMINISTRATIVE CODE

ADMINISTRATIVE CODE TITLES Prices

- Full Set (includes all Titles below) \$900
- Individual Titles (prices include one year of updated replacement pages)
- 1. Administrative Law \$55
- 2. Agriculture \$55
- 3. Banking \$55
- 4. Civil Service \$55
- 5. Community Affairs (two volumes) \$110
- 5A. Defense \$55
- 6. Education (two volumes) \$110
- 7. Environmental Protection (three volumes) \$165
- 8. Health (three volumes) \$165
- 9. Higher Education \$55
- 10. Human Services (three volumes) \$165
- 10A. Corrections \$55
- 11. Insurance \$55
- 12. Labor (two volumes) \$110
- 13. Law and Public Safety (three volumes) \$165
- Volume C (Alcoholic Beverage Control and Amusement Games Rules) only \$55
- 14/14A. Public Utilities/Energy \$55
- 15. State \$55
- 15A. Public Advocate \$55
- 16. Transportation \$55
- 17. Treasury-General \$55
- 18. Treasury-Taxation (two volumes) \$110
- 19. Other Agencies (Expressway Authority, Hackensack Meadowlands Development Commission, Highway Authority, Turnpike Authority, Public Employment Relations Commission, Sports and Exposition Authority, Election Law Enforcement Commission, Economic Development Authority, Public Broadcasting Authority, Executive Commission on Ethical Standards, Atlantic County Transportation Authority) \$55
- 19K. Casino Control Commission \$55
- Annual Update Service only, per volume \$30

NEW JERSEY ADMINISTRATIVE CODE NEW JERSEY REGISTER ORDER FORM

Full Set of Administrative Code, \$900 []

Individual Titles (specify Title and number of copies):

Annual Update Service only (specify Titles): _____

(See price list) \$ _____

New Jersey Register (one year)

By second class mail, \$75 []

By first class mail, \$150 []

Total \$ _____

NEW JERSEY ADMINISTRATIVE REPORTS

Option I: Quarterly looseleaf service for 12 months, commencing July 1, plus all bound volumes issued during that 12 month period—\$195.00

Option II: Individual bound volumes—\$45.00 each:

 1 N.J.A.R. through 6 N.J.A.R. (selected decisions, 1979-1984).

Prepayment to OAL Publications is required. Please mail check to:

OAL Publications
Quakerbridge Plaza, Bldg 9
CN301
Trenton, New Jersey 08625

Name and Delivery Address:

Billing Address, if different:

(Allow 3-6 weeks for order delivery.)

CONTENTS

(Continued from Front Cover)

ENVIRONMENTAL PROTECTION
 Solid Waste Flow: Atlantic County
 (See June 17 Register) 1560(a)
 Floodways along North Branch Raritan
 (Project U) 1648(b)
 Air pollution and gas-fueled motor vehicles 1649(a)

HEALTH
 Hospital reimbursement: periodic rate
 adjustments 1652(a)

HIGHER EDUCATION
 Student assistance programs: eligibility; award
 combinations 1653(a)
 Distinguished Scholars Program 1654(a)

HUMAN SERVICES
 PAM: transmission of data to receiving county .. 1655(a)
 PAM: weekly second family adjustment 1655(b)
 ASH: AFDC payment standards 1656(a)
 GAM: payment levels 1658(a)
 Food Stamp Program revisions 1659(a)

INSURANCE
 Readopted Limited Death Benefit Forms 1660(a)

LAW AND PUBLIC SAFETY
 ABC: readopted rules on Issuance or Transfer of
 Municipal Retail Licenses 1661(a)
 ABC: readopted rules on Transportation by
 Licensees; Transit Insignia 1662(a)
 Amusement games control 1664(a)
 Correction: Specialties in dentistry 1665(a)

PUBLIC UTILITIES
 CATV installation: compensation for taking 1666(a)

STATE
 Commercial recording: expedited service 1670(a)
 Commercial recording: fee payment for
 expedited service 1671(a)

TRANSPORTATION
 Parking on Routes U.S. 9, 28, U.S. 30, 45 and
 U.S. 46 1671(b)

TREASURY-GENERAL
 State pension checks and signature cards 1673(a)
 Readopted Police and Firemen's Retirement
 System rules 1673(b)

OTHER AGENCIES
CASINO CONTROL COMMISSION
 Correction: Granting patron credit 1673(c)

EMERGENCY ADOPTIONS

ADMINISTRATIVE LAW
 Emergency Water Supply Allocation Plan cases .. 1674(a)

LABOR/HEALTH
 Asbestos licenses and permits 1676(a)

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION
 Tri-County water quality management 1682(a)

PUBLIC UTILITIES
 Petition to amend Discontinuance of Residential
 Service rule: mandatory notice to local fire
 officials 1682(b)

OTHER AGENCIES
CASINO CONTROL COMMISSION
 Correction to Administrative Code: Prohibited
 entertainment activities 1683(a)

**INDEX OF PROPOSED AND
 ADOPTED RULES 1685**

Filing Deadlines

August 5 issue:
Proposals July 8
Adoptions July 15

August 19 issue:
Proposals July 22
Adoptions July 29

September 3 issue:
Proposals August 5
Adoptions August 12

September 16 issue:
Proposals August 19
Adoptions August 26