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REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS*, PAGE 2694.

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(Includes rules filed through October 15, 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.*

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RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **December 4, 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 Procedure Rules of Practice

Rules of Special Applicability Special Education Hearings

Proposed Amendment: N.J.A.C. 1:6A-5.4

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 1985-602.

Submit comments by December 4, 1985 to:

Steven L. Lefelt, Deputy Director
Office of Administrative Law
Quakerbridge Plaza, Bldg. 9
Quakerbridge Road
CN 049
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.A.C. 1:6A-5.4 currently provides that the educational placement of a child may not be changed during the pendency

of the hearing and of any appeals, unless the parties agree otherwise. The Office of Administrative Law is proposing to amend this rule in order to conform with the decision of the United States Supreme Court in *Burlington School Committee v. Department of Education*, U.S. 53 U.S.L.W. 4509 (April 29, 1985).

In *Burlington*, the Court found that a decision after the due process hearing in favor of the parents constituted agreement of the State and the parents to a change in placement. The parents could rely upon the decision in their favor and were not financially responsible for the placement change even though the decision was reversed on appeal.

The proposed amendment limits the effect of the "stay put" provision to the hearing process itself, rather than to any appeal process. Since the decision of the administrative law judge constitutes the decision of the State educational agency, it appears that parents can immediately implement a decision in their favor without fear of financial consequences. When the decision supports the position of the local school board, the financial consequences of a change in placement during the appeal process are unclear.

Social Impact

The current rule attempted to implement what OAL perceived as a federal requirement that the educational placement of a child not be changed pending hearing or any appeal, unless the local school board and parents agreed otherwise. However, the decision of the United States Supreme Court in *Burlington*, as well as the decision of the First Circuit in that case, 736 F. 2d 773 (1st Cir. 1984), indicate that a parent can rely upon the decision from the due process hearing if it orders a change in a pupil's placement.

The proposed amendment will allow the prompt implemen-

NEW JERSEY REGISTER

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PROPOSALS

Interested Persons see Inside Front Cover

CIVIL SERVICE

tation of the decision from the due process hearing and prompt placement of a child in what has been determined at that hearing to be an "appropriate education."

Economic Impact

School boards will be required to pay for placement of a pupil in an educational program immediately despite the existence of an appeal in the case. Parents will not be financially responsible for a placement which has been ordered by the administrative law judge.

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

1:6A-5.4 Stay of implementation [upon appeal]

(a) Unless the parties otherwise agree, the educational placement of the pupil shall not be changed [during the pendency of the hearing and of any appeal,] **prior to the issuance of the decision in the case**, pursuant to 34 C.F.R. 300.513.

(b) (No change.)

CIVIL SERVICE

(a)

CIVIL SERVICE COMMISSION

Grievances and Minor Discipline

Proposed New Rules: N.J.A.C. 4:1-23.1 and 23.2; 4:2-23.1 through 23.8

Proposed Repeal: N.J.A.C. 4:1-23.1 through 23.7; 4:2-23.1 through 23.3; 4:3-23.1 and 23.2

Authorized By: Civil Service Commission, Peter J. Calderone, Assistant Commissioner, Department of Civil Service.

Authority: N.J.S.A. 11:5-1a and f.
Proposal Number: PRN 1985-604.

A **public hearing** will be held on November 22, 1985 at 9:30 A.M. in the Civil Service Commission Room, 215 East State Street, Trenton, New Jersey. Please contact Ms. Delores Carvill at 609-292-6568 if you plan to attend and to be included on the list of speakers.

Submit comments by December 4, 1985 to:
Peter J. Calderone
Assistant Commissioner
Department of Civil Service
CN 312
Trenton, New Jersey 08625

The agency proposal follows:

Summary

In accordance with the "sunset" provisions of Executive Order 66(1978), the Civil Service Commission has reviewed the rules codified at N.J.A.C. 4:1-23, 4:2-23 and 4:3-23 which regulate employee grievance programs. After reviewing the

rules, the Commission proposes that these subchapters be combined and condensed to eliminate unnecessary detail, codify necessary elements in clear, concise English and reflect current policy and practice.

A streamlined two step grievance process is established for classified employees whose positions are not covered by a negotiated State service labor contract and the current four step procedure is repealed. While a grievance meeting mechanism to encourage grievance resolutions on an informal basis is authorized, grievants are entitled to a more formalized hearing if the grievance proceeds through Step Two. Employer discretion and employee entitlements are clearly stated. Further, the longstanding Civil Service Commission Standard of Review covering grievances which do not involve an alleged violation of a matter exclusively covered in a labor contract is codified.

Civil Service minor disciplinary review processes which heretofore have been mainly matters of practice and policy are clearly set forth and the Commission's Standard of Review is codified.

Social Impact

Since this proposal essentially incorporates the substance of existing rules, policies and practices, it should have negligible social impact. The proposal's conformance with the Civil Service Commission policy on writing rules in plain English should assist users in understanding the rules.

Economic Impact

Since this proposal essentially incorporates the substance of existing rules, policies and practices it should have a negligible economic impact. Some savings will result from the requirement that certain information and documents be submitted at the time of appeal to the Commission and the consequent elimination of correspondence soliciting such information. Additional savings will emanate from the reduction of grievance processing steps from four to two and the allowance for an informal grievance meeting mechanism at one step of the process. This streamlined process should also represent savings for grievants who elect to be represented by legal counsel.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:1-23, 4:2-23 and 4:3-23.

Full text of the proposed new rules follows.

SUBCHAPTER 23. GRIEVANCES AND MINOR DISCIPLINE

4:1-23.1 General

(a) "Grievance" means a complaint by an employee regarding any term or condition of employment which is beyond the employee's control and is remediable by an element of management.

(b) Grievance procedures shall not be used to address any matter for which there is a specific right of appeal to Civil Service.

(c) "Minor Discipline" means a formal written reprimand or a suspension, fine or demotion of five days or less.

4:1-23.2 Grievance and minor discipline: Processing

(a) In State service, grievances and minor discipline appeals shall be processed and reviewed pursuant to N.J.A.C. 4:2-23.1 et seq.

CIVIL SERVICE

PROPOSALS

(b) In local service, an appointing authority may establish procedures for processing grievances and minor disciplines.

SUBCHAPTER 23. GRIEVANCES AND MINOR DISCIPLINE

4:2-23.1 General

(a) The Civil Service Commission may review grievances and minor discipline appeals meeting the Standard of Review set forth in N.J.A.C. 4:2-23.8(b) only after departmental processes have been concluded. This review shall not extend to an alleged violation of a matter exclusively covered in a negotiated labor contract.

(b) Where departmental grievance and/or minor discipline appeal procedures are established by a negotiated labor contract, such contract shall be the applicable process for departmental reviews. Affected employees may petition for Civil Service Commission review after exhaustion of the departmental procedures. See N.J.A.C. 4:2-23.8.

(c) Except as limited in (d) below, employees not covered by a negotiated labor contract and those covered by a negotiated labor contract that does not address departmental grievance and/or minor discipline appeal processes may utilize the departmental procedures set forth in N.J.A.C. 4:2-23.2 through N.J.A.C. 4:2-23.7.

(d) The minor discipline appeal processes set forth in this subchapter shall be available to permanent classified employees and employees in their work test period.

(e) The burden of proof in departmental proceedings set forth in this subchapter shall rest with:

1. The employee in grievance matters; and
2. The appointing authority in minor discipline matters.

(f) An employee may be represented by legal counsel or appear on his or her own behalf. Additionally, an employee may be represented by such other agent as agreed to by the appointing authority. In a group grievance, a member of the group may be designated as the group representative.

4:2-23.2 Grievance processing

(a) A grievant shall be entitled to at least one hearing on a grievance prior to the conclusion of Step Two unless the grievance is satisfactorily resolved at Step One. However, a department, at its option, may schedule a grievance meeting in lieu of a hearing at either Step One or Step Two of the grievance process.

(b) When a grievance directly concerns and is shared by more than one grievant, the grievants may appeal as a group to the first level of supervision common to the grievants.

(c) A department may consolidate two or more grievances on the same issue and process them as a group grievance circumstance at its discretion. All grievants shall be promptly notified of this action.

(d) A department may, at its option, advance a grievance to the second step of the grievance procedure. Timely notice of this action shall be supplied to the grievant.

(e) An employee may amend a grievance during the initial step at which it is processed. Such amendment may only be made for the purpose of clarification and shall not be utilized to change the nature of the grievance or to include additional items.

(f) See N.J.A.C. 4:2-23.6 as to the conduct of the hearings and grievance meetings and N.J.A.C. 4:2-23.7 as to the scheduling of hearings and grievance meetings.

4:2-23.3 Grievance procedure: Step One

(a) Grievances shall be presented in writing on grievance form CS-251 to the office or individual designated by the department to process the matter within 20 calendar days from either the date on which the alleged act occurred or the date on which the grievant should reasonably have known of its occurrence. Efforts should be made to resolve the matter informally.

(b) All grievances shall:

1. Specify the particular act or circumstance being grieved;
2. State the requested remedy; and
3. Indicate whether the employee is representing himself or herself or the name of the employee's counsel or agent.

(c) The office or individual receiving the grievance shall notify the employee of the scheduled hearing or grievance meeting date with seven calendar days of receipt of the grievance.

(d) A written decision shall be rendered within 14 calendar days after the conclusion of the hearing or grievance meeting.

(e) The lack of response by the department within the time frames set forth in (c) and (d) above, unless time limits have been extended by mutual agreement, shall be considered a negative response.

4:2-23.4 Grievance procedure: Step Two

(a) A grievant may appeal to the Department head or his or her designee within 10 calendar days of:

1. Receipt of the written decision at Step One; or
2. A negative response as set forth in N.J.A.C. 4:2-23.3(e).

(b) The appeal shall be accompanied by material presented at Step One and any written records or decisions emanating from Step One proceedings.

(c) The department shall notify the employee of the scheduled hearing or grievance meeting date within 10 calendar days of receipt of the grievance.

(d) A written decision shall be rendered within 21 calendar days after the conclusion of the hearing or grievance meeting.

(e) The lack of response by the department within the time frames set forth in (c) and (d) above, unless time limits have been extended by mutual agreement, shall be considered a negative response.

(f) See N.J.A.C. 4:2-23.8 as to Civil Service Commission review.

4:2-23.5 Minor discipline appeals

(a) Permanent classified State employees and employees in their work test period may request a hearing at the affected department level regarding minor discipline measures specified in N.J.A.C. 4:1-23.1(c) within 10 days of receipt of a notice of discipline.

(b) The departmental proceedings shall consist of one hearing.

1. The hearing shall be conducted within 30 days of such request unless adjourned by consent of the parties.

2. The department shall make a final written disposition of the charges within 20 days of the hearing on form CS-335, Appeal of Minor Discipline Action.

(c) See N.J.A.C. 4:2-23.6 as to the conduct of the hearings and N.J.A.C. 4:2-23.7 as to the scheduling of the hearings.

(d) See N.J.A.C. 4:2-23.8 as to Civil Service Commission review.

4:2-23.6 Hearings and grievance meetings: Conduct

(a) The following shall apply during a hearing at the affected department level on a grievance or minor discipline matter.

1. Permission for a reasonable number of witnesses shall be granted upon the request of a grievant or his or her representative;

2. The grievant or his or her counsel or agent shall act as a spokesperson for the grievant and one person shall act as a spokesperson for the department; and

3. The spokesperson for either party shall have the right to directly examine or cross examine witnesses.

(b) Any grievance meeting scheduled in lieu of a hearing shall be attended only by a designated supervisor, a spokesperson for the department, the grievant, or a spokesperson in a group grievance situation, and the grievant's counsel or agent. The department may also permit the attendance of resource persons possessing direct information important to the clarification of the matter.

4:2-23.7 Scheduling

(a) Departmental management shall schedule grievance or minor discipline hearings or grievance meetings during a grievant's regular work hours as far as possible.

(b) The grievant, a designated employee agent, if applicable, and witnesses shall be given time off with pay from their regular work duties to participate in hearings or grievance meetings. Such time off shall include reasonable travel time and shall not extend to any time necessary for the preparation of a grievance.

(c) The time limits set forth in this subchapter may be changed by mutual agreement. Requests for extension of the time limits shall not be unreasonably denied.

4:2-23.8 Civil Service Commission Review

(a) An employee may request Civil Service Commission review within 20 calendar days of:

1. The conclusion of Step Two grievances processes set forth in N.J.A.C. 4:2-23.4;

2. The completion of departmental review under grievance procedures set forth in a negotiated labor contract provided that the grievance does not involve an alleged violation of a matter exclusively covered in the labor contract;

3. The conclusion of departmental minor discipline proceedings set forth in N.J.A.C. 4:2-23.6; or

4. The completion of departmental review under minor discipline appeal mechanisms set forth in a negotiated labor contract provided all further appeal rights to contractually negotiated mechanisms beyond departmental review are waived.

(b) The Civil Service Commission's review is discretionary and generally extends only to those matters which present issues of general applicability in that they interpret law, rule, regulation or policy.

(c) The burden of proof in Commission proceedings shall be borne by the employee.

(d) The request shall include:

1. A copy of the grievance form CS-251 or the Appeal of Minor Discipline Action form CS-335 and all written records and decisions established during departmental reviews;

2. Written argument and documentation specifying how the matters meet the Standard of Review set forth in (b) above; and

3. Written argument regarding the merits of the matter.

(e) A copy of all material submitted to the Department of Civil Service must be served on the grievant's department.

(f) Failure to submit the material specified in (d) above may result in the dismissal of the matter.

(g) The President of the Civil Service Commission shall review the grievances and minor discipline appeals and determine whether or not they meet the Standard of Review set forth in (b) above.

1. If the matter does not meet the Standard of Review, the President of the Civil Service Commission may deny the appeal which shall be the final administrative determination.

2. If the grievance meets the Standard of Review, the Commission will render a decision based upon the written record or such other proceedings as the Commission shall direct. The Commission's decision shall be the final administrative determination.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Endangered, Nongame and Exotic Wildlife Possession Permit Fees

Proposed Amendment: N.J.A.C. 7:25-4.6

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

Authority: N.J.S.A. 23:2A-5.

DEP Docket No. 059-85-10.

Proposal Number: PRN 1985-613.

Submit comments by December 4, 1985 to:

Howard Geduldig, Regulatory Officer
Office of Regulatory Services
Department of Environmental Protection
Room 803, Labor & Industry Building
CN 402
Trenton, NJ 08625

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 23:2A-5, the department is authorized to charge and collect fees sufficient to cover the costs of inspections and services rendered in association with the endangered, nongame, and exotic wildlife program. Three of the existing fees, appearing at N.J.A.C. 7:25-4.6(c), are no longer adequate for provision of these essential discretionary activities. Consequently, the department proposes to increase the annual issuance fee for the individual hobby possession permit from \$5.00 to \$10.00, the annual inspection fee for the pet shop possession permit from \$50.00 to \$90.00, and the annual inspection fee for the animal dealer possession permit from \$50.00 to \$90.00.

Social Impact

The proposed amendment will allow the department to more effectively assure compliance with the endangered, nongame and exotic rules and regulations appearing at N.J.A.C. 7:25-4 designed to promote the public health, safety, and welfare by providing the monetary means to procure

needed labor and equipment. This proposal will directly affect those individuals possessing regulated nongame and exotic wildlife for hobby purposes and those individuals possessing and selling regulated nongame and exotic wildlife by increasing the department's ability to enforce the regulations pertaining to the possession of nongame and exotic wildlife through continued adequate inspections. It will indirectly affect all the residents of New Jersey by increasing the commissioner's ability to assure compliance with these rules and regulations, thereby promoting the public health, safety and welfare.

Economic Impact

Individual hobby permittees (pet owners) and pet shop and animal dealer permittees (individuals possessing and selling regulated nongame or exotic wildlife) will be charged an increased permit fee commensurate with the proportion of the department's time expended for services and inspections associated with these permits. This increase should not represent an unbearable burden to the permittee, given their established financial ability to possess regulated nongame and exotic wildlife.

Environmental Impact

It is anticipated that the increased ability of the department to assure compliance with regulations and permit conditions will further the department's goals of improved protection of the affected wildlife species and of the natural environment of the state.

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

7:25-4.6 Categories of permits, expiration, fees, sales receipt required, records and reports required

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

(c) The possession permits shall require an annual issuance fee and inspection fee as listed:

Categories of Permits	Inspection Fee	Annual Fee
Individual Hobby	None	[\$ 5.00] \$10.00
Scientific Holding	\$ 25.00	\$10.00
Zoological		
less than 10 animals	\$ 50.00	\$10.00
more than 10 animals	\$100.00	\$10.00
Pet Shop	[\$ 50.00] \$90.00	\$10.00
Animal Dealer	[\$ 50.00] \$90.00	
Animal Exhibitor		
Single Exhibit	\$ 25.00	\$10.00
Annual	\$100.00	\$10.00
Animal Theatrical Agency	\$100.00	\$10.00

(d)-(h) (No change.)

DIVISION OF WASTE MANAGEMENT BOARD OF PUBLIC UTILITIES

Proposals numbered PRN-1985-610 and 611 are jointly authorized by Robert E. Hughey, Commissioner, Department of Environmental Protection, and Barbara A. Curran, President, Board of Public Utilities.

Submit comments by December 4, 1985 to:

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

(a)

Interdistrict and Intradistrict Solid Waste Flow Joint Proposed Amendment: N.J.A.C. 7:26-6.5

Authority: N.J.S.A. 13:1E-6, 13:1E-23, and 48:13A-1 et seq.

DEP Docket No. 058-85-10.

Proposal Number: PRN 1985-610.

A public hearing concerning this proposal will be held on:

November 20, 1985 at 1:00 P.M.
Manchester Township Municipal Building
1 Colonial Drive
Lakehurst, N.J. 08733

The agency proposal follows:

Summary

The Department of Environmental Protection (DEP) and the Board of Public Utilities (BPU) are proposing to amend the waste flow rules, N.J.A.C. 7:26-6.5, in anticipation of the closure of the Southern Ocean Landfill (Located in Ocean Township). On November 28, 1984, the Ocean County Board of Chosen Freeholders adopted amendments to the Ocean County District Solid Waste Management Plan specifying, among other things, that the Southern Ocean Landfill shall operate until 1990, when, in accordance with the regulations of the Pinelands Commission, it will be required to close. This landfill's waste flow will thereafter be redirected to the Ocean County Landfill Corporation Landfill (located in Manchester Township and hereinafter referred to as the Ocean County Landfill) for disposal. The amendment further provides that in the event the Southern Ocean Landfill obtains a waiver from the Pinelands Commission, waste flow to the landfill will continue, pursuant to the terms and conditions of the waiver, until such time as the proposed resource recovery facility (projected for 1992) will become operational. At that time, a substantial portion of the solid waste generated in the County will be redirected to the planned resource recovery facility (to be located in Lacey Township) for disposal.

Social Impact

A positive social impact will result from the closing of the Southern Ocean Landfill and the redirecting of waste to either the Ocean County Landfill or the planned resource recovery facility. The Southern Ocean Landfill is located within the Pinelands Protection Area and, as such, must close by August

8, 1990. The closure of this landfill will, therefore, be in compliance with the New Jersey Pinelands Comprehensive Management Plan and will ensure that future adverse impacts upon the Pinelands will be mitigated by having solid waste disposed of at a landfill or at a resource recovery facility both located outside of the Pinelands.

Economic Impact

The closure of the Southern Ocean Landfill and redirection of wastes to the Ocean County Landfill or the resource recovery facility will have an adverse economic impact upon those municipalities currently utilizing the Southern Ocean Landfill for disposal. Generally, those municipalities located within the southern half of Ocean County currently dispose of their solid waste at the Southern Ocean Landfill. By having this waste redirected to a landfill in the northern portion of the County, increased hauling costs will result. Also, disposal costs at the Ocean County Landfill (\$4.70 per cubic yard as of March 1985) are currently higher than those charged at the Southern Ocean Landfill (\$1.65 per cubic yard as of March 1985.) The higher cost at the Ocean County Landfill is based on the financing of necessary environmental improvements to assure the proper operation and maintenance of this facility. Although disposal costs at the planned resource recovery facility have not been determined, they are anticipated to be higher than those now charged at the Southern Ocean Landfill.

Environmental Impact

A positive environmental impact will result from the closure of the Southern Ocean Landfill. This facility currently disposes of waste in unlined cells, while the Ocean County Landfill is in the process of upgrading to an environmentally sound state-of-the-art landfill (for example, lined cells, leachate collection system). The closure of the Southern Ocean Landfill shall be in compliance with the Pinelands regulations and shall ensure that future environmental degradation of the Pinelands will not occur. Future disposal of solid waste from municipalities in the southern half of Ocean County will be at the environmentally upgraded Ocean County Landfill or a state-of-the-art planned resource recovery facility.

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

7:26-6.5 District waste flow planning requirements and disposal facility designations.

Due to the lack of adequate disposal capacity within certain solid waste districts, and pursuant to a finding by the BPU that the public interest will be best served by designating specific disposal facilities as the ultimate destination of specific waste streams, it is necessary to direct waste flows, described in this section.

(a)-(o) (No change.)

(p) Waste flows within, into and out of the Ocean County District:

1.-5. (No change.)

6. All waste types 10, 13, 23, 25, and 27 generated from within the Ocean County municipalities of Barnegat, Barnegat Light, Beach Haven, Eagleswood, Harvey Cedars, Lacey, Ocean Township, Ocean Gate, Pine Beach and those portions of Berkeley Township not in Holiday City, Silver Ridge Park and South Seaside Park shall be disposed of at the Southern Ocean Landfill, Inc. landfill, facility number 1520A, located in Ocean Township, Ocean County, New Jersey.

i. Upon closure of the Southern Ocean Landfill, facility number 1520A, (mandated in 1990 by regulations of the Pinelands Commission), wastes going to this facility shall be disposed of at the Ocean County Landfill Corporation Landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey. In the event that the Southern Ocean Landfill obtains a waiver from the Pinelands Commission to operate after 1990, waste flow to this landfill shall continue, pursuant to the terms of the waiver, until the proposed resource recovery facility for Ocean County is operational, at which time waste flow shall be redirected to that facility.

ii. The November 28, 1984 Ocean County Solid Waste Management Plan amendments state that it is expected that, in 1992, the planned resource recovery facility will be operable for the disposal of a substantial portion of the solid waste generated in the County. At that time, waste flows shall be redirected to the resource recovery facility in quantities sufficient to meet the design capacity.

7.-8. (No change.)

(q)-(v) (No change.)

(a)

Interdistrict and Intradistrict Solid Waste Flow Joint Proposed Amendment: N.J.A.C. 7:26-6.5.

Authority: N.J.S.A. 13:1E-6, 13:1E-23, and 48:13A-1 et seq.

DEP Docket No. 057-85-10.

Proposal Number: PRN 1985-611.

A public hearing concerning this proposal will be held on:
November 21, 1985 at 7:00 P.M.
Pennsauken Township Municipal Building
5606 North Crescent Boulevard
Pennsauken, N.J. 08110

The agency proposal follows:

Summary

The Department of Environmental Protection (DEP) and the Board of Public Utilities (BPU) are proposing to amend the waste flow rules N.J.A.C. 7:26-6, to reflect changes in the Camden County Solid Waste Management Plan adopted by the Camden County Board of Chosen Freeholders on April 17, 1984. This proposal will provide the public with an opportunity to comment on the redirected waste flow. Until public comment is received and reviewed, the DEP and BPU reserve judgment on the proposal.

Specifically, the DEP and BPU propose to amend the waste flow rules for solid waste generated within Camden County (Camden County produces 1,109,975 tons per year of types 10, 13, 23, 25, 27 solid waste). This proposal provides for the reallocation of waste flows from the Camden County municipalities of Audubon Borough, Cherry Hill Township, Lindenwold Borough, Voorhees Township, and the City of Camden, which were affected by the expiration of the Burlington County/Camden County Interdistrict Waste Flow Agreement on May 7, 1984 from the Landfill and Development Company landfill (facility #0323A) in Mount Holly Township to the Pennsauken Township Sanitary landfill (facility #0427D) in Pennsauken Township, Camden County.

A portion of this proposal acknowledges the existing waste flow from certain Camden County municipalities to Kinsley's Landfill, Deptford Township, Gloucester County. This portion of the proposal is required to conform the rules with the November 1984 Superior Court Order. It is not the intention of the Department or the BPU to deviate from this court order or any closing of Kinsley's Landfill resulting from the court action.

For many years, Camden County has disposed of solid waste at landfills located in Burlington County. On April 28, 1982 the Counties of Camden and Burlington entered into an interdistrict agreement pursuant to N.J.S.A. 13:1E-21(b)(3). Under the provisions of this agreement, all or part of the solid waste generated from the Camden County municipalities of Audubon, Camden, Cherry Hill, Lindenwold, and Voorhees was designated for disposal at landfills in Burlington County. In return, the equivalent amount of solid waste generated from the Burlington County municipalities of Cinnaminson, Delran, Moorestown, Palmyra, Riverside, and Riverton was designated for disposal at the Pennsauken Township Sanitary Landfill.

Burlington County announced in March of 1984 its intention not to renew any interdistrict waste flow agreements at the time of their expiration date in order to provide disposal capacity for Burlington County until that District's regional landfill became operational. Burlington County cited an accelerated consumption of available landfill capacity by out-of-district sources as a rationale for the termination of these agreements. Those Burlington County municipalities utilizing the Pennsauken Township Sanitary Landfill in Camden County were redirected to disposal facilities located within Burlington County under a plan amendment adopted by Burlington's Board of Chosen Freeholders on March 28, 1984. Subsequently, the Camden County Board of Chosen Freeholders adopted a comparable plan amendment which redirected the waste from the affected Camden County municipalities to the Pennsauken Township Sanitary Landfill.

Social Impact

A positive social impact will occur with the proposed redirection since solid waste generated by the affected Camden County communities, and previously disposed of in Burlington County, will be disposed of at a landfill facility located within Camden County. This represents a positive action by Camden County to conform with the requirements identified in N.J.S.A. 13:1E-1 et seq.

Economic Impact

The proposed waste flow change will not create an adverse impact for the Pennsauken Township Sanitary Landfill since the terminated agreement involved equivalent amounts of solid waste from those designated Burlington and Camden County municipalities. The BPU, however, has approved a rate increase for the Pennsauken Township Sanitary Landfill which sets the fees at \$10.10 per cubic yard for all solid waste generated outside of Pennsauken Township and \$8.41 per cubic yard for solid waste generated within the township. Since these new tipping fees became effective on September 4, 1984, all users of this facility were impacted and have been required to absorb this increase in disposal costs.

Environmental Impact

A positive environmental impact should result from the termination of the Burlington/Camden interdistrict waste flow agreement since, under this proposal, solid waste from those

affected Camden County municipalities previously disposed of in Burlington County will be disposed of at Camden County landfill facilities. The Pennsauken Township Sanitary Landfill, where the solid waste is redirected, is an environmentally upgraded facility and has the capacity to dispose of this solid waste in an environmentally sound manner.

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

7:26-6.5 District waste flow planning requirements and disposal facility designations

Due to the lack of adequate disposal capacity within certain solid waste districts, and pursuant to a finding by the BPU that the public interest will be best served by designating specific disposal facilities as the ultimate destination of specific waste streams, it is necessary to direct waste flows, as described in this section.

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

(d) Waste flows within, into and out of the Camden County District.

1.-2. (No change.)

[3. All waste types 10, 13, 23, and 27 generated from within the Camden County municipalities of Audubon Borough, Lindenwold Borough, and Voorhees Township shall be disposed of at the Landfill and Development Company Landfill, facility number 0323A, located in Mount Holly Township, Burlington County, New Jersey until April 28, 1984 as is provided for in the interdistrict waste flow agreement between Burlington and Camden Counties and subject to the terms and conditions set forth therein.

i. All waste type 25 generated from within the Camden County municipalities of Audubon Borough, Lindenwold Borough, and Voorhees Township shall be disposed of at the Kinsley's Landfill, Inc., facility number 0802B, located in Deptford Township, Gloucester County, New Jersey.]

[4. All waste types 10, 13, 23, and 27 generated from within the Camden County municipality of Cherry Hill Township, with the exception of that portion which is collected east of Kings Highway to the municipal line of Mt. Laurel, and the Borough of Haddonfield (estimated to be a portion of 20,500 tons per year) shall be disposed of at the Pennsauken Township Sanitary Landfill, facility number 0427D, located in Pennsauken Township, Camden County, New Jersey.

i. The 20,500 tons per year of waste types 10, 13, 23, and 27 generated and collected from the service area described above shall be disposed of at the Landfill and Development Company Landfill, facility number 0323A, located in Mount Holly Township, Burlington County, New Jersey, until April 28, 1984 as provided for in the interdistrict waste flow agreement between Burlington and Camden Counties and subject to the terms and conditions set forth therein.

ii. All waste type 25 generated from within the Camden County municipality of Cherry Hill Township shall be disposed of at the Kinsley's Landfill, Inc., facility number 0802B, located in Deptford Township, Gloucester County, New Jersey.]

3. All waste types 10, 13, 23, and 27 generated from within the Camden County municipalities of Audubon Borough, Cherry Hill Township, Haddonfield Borough, Haddon Township, Lindenwold Borough, Merchantville Borough, Pennsauken Township, Tavistock Borough, and Voorhees Township shall be disposed of at the Pennsauken Township Sanitary Landfill, facility number 0427D, located in Pennsauken Township, Camden County, New Jersey.

PROPOSALS

Interested Persons see Inside Front Cover

HUMAN SERVICES

i. All waste type 25 generated from within the Camden County municipalities of Audubon Borough, Cherry Hill Township, Haddonfield Borough, Haddon Township, Lindenwold Borough, Merchantville Borough, Pennsauken Township, Tavistock Borough, and Voorhees Township shall be disposed of at the Kinsley's Landfill, Inc., facility number 0802B, Deptford Township, Gloucester County, New Jersey. This redirection is meant to reflect the order of the Superior Court in Borough of Glassboro v. Gloucester County Board of Chosen Freeholders, No. L-070476-84 PW (N.J. Super., Law Division 1984) (order for preliminary injunction) and shall maintain November 1984 waste flow levels until such time as Kinsley's Landfill is closed. At such time, the solid waste shall be redirected to another solid waste facility.

4. All waste types 10, 23, 25, and 27 generated from within the Camden County municipality of Camden City shall be disposed of at the Kinsley's Landfill, Inc., facility number 0802B, located in Deptford Township, Gloucester County, New Jersey. This redirection is meant to reflect the order of the Superior Court in Borough of Glassboro v. Gloucester County Board of Chosen Freeholders, No. L-070476-84 PW (N.J. Super., Law Division, 1984) order for preliminary injunction) and shall maintain November 1984 waste flow levels until such time as Kinsley's Landfill is closed. At such time, the solid waste shall be redirected to another solid waste facility.

i. All waste type 13, generated from within the Camden County municipality of Camden City shall be disposed of at the Pennsauken Township Sanitary Landfill, facility number 0427D, located in Pennsauken Township, Camden County, New Jersey.

[5. All waste types 10, 23, 25, and 27 generated from within the Camden County municipality of Camden City shall be disposed of at the Kinsley's Landfill, Inc., facility number 0802B, located in Deptford Township, Gloucester County, New Jersey.

i. All waste type 13 generated from within the Camden County municipality of Camden City shall be disposed of at the Landfill and Development Company Landfill, facility number 0323A, located in Mount Holly Township, Burlington County, New Jersey, until April 28, 1984 as provided for in the interdistrict waste flow agreement between Burlington and Camden Counties and subject to the terms and conditions set forth therein.]

[6. All waste types 10, 13, 27 generated from within the Camden County municipalities of Collingswood Borough, Haddon Township, Merchantville Borough, Pennsauken Township, and Tavistock Borough shall be disposed of at the Pennsauken Township Sanitary Landfill, facility number 0427D, located in Pennsauken Township, Camden County.

i. All waste type 25 generated from within the Camden County municipalities of Collingswood Borough, Haddon Township, Merchantville Borough, Pennsauken Township, and Tavistock Borough shall be disposed of at the Kinsley's Landfill, Inc., facility number 0802B, Deptford Township, Gloucester County, New Jersey.

7. All waste types 10, 13, 23, and 27 generated from within the Burlington County municipalities of Cinnaminson Township, Delran Township, Moorestown Township, Palmyra Borough, Riverside Township, and Riverton Borough shall be disposed of at the Pennsauken Township Sanitary Landfill, facility number 0427D, located in Pennsauken Township, Camden County, New Jersey until April 28, 1984 as provided for in the interdistrict waste flow agreement between Burlington and Camden Counties and subject to the conditions set forth therein.

i. All waste type 25 generated from within the Burlington County municipalities of Cinnaminson Township, Delran Township, Moorestown Township, Palmyra Borough, Riverside Township, and Riverton Borough shall be disposed of at the Parklands Reclamation Project Landfill, facility number 0304A, located in Bordentown Township, Burlington County, New Jersey.]

[8.]5. (No change in text.)

(e)-(v) (No change.)

HUMAN SERVICES

(a)

DIVISION OF MENTAL HEALTH AND HOSPITALS

State Psychiatric Hospitals Levels of Supervision System

Proposed New Rule: N.J.A.C. 10:36-1

Authorized By: Geoffrey S. Perselay, Acting
Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:1-12.

Proposed Number: PRN 1985-612.

Submit comments by December 4, 1985 to:

Robert Rusciano
Assistant Director
Division of Mental Health and Hospitals
New Jersey Department of Human Services
CN 700
Trenton, N.J. 08625

The agency proposal follows:

Summary

Geoffrey S. Perselay, Acting Commissioner, Department of Human Services, proposes guidelines for State psychiatric hospital staff to determine appropriate supervision for patients as they progress through treatment. The proposal defines four levels of supervision as well as the clinical criteria and program structure for each. It also outlines the procedures for making and reviewing these determinations.

Social Impact

This rule provides for clinical consistency in the supervision determinations made by the interdisciplinary teams responsible for treatment planning. It is based on the concept of individualized decision-making which balances the objectives of effective treatment, personal liberty, and the prevention of harm. Since it operationalizes the legal principle of "treatment in the least restrictive conditions necessary to achieve the purposes of treatment," it will benefit patients, staff and the public.

Economic Impact

No additional costs, either to the public or any State agency, are expected to result from this rule as it is designed to structure a clinical decision-making process which has been in existence for some time.

Full text of the proposed new rule follows.

CHAPTER 36
PATIENT SUPERVISION AT STATE PSYCHIATRIC
HOSPITALS

SUBCHAPTER 1. LEVEL OF SUPERVISION SYSTEM

10:36-1.1 Introduction and purpose

(a) The Levels System is designed to provide a uniform process which affords each patient the structure and intensity of supervision appropriate to his or her condition during the course of hospitalization. Level determination is based primarily upon the clinical condition of the patient and related behaviors. The Levels System is not a treatment modality. It is a mechanism to be utilized in determining the degree of structure and supervision necessary for each patient to successfully participate in treatment and rehabilitation programs while maintaining a safe and secure therapeutic milieu for patients and staff alike.

(b) The Levels System will be interpreted and implemented in a manner that facilitates the effective treatment of each patient while maintaining the least restrictive setting necessary to accomplish individual goals identified in the treatment plan. Under no circumstances will this policy be interpreted and implemented in any manner that abridges liberties specified in the "Patients Bill of Rights" (N.J.S.A. 30:4-24.1 et seq.).

(c) The Interdisciplinary Treatment Team will assign the appropriate level for each patient upon admission with periodic review of the assigned level during the course of hospitalization. Level determinations will be made in accordance with guidelines set forth herein. Treatment teams should utilize these guidelines to promote increased responsibility, accountability and independence on the part of the patient while decreasing structure and intensity of supervision provided by the staff. Incremental steps taken towards this goal should be viewed as part of a continuum that progresses through each level of the system.

(d) The purpose of the system is:

1. To establish clear guidelines which define parameters of structure and supervision necessary to maintain a safe and secure environment during patient movement to and from programming and related patient treatment services.

2. To ensure that all patients receive such considerations in an equitable, consistent and justifiable fashion based on individual clinical considerations.

3. To establish a system which maximizes continuity of care for patients whenever transfer from ward to ward, or hospital section to hospital section becomes appropriate and necessary.

4. To facilitate patient groupings which are optimal for positive social interaction and support progress towards discharge.

10:36-1.2 General provisions

(a) A copy of the Levels System will be posted on all wards and will be communicated to patients.

(b) All "Not Guilty by Reason of Insanity and Incompetent to Stand Trial" status patients and others identified as appropriate for special treatment review procedures must have administrative and/or court approval prior to implementation of an increase in level recommended by the treatment team.

(c) A patient may be discharged from any level, when documented as clinically appropriate.

(d) A patient does not have to go through each level in sequence.

(e) A current list of all patients and their individual privilege level must be posted on each ward.

10:36-1.3 Procedures

(a) Upon admission patients will be placed on Level I of the Levels System until evaluation by the treatment team (within 72 hours) who will assign the level that is most appropriate to the clinical condition and treatment needs of the patient.

(b) Guidelines that reflect the nature of the individual hospital program and specific environment are to be used for determining a patient's level. Examples of criteria in concert with the definitions are defined in this policy. Additional guidelines may be considered by treatment teams in determining the clinically appropriate level.

(c) Each patient's level will be evaluated minimally in accordance with the treatment plan review schedule or sooner if clinically indicated or requested by the patient.

(d) Minimum time spent at each privilege level will be determined by the treatment team based upon the individual patient's clinical needs and treatment goals.

(e) In crisis or emergency situations constituting a significant change in the patient's behavior or clinical condition, temporary limitations on activities may be authorized by clinical staff in charge to maintain a safe and secure environment. The rationale for temporary limitations must be documented in the patient's clinical record and the treatment team must review the rationale by the next working day and document their findings in the clinical record.

(f) All patients ordered "Discharged Pending Placement" by the court will be considered to be on LEVEL IV unless there is documentation in the clinical record to show that the responsible treatment team has identified clinical considerations which require and justify that the patient be placed at a level which provides the necessary structure and supervision.

10:36-1.4 Level I definition, criteria and program structure

(a) All programming is provided on-ward except for those essential services which can not be provided on the ward. Determination of what off-ward services are essential is the responsibility of the treatment team and will be documented in the patient's clinical record. These services include but are not limited to access to the outdoors along with special medical and clinical services. All attendance at off-ward services must be staff escorted. Brief home visits are not permitted at level I.

(b) Mental condition criteria include:

1. Suicidal/homicidal ideation or behavior (High Suicide Risk).

2. Severe impulse control problems.

3. Imminent arson risk.

4. So severely confused or disoriented as to be unable to adjust to unfamiliar surroundings.

5. So grossly psychotic or mood disordered that an imminent risk of harm to self or others is present.

6. High elopement/walkaway risk as indicated by verbal intent and/or recent history.

(c) Physical condition criteria include:

1. Bed rest due to physical deterioration.

2. Acute medical problems.

(d) Programming for patients on Level I will require highly supportive and structured activities to facilitate the beginning of successful participation by the client in the treatment regimen. Provision of an environment which is highly organized and supervised maximizes the opportunity for successful ex-

periences in treatment for individuals who exhibit Level I criteria. In general, on-ward individual or small group sessions provide excellent opportunities to introduce and reinforce processes that elicit information about the patient's needs, problems, and priorities of treatment as well as introduction of expectations regarding the patient's responsibility and ability to influence the course of treatment while hospitalized.

10:36-1.5 Level II definition, criteria and program structure

(a) Programming is provided both on-ward and off-ward. Attendance and appropriate participation in on-ward activities becomes the responsibility of the patient (i.e. There is less need for staff support and direct supervision). Staff escort is required for all off-ward activities. Brief home visits are permitted at this level if clinically indicated and the family is capable and willing to provide direct supervision for the duration of the visit.

(b) Mental condition criteria include:

1. No longer high suicide, elopement/walkaway, medical or assault risk.

2. Follows general directions and generally attends on-ward therapies and programs on a regular basis.

3. Psychotic symptoms or mood disturbances may be present but does not act in response to them in such a way as to create an imminent risk of harm.

Mildly confused and disoriented but able to adapt to unfamiliar surroundings.

5. Able to control impulses except when severely stressed.

(c) Physical condition criteria include:

1. Non or partially ambulatory patients at risk of accidental self-harm (e.g. by falling).

2. Patients with medical problems requiring constant monitoring.

(d) The patient's demonstrated ability to participate in treatment activities on the ward by virtue of a greater degree of self-initiated responsible participation should result in involvement and assignment to more off-ward activities and programs. To maximize the probability of success in the change in the treatment regimen these off-ward activities need to be structured and supportive with staff escort at all times. On-ward therapies and activities, however, should utilize the patient's developing sense of responsibility and initiative by providing less direct supervision and structure while continuing to monitor progress closely.

10:36-1.6 Level III definition, criteria, and program structure

(a) Programming is provided both on-ward and off-ward with an increasing emphasis upon off-ward programming. The frequency, duration and types of unescorted off-ward activities is determined by the treatment team. The resident's participation in each scheduled off-ward program will be defined by time accountability and the clinical relevance of the program. Participation in unescorted off-ward activities can and should be implemented incrementally. Brief home visits are permitted at this level if the family is capable and willing to provide the level of supervision considered necessary by the treatment team in consideration of the clinical needs of the patient.

(b) Mental condition criteria include:

1. Absence of psychotic or mood disordered symptoms or, if chronic residual symptoms are still present, does not act in response to them.

2. Oriented and aware of surroundings.

3. Cooperative with established plan and schedule of activities.

4. Appropriate on and off-ward behavior resulting in no precautions for a certain number of day/weeks (to be set by treatment team).

5. Minimal elopement/walkaway risk.

6. Able to control impulses except when severely stressed.

7. If recent behavior indicates substance abuse risk, is willing to agree to search upon return if team determines necessary and documents in master treatment plan.

(c) Physical condition criteria include:

1. Ambulatory patients and non-ambulatory patients who have demonstrated an ability to utilize their adaptive equipment safely.

2. Medical problems requiring only intermittent monitoring by ward staff.

(d) The patient's responsible and cooperative participation in both on-ward and escorted off-ward activities should result in the team encouraging more independent activity by gradually increasing the number of unescorted off-ward programs. These programs and activities generally include centralized (off-ward) social and rehabilitative programs and activities. Level III patients will generally require close monitoring by staff to ensure program participation.

10:36-1.7 Level IV definition, criteria, and program structure

(a) Attendance and appropriate participation at any approved activity on-ward, off-ward, or off-grounds is expected through the self-initiated behavior of the patient, and is without staff escort. Determination of recommended programs and activities is the responsibility of the treatment team.

(b) Mental condition criteria include:

1. No recent instances of substance abuse.

2. Oriented to and capable of utilizing community or transportation services.

3. Resident exhibits sound judgement under reasonable conditions.

4. Resident exhibits accountability and responsibility through adherence to treatment plan program schedule.

(c) Physical condition criteria include:

1. No physical/medical contraindications.

(d) Programming and activities at this level would be the least structured. While staff will monitor the patient's behavior closely, direct supervision will be decreased. Most often community-based programs and activities (transitional programs, community day programs, community trips), as well as larger group activities will be part of the individual's overall program at Level IV.

INSURANCE

The following proposals are authorized by Hazel Frank Gluck, Commissioner, Department of Insurance.

Submit comments by December 4, 1985 to:

Verice M. Mason, Director
Legislative and Regulatory Affairs
Department of Insurance
CN 325
Trenton, New Jersey 08625

(a)

DIVISION OF ADMINISTRATION

Loss Reserve Opinions

Proposed New Rules: N.J.A.C. 11:1-21

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:23-1.

Proposal Number: PRN 1985-608.

The agency proposal follows:

Summary

This proposal puts into rule form one part of the instructions for preparing the Annual Statement that must be submitted by every licensed company writing property and casualty insurance in New Jersey.

Until now a statement of opinion relating to loss and loss adjustment expense reserves has been submitted by a loss reserve specialist. A loss reserve specialist was defined as an actuary or anyone with competency in loss reserve evaluation.

The loss reserve opinion is an important means by which the Department of Insurance can monitor the financial stability of a company. For that reason, the Department has decided that the statement of opinion should be prepared by someone who is qualified by certain objective criteria. The proposed new rules set these criteria as an actuary who is a fellow of the Casualty Actuarial Society with five years experience in loss reserving.

The proposed new rule describes the form of the statement and the identification of the actuary as an employee of or consultant to the company furnishing the opinion.

The proposed new rule also requires that the statement of opinion contain a scope paragraph in which the actuary describes the records and assumptions on which the opinion is based. Suggested language for this paragraph is provided.

In addition, the rule requires and gives suggested language for an opinion paragraph in which the conclusions reached by the actuary are stated.

Finally, the proposed new rule requires that the actuary not issue the statement if unable to form an opinion and state the reasons for any qualified or adverse opinion.

Social Impact

The proposed new rule will impact upon insurers required to submit the loss reserve opinion and upon the personnel of the Department of Insurance. The Department and insurers will benefit by having an opinion on the important area of loss reserves rendered by a highly qualified individual.

Economic Impact

Insurance companies that do not have a qualified actuary as an employee must retain such an individual to prepare the loss reserve opinion statement. Smaller insurance companies are the most likely to have to incur this extra cost. Preparation of the loss reserve opinion statement by the most qualified individuals will help to lessen the danger of an insurance company insolvency. An insolvency is costly for the Department to administer and the public often suffers financial loss.

Full text of the proposed new rules follows.

SUBCHAPTER 21. LOSS RESERVE OPINIONS

11:1-21.1 General requirements

(a) Every licensed company writing property and casualty insurance in New Jersey must submit, as an addendum to the Annual Statement, a statement of opinion relating to loss and loss adjustment expense reserves for all lines of business written by the company.

1. The statement of opinion shall be in the form of a letter and must be submitted by April 1.

2. The statement of opinion shall be prepared and signed by a qualified actuary.

i. A "qualified actuary" shall mean a fellow in good standing of the Casualty Actuarial Society with five years experience in loss reserving.

(b) Failure to file the statement of opinion in the form and time frame specified in this subchapter will subject the company to the penalties described in N.J.S.A. 17:23-2.

(c) The statement of opinion must consist of a paragraph identifying the actuary, a scope paragraph describing the subjects on which an opinion is to be expressed and describing the scope of the actuary's review, and an opinion paragraph expressing the conclusions of the actuary. One or more additional paragraphs may be needed in individual cases if the actuary must qualify the opinion or explain some aspect of the annual statement which is not already sufficiently explained in the annual statement.

(d) N.J.A.C. 11:1-21.3 and 11:1-21.4 provide examples for illustrative purposes, of language which in typical circumstances would be included in the remainder of the statement of opinion. The illustrative language should be modified as needed to meet the circumstances of a particular case, and the actuary should in any case use language which clearly expresses his or her professional judgment.

11:1-21.2 Identification paragraph

(a) The opening paragraph must indicate the actuary's relationship to the company.

1. For a company actuary, the opening paragraph of the opinion should contain the sentence: "I, (name and title of actuary), am an officer (employee) of (named insurer) a fellow of the Casualty Actuarial Society and meet the requirements of a qualified actuary."

2. For a consultant, the opening paragraph of the opinion should contain the sentence: "I, (name and title of consultant), am associated with the firm of (name of firm if applicable). I am a fellow of the Casualty Actuarial Society meeting the requirements of a qualified actuary and have been retained by the (name of insurer) with regard to loss and loss adjustment expense reserves."

11:1-21.3 Scope paragraph

(a) The scope paragraph must contain a sentence such as the following: "I have examined the assumptions and methods used in determining reserves as shown in the annual statement of the company as prepared for filing with New Jersey Department of Insurance, as of December 31, 19____." The paragraph should list those items and amounts with respect to which the actuary is expressing an opinion. The list must include but not necessarily be limited to:

1. Reserve amount for unpaid losses;
2. Reserve amount for unpaid loss adjustment expenses.

(b) If the actuary has examined the underlying records and/or summaries, the scope paragraph must also include a sentence such as the following: "My examination included such review of the assumptions and methods used and of the underlying basis records and/or summaries and such tests and calculations as I considered necessary."

(c) If the actuary has not examined the underlying records and/or summaries, but has relied upon those prepared by the company, the scope paragraph must include a sentence such as one of the following:

1. "I relied upon underlying records and/or summaries prepared by the responsible officers or employees of the company or group to which it belongs. In other respects, my examination included such review of the assumptions and methods used and such tests of the calculations as I considered necessary."

2. "I relied upon (name of firm) for the accuracy of the underlying records and/or summaries. In other respects, my examination included such review of the underlying assumptions and methods used and such tests of the calculations as I considered necessary."

11:1-21.4 Opinion paragraph

(a) The opinion paragraph must include a sentence which covers at least the points listed in the following illustration: "In my opinion, the amounts carried in the balance sheet on account of the items identified above:

1. Are computed in accordance with generally accepted loss reserving practices and are fairly stated in accordance with sound loss reserving principles;
2. Are based on factors relevant to policy provisions;
3. Meet the requirements of the insurance laws of (state of domicile); and
4. Make a reasonable provision for all unpaid loss and loss expense obligations of the Company under the terms of its policies and agreements."

(b) If there has been any material change in the assumptions and/or methods from those of previous statements of opinion, that change should be described in the statement of opinion by inserting a phrase such as: "A material change in assumptions (and/or methods) was made during the past year, but such change accords with accepted loss reserving practices." A description of the change should follow, including how it affects reserve amounts.

(c) If unable to form an opinion, the actuary should refuse to issue a statement of opinion. If the opinion is adverse or qualified, the actuary should issue an adverse or qualified opinion explicitly stating the reason(s) for such opinion.

(a)

DIVISION OF ACTUARIAL SERVICES

Automobile Insurance

Reporting Financial Disclosure and Excess
Profits Reports

Proposed New Rules: N.J.A.C. 11:3-20

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e); 17:29A-5.2 through 17:29A-5.5.

Proposal Number: PRN 1985-609.

The agency proposal follows:

Summary

On February 19, 1985, the Department of Insurance proposed a new subchapter, N.J.A.C. 11:3-20 at 17 N.J.R. 370(a), designed to implement the reporting requirements of N.J.S.A. 17:29A-5.2 and 17:29A-5.3. N.J.S.A. 17:29A-5.2 and 17:29A-5.3 require insurers transacting private passenger automobile insurance business in New Jersey to submit financial disclosure statements and reports for determination of excess profits.

Several comments on the February 19 proposal were submitted by insurers and industry trade organizations. These comments were carefully reviewed and analyzed. This reproposal reflects the comments and recommendations submitted on the February 19 proposal and includes substantive, technical and editorial modifications.

N.J.A.C. 11:3-20.1, 20.2 and 20.3 of the February 19 proposal set forth the purpose, scope and definitions for the subchapter. This reproposal contains technical and editorial modifications to clarify the definitions of "accident year losses," "calendar year losses," and "insurer." The phrase "line of business" has been changed to "line of coverage" for consistency. A definition of "due recognition to investment income" and "profit and contingency factors" has been added.

N.J.A.C. 11:3-20.4 contained general reporting requirements. This reproposal contains technical and editorial changes to subsections (c) and (d) as suggested by commenters.

N.J.A.C. 11:3-20.5 set forth the information required in the actuarial results report. This reproposal contains technical and editorial modifications to N.J.A.C. 11:3-20.5(d)5. Qualifying language has been added to N.J.A.C. 11:3-20.5(d)7 and (d)9 as suggested by commenters. Editorial changes have been made to N.J.A.C. 11:3-20.5(e) for clarification.

N.J.A.C. 11:3-20.6 set forth the information required in the financial disclosure report. This reproposal contains technical and editorial modifications.

N.J.A.C. 11:3-20.7 set forth the method for calculating and submitting market share reports. This reproposal contains technical and editorial modifications.

N.J.A.C. 11:3-20.8 set forth the reporting requirements for excess profits. This reproposal contains technical and editorial modifications as suggested by commenters.

N.J.A.C. 11:3-20.9 requires insurers reporting an excess profit to file a plan for refunding or crediting the excess profits to policyholders within 30 days of submission of the Excess Profits Report. This reproposal contains technical and editorial modifications to N.J.A.C. 11:3-20.9(a) and (b) as suggested by commenters. N.J.A.C. 11:3-20.9(c) has been added

to provide uniform instructions to insurers about treatment of any refund or credit for reporting in subsequent excess profits reports. N.J.A.C. 11:3-20.9(d) has been added to require certification from the insurer's chief actuary or other corporate official that a refund or credit has occurred.

N.J.A.C. 11:3-20.10 set forth the effective date. This reproposal contains technical and editorial modifications to N.J.A.C. 11:3-20.10(a) and (b) to reflect the legislative intent concerning the reporting period.

Appendix A, Form FA, is the Actuarial Results Report form. This reproposal contains technical and editorial modifications to be consistent with modifications in the rule.

Form FB is the Financial Disclosure Report form. This reproposal contains technical and editorial modifications which make Form FB consistent with Form FA.

Form FD is the Excess Profits Reporting form. This reproposal contains technical and editorial modifications as suggested by commenters.

Social Impact

The public will benefit from the proposed new rule because insurers will be held accountable for any excess profits earned, pursuant to the refund or credit provisions of N.J.S.A. 17:29A-5.4.

The Department will benefit because financial disclosure and excess profit information will be submitted in an orderly manner and on forms prescribed by the Department.

Insurers will benefit from the rule to the extent that the reporting requirements of N.J.S.A. 17:29A-5.2 through 29A-5.3 will be clearly set forth.

Economic Impact

The Department will meet some costs in reviewing submissions and in calculating excess profits. All such costs will be absorbed in the general budget.

Insurers will bear the cost of preparing the documents which must be submitted, but since similar information is required for other financial reports compiled by the insurers, cost will not be great.

The proposed rule will facilitate application of the refund or credit provisions of N.J.S.A. 17:29A-5.4; insureds will thus benefit financially from a finding of excess profits.

Full text of the proposed new rules follows.

SUBCHAPTER 20. REPORTING FINANCIAL DISCLOSURE AND EXCESS PROFIT REPORTS

11:3-20.1 Purpose

This subchapter sets forth the financial disclosure and excess profit reporting requirements for all private passenger automobile insurers, pursuant to N.J.S.A. 17:29A-5.2 and 17:29A-5.3.

11:3-20.2 Scope

The provisions of this subchapter apply to all insurers transacting private passenger automobile insurance business in this State.

11:3-20.3 Definitions

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

"Annual statement" means the report prescribed by the National Association of Insurance Commissioners (NAIC)

and annually filed with the Insurance Department by insurers licensed to do business in New Jersey.

"Accident year losses" means the incurred losses resulting from accidents that occurred during the period January 1 to December 31.

"Calendar year losses" means the losses paid during the 12-month period plus the loss reserves on December 31, the end of the 12-month period, less the loss reserves on January 1, the beginning of the 12-month period.

"Calendar-accident year data" means the premiums for the calendar year and the losses for the accident year.

"Calendar year" means the year beginning January 1 and ending December 31.

"Commissioner" means the Commissioner of the New Jersey Department of Insurance.

"Direct earned premiums" mean the pro rata portion of the premium in force applicable to the expired period of the policy term arising from policies issued by the insurer collecting the premium and acting as the primary insurance carrier.

"Direct written premiums" means all premiums (less return premiums) as recorded by the insurer arising from policies issued by the insurer collecting the premium and acting as the primary insurance carrier.

"Due recognition to investment income" means use of the Clifford formula to determine underwriting profit margin.

"Insurance Expense Exhibits (IEE)" means the detailed analysis of expenses by line of insurance prescribed by the National Association of Insurance Commissioners (NAIC).

"Insurer" means any person or persons, corporation, association, partnership or company transacting private passenger automobile insurance business in the State of New Jersey. As applicable in this subchapter, the term shall include affiliated insurers.

"Line of coverage" means the three lines on page 14 of the Annual Statement on which private passenger automobile insurance is reported, 19.1 private passenger automobile no-fault, 19.2 private passenger automobile other liability, and 21.1 private passenger automobile physical damage.

"Private passenger automobile insurance" means business as reported in the (NAIC) Annual Statement, page 14, lines 19.1 private passenger no-fault, 19.2 private passenger other liability and 21.1 private passenger physical damage for automobiles as defined in N.J.S.A. 39:6A-2.

"Profit and contingency factors" means factors determined with due recognition to investment income from funds generated by New Jersey business.

11:3-20.4 General reporting requirements

(a) Every private passenger automobile insurer, except as provided at (c) below, shall file with the Commissioner an Actuarial Results Report on or before July 1 of each year. The contents of an Actuarial Results Report are set forth in N.J.A.C. 11:3-20.5. The required form is a part of this rule at Appendix A.

(b) Each insurer required to file an Actuarial Results Report shall also file a Financial Disclosure Report if there is an actuarial gain for all coverages combined for the three years combined. Financial Disclosure Reports shall be filed with the Commissioner no later than April 15 of the year following the submission of the Actuarial Results Report. The contents of the Financial Disclosure Report are set forth in N.J.A.C. 11:3-20.6. The required form is a part of this rule at Appendix B.

(c) Any insurer that does not write at least 0.5 percent of the New Jersey private passenger automobile market, based

on direct premiums written, shall not be required to file the Actuarial Results Report required by this section, but shall file a Market Share Report. Every group of affiliated insurers which includes more than one fire and casualty insurer shall file reports under N.J.A.C. 11:3-20.4 where the market share of the affiliated insurers in aggregate exceeds 0.5 percent. The content of a Market Share Report and the method of calculating market share percentage are set forth in N.J.A.C. 11:3-20.7. The required form is a part of this rule at Appendix C.

(d) Each insurer including those exempted from filing financial information as provided in (c) above, shall also file an Excess Profits Report. Excess Profits Reports shall be filed with the Commissioner on or before July 1 of each year. The contents of the Excess Profits Report and method of calculating excess profits are set forth in N.J.A.C. 11:3-20.8. The required form is a part of this rule at Appendix D.

11:3-20.5 Actuarial results report

(a) Each Actuarial Results Report shall contain financial information to be reported for all direct private passenger automobile business reported in the Annual Statement on page 14, lines 19.1, 19.2 and 21.1, transacted in this State on a calendar-accident year basis.

(b) Each Actuarial Results Report shall contain separate financial information for each of the previous three calendar-accident years with loss evaluations as of March 31 of the reporting year. All prior year reports submitted are to be updated, so that ultimately each calendar-accident year will be reported at three separate reporting periods.

(c) A separate Actuarial Results Report form is required to be submitted for each type of coverage specified, and one form must be submitted for all coverages combined. If an insurer writes any of the specified coverages on a combined basis and the data are inseparable, the financial information required shall be shown under the most appropriate coverage and the explanation footnoted on the form. The liability coverages are to be on a total limits basis. Collision and comprehensive shall include all deductibles, including policies without deductibles. Personal injury protection coverage shall include additional personal injury protection coverage and include all deductible and options. The types of coverage are:

1. Bodily injury liability;
2. Property damage liability;
3. Uninsured motorist and underinsured motorist;
4. Personal injury protection;
5. Comprehensive (including named peril policies); and
6. Collision.

(d) Financial information required to be reported shall include:

1. Direct premiums earned;
2. Policyholder dividends incurred;
3. Expenses for acquisition and general expenses;
4. Expenses for agents' commissions, taxes, licenses, and fees;
5. Profit and contingency factors as approved by the Commissioner for use in the insurer's automobile rate filings for the applicable years;
6. Losses paid;
7. Losses unpaid stated at the final settlement value based on development to an ultimate basis and data supporting the calculation of these figures.
8. Loss adjustment expenses paid;
9. Loss adjustment expenses unpaid stated at the final settlement value based on development to an ultimate basis and

data supporting the calculation of these figures.

10. Actuarial gain or loss.

(e) Expense information reported shall conform to the kinds of expense on page 1 of the Insurance Expense Exhibit. Insurers shall provide a statement describing the allocation method for determining New Jersey specific data at (d)3, 4, 8, and 9 above.

(f) Insurers shall use Form FA, appended to this subchapter, to report financial information required by this section.

11:3-20.6 Financial disclosure report

(a) An insurer shall file calendar year information as specified in this section in a Financial Disclosure Report when the total on Form FA for all coverages for the three calendar-accident years combined (line 13) displays an actuarial gain.

(b) Each Financial Disclosure Report shall contain separate calendar year information for each of the three calendar-accident years reported on the Actuarial Results Report. All prior year reports submitted are to be updated, so that ultimately each calendar year will be reported at three separate reporting periods.

(c) Calendar year information shall be on direct private passenger automobile insurance business transacted in New Jersey.

(d) Calendar year information shall be reported separately for each item listed below:

1. Direct premium written;
2. Direct premium earned;
3. Loss reserves for all known claims for beginning and end of the year;
4. Reserves for losses incurred but not reported for the beginning and the end of the year;
5. Incurred allocated loss adjustment expenses;
6. Incurred unallocated loss adjustment expenses;
7. Direct losses paid;
8. Underwriting income or loss;
9. Commissions and brokerage fees;
10. Taxes, licenses, and fees;
11. Other acquisitions costs;
12. General expenses;
13. Policyholder dividends; and
14. Net investment gain or loss and other income gain or loss allocated pro rata by direct earned premium to New Jersey business utilizing the investment allocation formula contained in the NAIC Profitability Report by line by state.

(e) A separate Financial Disclosure Report shall be filed by annual statement line of insurance for private passenger automobile no-fault, private passenger automobile liability, and private passenger automobile physical damage. A summary report for all private passenger automobile lines written by the insurer must be filed.

(f) Other information requirements are:

1. Items under (d)1, 2, and 7 above shall agree with the amounts reported on the insurer's Annual Statement, page 14.
2. Items under (d)5, 6, 9, 10, 11, 12, and 14 shall be allocated on the same basis as on the insurer's Insurance Expense Exhibit. Insurers shall provide a statement describing the allocation method for determining New Jersey data on each item included in this provision.

(g) Insurers shall use Form FB, appended to this subchapter, to report financial information required by this section.

11:3-20.7 Market share report

(a) Market share percentage shall be calculated by dividing the insurer's most recent calendar year direct written premiums reported in the Annual Statement, page 14, lines 19.1, 19.2 and 21., by the total direct written premiums for all insurers in this State for the same Annual Statement lines.

(b) An insurer which writes fewer than three lines of insurance (for example, physical damage on line 21.1) shall provide a Market Share Report on the basis of the direct written premium for the insurance line(s) divided by the total direct written premium for all insurers in New Jersey for the specific line(s). Where this market share exceeds 0.5 percent the insurer shall file the report required under N.J.A.C. 11:3-20.4.

(c) The total direct written premium for all insurers in New Jersey for the specific line(s) shall be published by the Department of Insurance in the New Jersey Register.

(d) Insurers required to submit Market Share Reports shall file such reports with the Commissioner no later than July 1 of the year following the end of the calendar year.

(e) Insurers shall use Form FC, appended to this subchapter, to report market share information.

11:3-20.8 Excess profits report

(a) An insurer shall report excess profits for all private passenger automobile lines of insurance for the three previous calendar-accident years combined.

(b) Each Excess Profits Report shall contain separate financial information for each of the previous three calendar-accident years.

1. The actuarial gain or loss shall agree with the sum of the types of coverage gains and/or losses reported on Form FA line 14.

(c) Insurers shall use form FD, appended to this subchapter, to report excess profits.

11:3-20.9 Refund or renewal credits of excess profits

(a) This section shall apply to those insurers whose combined actuarial gain for the three years reported exceeds the insurer's anticipated underwriting profit plus five percent of direct premiums earned, as indicated in the Excess Profits Report.

(b) Insurers shall file a fair, practicable, and non-discriminatory plan to refund or credit to policyholders the excess profits within 60 days after the submission of the Excess Profit Report for approval by the Commissioner.

(c) Any refund or renewal credit shall be deemed a policyholder dividend applicable to the year in which it is incurred for reporting in subsequent excess profits reports.

(d) Within fifteen days after excess profits have been refunded or credited to policyholders, the insurer's chief actuary or other corporate official shall certify that such refund or credit has occurred.

11:3-20.10 Effective date

(a) The first three Actuarial Results Reports shall be filed no later than July 1, 1986. One Actuarial Results Report shall be required for calendar-accident years 1983, 1982 and 1981, another Actuarial Results Report shall be required for calendar-accident years 1984, 1983 and 1982, and the third Actuarial Results Report shall be required for calendar-accident years 1985, 1984, and 1983.

(b) If required, the first three Financial Disclosure Results Reports shall be filed no later than April 15, 1987. Reports may be required for calendar years 1983, 1982 and 1981, calendar years 1984, 1983 and 1982, and/or calendar years

1985, 1984 and 1983.

(c) The first three Market Share Reports shall be filed no later than July 1, 1986. Reports will be required for calendar years 1983, 1984 and 1985.

(d) The first Excess Profits Report shall be filed no later than July 1, 1986. This report will be required for calendar-accident years 1985, 1984 and 1983.

(e) Insurers with excess profits must file a proposed method for distributing the excess profits to policyholders by August 1 of the calendar year in which any excess profits earned have been reported.

APPENDIX A
NEW JERSEY DEPARTMENT OF INSURANCE
FORM FA
PRIVATE PASSENGER AUTOMOBILE
ACTUARIAL RESULTS REPORT

Company Name/Group Name _____

Company/Group N.A.I.C. Code Number _____

Calendar-Accident Years 19 _____ valued as of March 31,
19 _____

19 _____

19 _____

Line of Coverage _____ B.I. _____ P.I.P.
_____ P.D. _____ UM—UNM
_____ COMP. _____ COLL.
_____ ALL
COVERAGES

Coverage _____	Enter Whole Dollar Amounts Calendar-Accident Year Valued as of March 31 (For the Year Following the Latest Year of Data Reported)			
	19	19	19	Combined
1. Direct Premiums Written— Calendar Year	_____	_____	_____	_____
2. Direct Premiums Earned—Calendar Year	_____	_____	_____	_____
3. Direct Paid Losses	_____	_____	_____	_____
4. Direct Losses Unpaid				
a. Outstanding losses reported	_____	_____	_____	_____
b. Outstanding losses as developed	_____	_____	_____	_____
5. Paid Loss Adjustment Expenses	_____	_____	_____	_____
6. Unpaid Loss Adjustment Expenses				
a. Outstanding expenses as reported	_____	_____	_____	_____
b. Outstanding expenses as developed	_____	_____	_____	_____
7. Total (Lines 5 and 6 b)	_____	_____	_____	_____
8. Agents' Commissions, Brokerage Fees and taxes, licenses, fees	_____	_____	_____	_____
9. Other Acquisition Costs and General Expenses	_____	_____	_____	_____

PROPOSALS

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INSURANCE

10. Total (lines 8 & 9)	_____	_____	_____	_____
11. Policyholders' Dividends Incurred	_____	_____	_____	_____
12. Losses and Expenses (3)+(4 b)+(7)+(10)+(11)	_____	_____	_____	_____
13. Actuarial Gain or Loss (2)-(12)	_____	_____	_____	_____
14. Allowances for Profit and Contingencies*	_____	_____	_____	_____
15. Excess of Actuarial Gain or Loss over Anticipated Gain or Loss (14)-(12)	_____	_____	_____	_____*

*Allowance for profit and contingencies shall be determined by applying the factors utilized in the insurer's automobile rate filings, as approved by the Commissioner for use, to the appropriate earned premiums in line 2. If allowance for profit and contingencies has changed because of a filing made during the experience period, appropriate pro rata parts of the year calculations shall be made and appended to this form.

APPENDIX B NEW JERSEY DEPARTMENT OF INSURANCE FORM FB PRIVATE PASSENGER AUTOMOBILE FINANCIAL DISCLOSURE REPORT CALENDAR YEAR _____

Company Name/Group Name _____

Company/Group N.A.I.C. Code Number _____

Line	19	19	19	Combined
1. Direct Premiums Written	_____	_____	_____	_____
2. Direct Premiums Earned	_____	_____	_____	_____
3. Direct Losses Paid	_____	_____	_____	_____

Loss Reserves for All Known Claims

4. At the Beginning of the Year	_____	_____	_____	_____
5. At the End of the Year	_____	_____	_____	_____
6. Change in Loss Reserves	_____	_____	_____	_____

Reserves for Losses Incurred but not Reported

7. At the Beginning of the Year	_____	_____	_____	_____
8. At the End of the Year	_____	_____	_____	_____
9. Change in Reserves for IBNR	_____	_____	_____	_____

Loss Adjustment Expenses Incurred

	19	19	19	Combined
10. Allocated	_____	_____	_____	_____
11. Unallocated	_____	_____	_____	_____
12. Total	_____	_____	_____	_____

Underwriting Expenses

13. Agent's Commissions and Brokerage Fees	_____	_____	_____	_____
--	-------	-------	-------	-------

14. Other Acquisition Costs	_____	_____	_____	_____
15. General Expenses	_____	_____	_____	_____
16. Taxes, Licenses and Fees	_____	_____	_____	_____
17. Total	_____	_____	_____	_____
18. Policyholders' Dividends	_____	_____	_____	_____
19. Underwriting Income or Loss*	_____	_____	_____	_____
20. Net Investment Gain or Loss and Other Income Gain or Loss**	_____	_____	_____	_____

*Equal to the difference of Line (2) and the sum of Lines (3), (6), (9), (12), (17) and (18).

**Allocated pro rata by earned premium to New Jersey business, utilizing the investment income allocation formula contained in the N.A.I.C.'s Profitability Report by line by state.

APPENDIX C NEW JERSEY DEPARTMENT OF INSURANCE FORM FC PRIVATE PASSENGER AUTOMOBILE MARKET SHARE REPORT

Company Name/Group Name _____

Company/Group N.A.I.C. Code Number _____

Calendar Year 19 _____

Line	Direct Business*	Enter Whole Dollar Amounts Calendar Year 19_____
1.	Current Direct Written Premium by Insurer	_____
2.	Current Direct Written Premium All Insurers	_____
	Percentage of the New Jersey private passenger automobile market [line (1) divided by line (2)]	_____
	100	_____

*Based on lines of business (Annual Statement page 14 lines 19.1, 19.2 and 21.1 as applicable).

APPENDIX D NEW JERSEY DEPARTMENT OF INSURANCE FORM FD PRIVATE PASSENGER AUTOMOBILE EXCESS PROFITS REPORTING FORM

Private Passenger Automobile

	Year 1 19	Year 2 19	Year 3 19	Combined
1. Direct Premiums Earned*	_____	_____	_____	_____
2. Excess of Actuarial Gain or Loss over Anticipated Gain or Loss**	_____	_____	_____	_____
3. Five Percent of line 1	_____	_____	_____	_____
4. Excess Profit***	_____	_____	_____	_____

* Refers to the three private passenger lines reported on page 14 of the Annual Statement

Notes for companies that file Form FA:

*Must agree with the sum of direct premiums earned on an all coverages combined basis.

**Must agree with the excess actuarial gain and/or loss on an all coverages combined basis on Form FA, line 15.

***Line 2 minus line 3, a positive number is an excess profit.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

DEPARTMENT OF DEFENSE

Enforcement Service

Special National Guard Plates

Proposed Readoption: N.J.A.C. 13:20-36.1 and 36.2

Authorized By: Robert S. Kline, Acting Director,
Division of Motor Vehicles, and Major General
Francis R. Gerard, Adjutant General, Department of
Defense.

Authority: N.J.S.A. 39:3-27.14.

Proposal Number: PRN 1985-605.

Submit comments by December 4, 1985 to:

Robert S. Kline, Acting Director
Division of Motor Vehicles
25 So. Montgomery Street
Trenton, New Jersey 08666
OR

Major General Francis R. Gerard
Adjutant General
Department of Defense
Eggerts Crossing Road
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Division of Motor Vehicles and the Department of Defense propose to readopt the provisions of N.J.A.C. 13:20-36.1 and 13:20-36.2 concerning special National Guard plates. These rules were initially filed and became effective January 28, 1981. The rules were subsequently amended on August 6, 1984. The rules, which would otherwise expire on December 22, 1985, are being readopted in accordance with Executive Order No. 66(1978).

The rules implement those provisions of the Motor Vehicle and Traffic Law (N.J.S.A. 39:3-27.13 et seq.) pertaining to the issuance of special National Guard plates to active members and former active members of the New Jersey National Guard. N.J.A.C. 13:20-36.1 (Application; certification; fees) provides for the application for not more than two sets of special National Guard plates by any person who is an active member of the New Jersey National Guard or a former active member who has been honorably separated under normal conditions from the New Jersey National Guard. Active members of the National Guard must obtain applications from the Commander of their National Guard Unit. Retired members must obtain applications from the Department of Defense. The Commander certifies that the applicant is an active or separated member of the New Jersey National Guard and forwards the completed application and a \$15.00 fee to the Division of Motor Vehicles. The Division of Motor Vehicles notifies the Department of Defense when the special National Guard plates have been issued to an applicant. A fee of \$15.00 is payable to the Division of Motor Vehicles for each set of

special plates. A \$5.00 fee is payable to the Division of Motor Vehicles for replacement plates. N.J.A.C. 13:20-36.2 (Surrender of special plates) provides for the surrender of the National Guard plates to the Department of Defense whenever the holder thereof ceases to be an active member of the New Jersey National Guard for reasons other than honorable separation or for honorable separation under abnormal conditions. Regular replacement plates must be obtained from the Division of Motor Vehicles within five days of separation from the New Jersey National Guard. The Department of Defense is required to notify the Division of Motor Vehicles if the special National Guard plates are not surrendered within five days of separation.

The Division of Motor Vehicles and the Department of Defense have reviewed the rules in accordance with Executive Order No. 66 and have determined that they are "necessary, adequate, reasonable, efficient, understandable and responsive for the purposes for which [it was] promulgated." The rules implement N.J.S.A. 39:3-27.14 by providing an efficient procedure for the issuance of special National Guard plates.

Social Impact

The rules proposed for readoption promote the public policy of this State by providing an administrative procedure for the issuance of special National Guard plates.

Economic Impact

There is no economic impact on the general public. There is an economic impact on the State in funding the operation of the Division of Motor Vehicles' Special Plate Unit. Administrative costs are offset in part by the registration fees which are collected with the application for special National Guard plates.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 13:20-36.

(b)

BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Title Blocks

Proposed Repeal: 13:40-1 and -2

Proposed New Rules: N.J.A.C. 13:40-1

Authorized By: New Jersey Board of Professional
Engineers and Land Surveyors, Sol Seid, President.

Authority: N.J.S.A. 45:8-27 et seq.

Proposal Number: PRN 1985-606.

Submit comments by December 4, 1985 to:

Cathleen A. McCoy, Secretary Director
State Board of Professional Engineers and
Land Surveyors
1100 Raymond Boulevard
Newark, New Jersey 07102

The agency proposal follows:

Summary

The proposed new rules reorganize and amend the current rules contained in subchapters one and two of Chapter 40 that

governed the contents of title blocks which must appear on drawings prepared by an engineer or land surveyor. The current text of subchapters one and two are proposed for repeal and are being replaced by a new subchapter one.

Social Impact

The proposed new rule will have a positive social impact in assuring that certain standard information will appear on drawings prepared by engineers and land surveyors. The required information will ease the identification of the licensee who prepared the document for municipal officials and any individuals who may need to review such documents in the future.

Economic Impact

The proposed new rule will have a positive economic impact by easing the identification of the licensee if future reference to the drawings is necessary.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:40-1 and -2.

Full text of the proposed new rule follows.

SUBCHAPTER 1. TITLE BLOCKS AND SEALS FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

13:40-1.1 Sealing documents

All sealing of documents must be done with an impression-type seal. A rubber stamp facsimile of the seal may not be used.

13:40-1.2 Title block on drawings; forms; removal

(a) Every licensee shall provide a title block on all drawings (except renderings), and similar information on the title page of all specifications which are prepared and sealed.

(b) The title block shall be in such form as the Board may adopt or approve.

(c) Such title block shall be distinct and separate from any other title block, plaque, or any similar device of illustration or lettering.

(d) The title block shall be lettered on the drawing in such a manner as to reproduce clearly on all prints and reproductions thereof.

(e) No person shall remove a title block from any print or reproduction.

13:40-1.3 Title block contents

(a) The title block shall contain:

1. The name and location of the project;
2. The name of the engineering or land surveying individual firm, partnership, corporation, professional association or professional service corporation;
3. The full name and certificate number of the person(s) in responsible charge;
4. The title "professional engineer" or "land surveyor";
5. The handwritten signature of the person(s) in responsible charge and the date when signed.

(b) An appropriate title block shall be provided on a site plan which shall be included in any set of drawings of a building project. Any plan including land surveying data must also bear the title block or identity of the land surveyor who performed the land surveying work.

(c) The title block may contain the initials of the draftsmen or checker, and dates, drawing numbers, revision numbers and

such similar incidental items are as customary in practicing engineers' or land surveyors' offices, provided that the name of the person(s) in responsible charge is readily discernible from the other information on the document and contained within the heavy borderline of the title block.

13:40-1.4 Proposed title block form

Any licensee may submit a proposed form of title block to the State Board of Professional Engineers and Land Surveyors for approval.

13:40-1.5 Title block use for professional engineer and land surveyor work project

In the event the project contains the work of both a professional engineer and land surveyor, any individual licensed in both professions may use the title "professional engineer and land surveyor" in one title block.

13:40-1.6 Subtitle block of independent professional

If a project includes the work of any other licensed professional, not under the immediate supervision of the licensee in responsible charge and not otherwise identified in accordance with N.J.A.C. 13:40-7, a subtitle block of that professional firm or individual must appear on all plans involving that profession.

TREASURY-GENERAL

DIVISION OF PENSIONS

(a)

Alternate Benefit Program Contributions

Proposed Amendment: N.J.A.C. 17:1-2.18

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

Authority: N.J.S.A. 18A:66-192.

Proposal Number: PRN 1985-598.

Submit comments by December 4, 1985 to:

Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions
20 West Front Street
CN 295
Trenton, New Jersey 08235

The agency proposal follows:

Summary

The proposed amendment changes the number of permissible times that a participant in the Alternate Benefit Program may alter the allocation of salary deductions, salary reductions and employer contributions between the Teachers' Insurance and Annuity Association (TIAA) and the College Retirement Equities Fund (CREF) in the Alternate Benefit Program. The proposed amendment will allow the participant to alter such allocation as frequently as is permitted by TIAA-CREF which will be solely responsible for the implementation of such changes.

Social Impact

The proposed amendment will affect all current and future participants in the Alternate Benefit Program who may want to change their allocations with TIAA-CREF in the future.

Economic Impact

It does not appear that the proposed amendment will have any significant, adverse effects upon the participant, the employers or the public in general.

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

17:1-2.18 Contributions

[(a) A participant may elect to allocate salary deductions, salary reductions and employer contributions between the Teachers' Insurance and Annuity Association and the College Retirement Equities Fund only on one of the following bases:

1. 100 percent to TIAA; none to CREF;
2. 75 percent to TIAA; 25 percent to CREF;
3. 50 percent to TIAA; 50 percent to CREF;
4. 25 percent to TIAA; 75 percent to CREF;
5. 100 percent to CREF; none to TIAA.]

(a) A participant may elect to allocate salary deductions, salary reductions and employer contributions as prescribed under the guidelines of the Teachers' Insurance and Annuity Association and the College Retirement Equities Fund then in effect.

(b) A participant may increase or decrease the percentage of optional annuity deductions or reductions [or the allocation of salary deductions and reductions between the Teachers' Insurance and Annuity Association and the College Retirement Equities Fund] no more than once a taxable year. For purposes of these rules, a taxable year is deemed to be the calendar year commencing on January 1 and ending on December 31.

(c) (No change.)

(a)

**State Health Benefits Commission
Coverage for Prospective Retirants**

Proposed Amendment: N.J.A.C. 17:9-6.2

Authorized By: Gaius Mount, Acting Secretary, State Health Benefits Commission.

Authority: N.J.S.A. 52:14-17.27.

Proposal Number: PRN 1985-600.

Submit comments by December 4, 1985 to:

Gaius Mount, Acting Secretary
State Health Benefits Commission
Division of Pensions
20 West Front Street
CN 295
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment changes the method of initially notifying the retired members or their eligible survivors of their right to continue coverage in the State Health Benefits

Program from that of certified mail to regular mail. If such person does not respond within 15 days, a second notice via certified mail will be sent. It is hoped that this change will lead to more efficient and economical operation of the Program.

Social Impact

The proposed amendment will affect future retirants and their survivors who may qualify for continued coverage in the State Health Benefits Program. However, it does not adversely affect such persons' benefits but rather only affects the administrative operations of the Program.

Economic Impact

The proposed amendment will not have any significant adverse effects upon the persons who may be affected. If adopted, the proposed amendment may result in cost savings concerning postage expended in the administration of the Program.

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

17:9-6.2 Coverage for prospective retirants

(a) (No change.)

(b) An employee, upon retirement, or an eligible survivor of such employee will be notified by [certified] **regular** mail of his or her right to continuous coverage in the State Health Benefits Program. The retired employee or eligible survivor must, within a 15-day period following the receipt of the letter offering retired coverage, submit the appropriate application and charges for such coverage, if required. **Any retired employee or eligible survivor not responding within the 15-day period shall receive a second notice by certified mail.**

OTHER AGENCIES

(b)

CASINO CONTROL COMMISSION

Fees**Work Permits**

Proposed Amendment: N.J.A.C. 19:41-9.5

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.

Authority: N.J.S.A. 5:12-63(c) and (d), -69, -70(e) and -142.

Proposal Number: PRN 1985-599.

Submit comments by December 4, 1985 to:

Leonard J. DiGiacomo
Assistant Counsel
Casino Control Commission
3131 Princeton Pike Office Park
Building No. 5, CN 208
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment to the Casino Control Commission work permit fee schedule will bring that regulation into conformity with the recent court decision in *The Atlantic City Casino Hotel Association vs. The Casino Control Commission*, A-5435-83T7, regarding the amount the Casino Control Commission may charge for issuing work permits. In accordance with that decision, the proposed amendment will more accurately match the fee to be charged for work permits with the reasonable estimated aggregate cost of processing, monitoring and administering the work permits.

In calculating the proposed fee, the actual expenditures associated with monitoring, processing and administering work permits for Fiscal Year 1985 (\$116,247.46) were added to the projected work permit expenditures for Fiscal Year 1986 (\$138,645.75). This total, when divided by the sum of the actual work permit transactions for Fiscal Year 1985 (46,983) plus those projected work permit transactions for Fiscal 1986 (63,000), would justify a potential work permit fee of \$2.32. However, the actual work permit fee is being set at \$2.00 in order to avoid any conflict with the court's ruling and for ease of administration.

Social Impact

The social impact of the proposed amendment will be insignificant since, by statute, the fee for issuing work permits

will continue to be borne by the various licensed casino operators in Atlantic City and since the change in the fee will probably not have any effect on the employment decisions of those operators.

Economic Impact

To the extent that the amendment lowers the amount of the work permit fee it would theoretically lower the costs imposed upon the licensed casino operators. However, since the obligation of supporting the operations of the Commission and the Division of Gaming Enforcement rests primarily and ultimately on the casino operators, any shortfall in the Casino Control Fund will have to be met by the casino operators. Thus, the extent of any actual reduction in total fees paid by casino operators is speculative.

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

19:41-9.5 Work permits

In accordance with Sections 106 and 142 of the Act, a casino licensee shall obtain work permits for all persons appointed or employed by such licensee. Each casino licensee shall pay an annual fee of **\$2.00** [\$50.00] for each work permit obtained.

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice

Settlement Conference by Department of Education

Adopted Amendment: N.J.A.C. 1:6A-3.2

Proposed: September 3, 1985 at 17 N.J.R. 2073(a).

Adopted: October 4, 1985 by Ronald I. Parker, Acting Director, Office of Administrative Law.

Filed: October 7, 1985 as R.1985 d.539, **without change**.

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

Effective Date: November 4, 1985.

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

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

Full text of the adoption follows.

1:6A-3.2 Settlement conference by the Department of Education

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

(e) Where the hearing has been requested by a board of education or public agency, the parent or guardian may request and shall receive an adjournment of the settlement conference for up to 15 days, to be calculated from the originally scheduled settlement conference date. For good cause, the Department of Education may otherwise adjourn a settlement conference or schedule another settlement conference. Any adjournment of the settlement conference or scheduling of another conference shall extend the deadline for decision on the matter, as established in N.J.A.C. 1:6A-5.1 (Deadline for decision), by an amount of time equal to the adjournment or rescheduling.

(f) (No change.)

BANKING

(b)

DIVISION OF BANKING

Restriction on Loans Involving Affiliated Person Savings Banks: Officers and Managers Permitted Loans

Adopted Amendments: N.J.A.C. 3:1-11.1

Adopted New Rules: N.J.A.C. 3:6-15.

Proposed: September 3, 1985 at 17 N.J.R. 2073(b).

Adopted: October 15, 1985 by Marry Little Parell, Commissioner, Department of Banking.

Filed: October 15, 1985 as R.1985 and d.556, without change.

Authority: N.J.S.A. 17:1-8.1, 17:9-24b.1 and 17:9A-195.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): August 2, 1987 for N.J.A.C. 3:1-11.1; November 4, 1990 for N.J.A.C. 3:6-15.

Summary of Public Comments and Agency Responses:
Comment from the New Jersey Council of Savings Institutions expressed support for the proposed amendment and new rule. No other comment was received.

Full text of the adoption follows.

3:1-11.1 Definitions

...

"Institution" means a bank or a savings bank as defined in N.J.S.A. 17:9A-1 and a State association as defined in N.J.S.A. 17:12B-5(1).

SUBCHAPTER 15. SAVINGS BANKS: OFFICERS AND MANAGERS PERMITTED LOANS

3:6-15.1 Definitions

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

"Board of Managers" of a savings bank includes the board of trustees or board of directors of a savings bank and where reference is made to the board of directors of a bank it shall be deemed to refer to the board of managers of a savings bank.

"Capital funds" of a savings bank are deemed to include capital notes of the savings banks for purposes of computing lending limitations.

"Manager" of a savings bank includes a trustee or director of a savings bank and where reference is made to a director of a bank it shall be deemed to refer to the manager of a savings bank.

3:6-15.2 Terms and conditions

(a) A savings bank may permit its officers and managers and their families and affiliates to become liable to the savings bank only under the same terms and conditions and to the same degree of liability as a bank permits its directors, officers or the corporations or partnerships of the officers or directors of a bank to become liable to a bank under the provision of Article 15 of The Banking Act of 1948 (N.J.S.A. 17:9A-71 et seq.) and the regulations issued pursuant thereto.

(b) A savings bank may not permit its officers and managers and their families and affiliates to become liable to the savings bank pursuant to the authority of N.J.A.C. 3:6-1.1.

(c) The authority of a savings bank to permit its officers and managers and their families and affiliates to become liable to the savings bank under the same terms and conditions and to the same degree of liability as a bank is not to be construed as granting to the savings bank the authority to grant any form or type of loan it is not otherwise authorized to make.

COMMUNITY AFFAIRS

(a)

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

Prevailing Wages Debarment and Suspension from Agency Contracting

Adopted New Rules: N.J.A.C. 5:80-17 Adopted Amendments: N.J.A.C. 5:80-18 (recodified from 5:80-4)

Proposed: May 20, 1985 at 17 N.J.R. 1174(b).

Adopted: August 1, 1985 by Feather O'Connor,
Executive Director/Secretary, New Jersey Housing
and Mortgage Finance Agency.

Filed: October 15, 1985 as R.1985 d.559, with technical
changes not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): May 20, 1990.

Summary of Public Comments and Agency Responses:

One comment was received on subchapter 17, Prevailing Wages, which expressed approval of the rule as proposed.

No comments were received on subchapter 18, Debarment and Suspension from Contracting.

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

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 17. PREVAILING WAGES

5:80-17.1 Authority

This subchapter is ***[being]*** promulgated pursuant to the authority of N.J.S.A. 55:14K-42.

5:80-17.2 Applicability of prevailing wages

(a) Prevailing wage rates shall be paid in the construction or rehabilitation of Housing Projects by all Housing Sponsors or builders, contractors or subcontractors engaged by Housing Sponsors, except as may be provided under the provisions of N.J.A.C. 5:80-1.4 or N.J.S.A. 55:14K-5y. The Agency may also require prevailing wage rates to be paid in connection with the operation, repair or improvement of any Housing Project or in conjunction with the construction or rehabilitation of any improvement or development financed by a loan from the Agency.

(b) Prevailing wage rates required to be paid pursuant to (a) above shall be determined in accordance with N.J.S.A. 55:14K-42.

SUBCHAPTER 18. DEBARMENT AND SUSPENSION FROM NJHMFA CONTRACTING

5:80-18.1 Definitions

(No change.)

5:80-18.2 Causes for debarment of a person(s)

(a) In the public interest, the Agency may debar a person for any of the following causes:

1.-11. (No change.)

12. Any other cause affecting responsibility as an ***[NJHFA]* *Agency*** contractor of such serious and compelling nature as may be determined by ***[NJHFA]* *the Agency*** to warrant debarment, ***[including such conduct as may be proscribed by the laws or contracts enumerated in this section]*** even if such conduct has not been or may not be prosecuted as violations of such laws or contracts.

13. Debarment by some other department or agency in the Executive ***Branch***.

14. Debarment by the Department of Housing and Urban Development, Federal Housing Administration or any other instrumentality, agency or department of the United States Government.

5:80-18.3 Conditions affecting the debarment of a person(s)

(No change.)

5:80-18.4 Procedures; period of debarment; scope of debarment affecting the debarment of a person(s)

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

(d) A debarment may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case by case basis after giving due regard to all relevant facts and circumstances. ***[The offense, failure or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effected by him with the knowledge or approval of such person.]***

[The offense, failure or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effected by him with the knowledge or approval of such person.]

5:80-18.5 through 5:80-18.6
(No change.)

5:80-18.7 Procedures; period of suspension; scope of suspension affecting the suspension of a person(s)

(a) The following provisions regarding procedures, period of suspension and scope of suspension shall be adhered to by *[NJHFA]* *the Agency*.

1.-2. (No change.)

3. A suspension may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case by case basis after giving due regard to all relevant facts and circumstances. *[The offense, failure or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effectuated by him with the knowledge or approval of such person.]*

4. The offense, failure or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effectuated by him with the knowledge or approval of such person.

5:80-18.8 through 5:80-18.11
(No change.)

5:80-18.12 Lists of other agencies

Notwithstanding the failure of the Agency to debar or suspend any person or contractor pursuant to these regulations, whenever the Agency participates in any program financed, issued or guaranteed by any department, agency or instrumentality of the United States Government, it may rely on and distribute lists of persons suspended or debarred by such agency, department or instrumentality and prevent the listed person from participating in that program.

AGENCY NOTE: As noted in the Proposal Notice (17 N.J.R. 1174(b)), the subchapter on Debarment and Suspension from NJHMFCA Contracting was previously codified as N.J.A.C. 5:80-4. In addition to the amendments adopted above, it has been recodified as N.J.A.C. 5:80-18. Accordingly, any reference to NJHFA or 5:80-4 in the unchanged text of the subchapter is changed to Agency and 5:80-18, respectively. Additionally, the Authority is changed from N.J.S.A. 55:14J-34(f) (now repealed) to N.J.S.A. 55:14k-5(g).

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Marine Fisheries Crab Pots

Adopted New Rules: N.J.A.C. 7:25-14

Proposed: August 5, 1985 at 17 N.J.R. 1830(a).

Adopted: October 10, 1985 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.

Filed: October 15, 1985 as R.1985 d.560, **without change.**

Authority: N.J.S.A. 23:2B-6 and N.J.S.A. 23:2B-14.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): November 4, 1990.

DEP Docket No. 036-85-06.

Summary of Comments and Agency Responses:

No comments received.

Full text of the rules which expired on September 17, 1985 and are adopted as new may be found in the New Jersey Administrative Code at N.J.A.C. 7:25-14.

Full text of the adopted amendments to the expired rules follows.

7:25-14.2 Use of crab pots and trot lines

(a) No person shall tend or remove crabs from any pot or trot line unless he is the holder of a valid license, or as otherwise herein provided.

1.-2. (No change.)

3. The licensee may be held liable and subject to the penalty provisions provided in N.J.A.C. 7:25-14.8 for the violation of provisions of this subchapter actually committed by the agent based upon the apparent authority of the agent to act for his principal.

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

7:25-14.6 Placement and marking of pots and trot lines

(a) (No change.)

(b) Each trot line shall be marked at both ends with a clearly visible stake or buoy. No trot line shall be set within 100 feet of another trot line.

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

7:25-14.8 Penalties

(a) (No change.)

(b) Any person not having a valid license in possession or failing to exhibit same for inspection by any authorized law enforcement officer while tending a pot or trot line, or violating any of the provisions of N.J.A.C. 7:25-14.5 or 14.6 shall be liable to a penalty of \$20.00 for the first offense and \$40.00 for each subsequent offense.

(c)-(f) (No change.)

(a)

DIVISION OF WASTE MANAGEMENT

Collection and Haulage

Adopted New Rules: N.J.A.C. 7:26-3

Proposed: May 6, 1985 at 17 N.J.R. 1041(a).

Adopted: October 10, 1985 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.

Filed: October 15, 1985 as R.1985 d.558, **without change**.

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

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No.

66(1978): November 4, 1990.

DEP Docket No. 017-85-04.

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

Full text of the rules which expired on June 9, 1985 and are adopted as new may be found in the New Jersey Administrative Code at N.J.A.C. 7:26-3.

Full text of the adopted amendments to the expired rules follows.

7:26-3.2 Registration

(a) No person shall engage or continue to engage in the collection or haulage of solid waste in this State without first filing a completed registration statement with the department. The registration statement shall be signed by the person engaged in or desiring to engage in the collection of haulage of solid waste, shall be executed on forms prescribed by and furnished by the department and shall state such information necessary and proper to enforcement of this subchapter as the department may require.

(b) (No change.)

(c) No person shall engage in the collection or haulage of solid waste in this State without first obtaining an approved registration from the department.

(d) No person shall engage in the collection or haulage of solid waste in this State if such an operation does not meet the collector/hauler requirements listed in this subchapter. In addition, the operator must comply with any other conditions or limitations which may be specified on the approved registration.

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

7:26-3.5 Collector-hauler requirements (specific)

(a) (No change.)

(b) All vehicles used for collection and/or haulage of bulky wastes shall be of such a design so as to preclude any spillage onto the roadways and highways of the State.

(c) (No change.)

(d) Rules concerning hazardous wastes, excluding all radioactive wastes, include:

1. Such wastes shall not be mixed with other categories of wastes in shipment.

2. All collectors and haulers of such wastes are responsible for operating within existing laws governing the transportation of such materials including N.J.A.C. 7:26-7, 8, 9, 10, 11 and 12.

3. All vehicles used for the collection and haulage of such wastes shall be of a design to preclude any spillage or leakage onto the roadways and highways of the State.

4. Collectors and haulers of such wastes shall not transport drummed hazardous wastes whereby said drums or containers are damaged, rusted, leaking or without proper tight fitting covers or lids.

5. All drums and containers of hazardous wastes in transport to a disposal facility shall be properly labeled in accordance with N.J.A.C. 7:26-7, 8, 9, 10, 11 and 12.

7:26-3.8 Applicability

See N.J.A.C. 7:26-7, 8, 9, 10, 11, 12 to find additional hazardous waste rules.

(b)

**DIVISION OF ENVIRONMENTAL
QUALITY**

Pesticide Control

New Jersey Pesticide Control Code

**Adopted Amendments and New Rules: N.J.A.C.
7:30**

Proposed: February 4, 1985 at 17 N.J.R. 242(b).

Adopted: October 9, 1985 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.

Filed: October 15, 1985 as R. 1985 d.557, **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. 13:1D-9 and, specifically, N.J.S.A.
13:1F-4 and -5.

DEP Docket No.: 079-85-01

Effective Date: November 4, 1985 for N.J.A.C. 7:30-1
through 7:30-5.2(1); 7:30-5.3 through 7:30-9.4(f)6;
7:30-9.4(f)8 through 7:30-9.9; 7:30-9.11 through
7:30-10.

Operative Date: January 3, 1985 for N.J.A.C.
7:30-5.2.6(e) and 7:30-9.10; February 2, 1986 for
7:39-9.4(f)7.

Expiration Date pursuant to Executive Order No.
66(1978): December 6, 1987.

Summary of Public Comments and Agency Responses:

The Department of Environmental Protection (hereinafter "Department") held public hearings in Randolph Township on February 25, 1985 and Vineland on February 19, 1985. A copy of the Department's complete summary of public comments and agency responses is on file for inspection with the Office of Administrative Law and is available from the Department. Highlights of comments on the major amendments and agency responses thereto as well as a summary of substan-

tive changes made to the proposal are provided herein.

The Department notes that the following proposed amendment appeared in the Register (though not in boldface) and are added by this adopted amendment: N.J.A.C. 7:30-6.3(a)7.v. (adding wood preserving pest control as a certification category for commercial pesticide applicators) and N.J.A.C. 7:30-8.8(a)1 (a requirement that private pesticide applicators list information on the date of application).

Summary of Major Changes from Proposal to Adoption

1. The Department revised the definition of "significant risk of injury or damage" by adding the word harm." The Department added the definition to N.J.A.C. 7:30-1.2 and deleted it from N.J.A.C. 7:30-5.1 and 7:30-10.1. The term is used throughout the Chapter for grammatical consistency.

2. The Department amended N.J.A.C. 7:30-3.9(b)(1), 7:30-4.5(b)(1) and 7:30-5.7(b)(1), 7:30-6.9(b)(1), 7:30-7.6(b)(1) and 7:30-8.11(b)(1) regarding the revocation, suspension or denial of applications for registrations. The amendments would add failure to comply with a Department order as a grounds for further Department action.

3. The Department revised and clarified N.J.A.C. 7:30-2.3(a)(1), requiring restricted use classification of a pesticide based on review of the product's label.

4. The Department amended and transferred to N.J.A.C. 7:30-2.4(e) the section specifying the authority and procedure to regulate continued sale and/or use of a product reclassified as a restricted use pesticide. This section as deleted at N.J.A.C. 7:30-4.2(j) had provided a broad exemption for continued sale of reclassified pesticides not intended by the Department.

5. The Department added new N.J.A.C. 7:30-3.9(b)(7) and 7:30-4.5(b)(7) that would authorize the Department to deny an application or revoke or suspend a registration for a pesticide dealer or pesticide dealer business for selling or distributing a pesticide where a significant public risk had been caused.

6. The Department amended N.J.A.C. 7:30-5.7(b)(2), 7:30-6.9(b)(2), 7:30-7.6(b)(2), 7:30-8.11(b)(2) and 7:30-10.3(c) and (g) to remove negligence as a ground for Department action under those provisions.

7. The Department amended the record keeping requirements for private pesticide applicators to clarify applicability of the requirements to registered private applicators only. (7:30-8.8(a)).

8. The Department added N.J.A.C. 7:30-9.9(i) to the beekeeper notification system for applications to agricultural crops allowing annual adjustment of the referenced dates by the Cooperative Extension Service of Rutgers University.

9. The Department amended the farm worker bulletin board posting of reentry information to include pesticides having a reentry time of 24 hours. (7:30-9.10(i))

10. The Department added N.J.A.C. 7:30-9.10(m) to provide for a 60 day grace period after publication in this Register until the operative date of the farm worker regulators.

11. The Department added to the reporting requirements for pesticide spills that persons provide information on the initial corrective action taken to clean up the spill, and amended N.J.A.C. 7:30-9.11(b) to require immediate reporting by telephone with written follow up in ten days.

12. The Department amended N.J.A.C. 7:30-10.4(s) requiring the applicator to provide the termicide application regulations to the contracting party to allow substitution of a simplified brochure or guidelines approved by the Department.

13. The Department amended N.J.A.C. 7:30-10.5(s) to permit cancellation of consent to apply aerially within 100 feet of a private residence and to condition such withdrawal following the application season or immediately upon misapplication to the consenting person's property.

14. The Department added to the annual pesticide use reporting provisions the site and method of application. (7:30-10.9(a))

The Department has carefully reviewed the transcripts of the public hearings and the written comments submitted during the comment period which closed on March 6, 1985. The following is a summary of major issues raised in the comments which were germane to the proposal, and the Department's response to those comments. Copies of a more complete "Response to Comment" document may be obtained from: Ray Ferrarin, Chief, Office of Pesticide Control, NJDEP, 380 Scotch Road, Trenton, New Jersey 08625.

N.J.A.C. 7:30-2.3(a)1

COMMENT: This section (N.J.A.C. 7:30-2.3(a)1) should not be changed until EPA requires child-resistant packaging for homeowner use pesticides;

Delete this subsection until such time as the EPA amends its child-resistant packaging regulations;

No pesticides containing the words "for use only by service persons" or similar wording on their labels should be deleted from the DEP restricted list;

Some germicidal cleaners and disinfectants are in Toxicity Category I or II and have the "service person" language on the label. There is currently no category in which applicators may be certified to use these products. Request an exemption for antimicrobial agents so that they may remain general use pesticides.

RESPONSE: EPA does require child-resistant packaging for pesticides intended for homeowner use. However, EPA provided an exemption for the child-resistant packaging requirements for manufacturers who put statements on the product label such as "For use only by service persons." At the time this was implemented, EPA did not specifically define "service persons." This resulted in the situation wherein pesticides, clearly intended for use by unlicensed persons, were listed as a restricted use pesticide in New Jersey although many were of low toxicity with the signal word "caution." The amendment is adopted here to resolve this situation. The Department agrees with the comments, but to revert to the original regulation wording would leave the problem unresolved. Therefore, the amendment has been made to this section to delete the undefined terminology and to clarify the Department's original intent at the time this subsection was promulgated. The subsection has also been amended to exempt any pesticide whose user is not required to be a licensed applicator under the provisions of the Chapter, consistent with the comment on the application of general use antimicrobial agents.

N.J.A.C. 7:30-2.4

COMMENT: Where the Department takes actions which affect dealer inventories of products, a phase out program should be considered to prevent unreasonable and unexpected costs in recovering products subject to those actions. A case in point was the phase out of chlordane containing products several years ago. By allowing sales at the dealer level, and blocking sale of product from the distributor to the dealer, a number of serious problems are avoided by the dealer and the State. There is no effective date spelled out in 7:30-2.4.

ADOPTIONS

ENVIRONMENTAL PROTECTION

Would this be the proper place to indicate the time frame for complying with a revised restricted pesticide list? In cases where it can be proven there is an imminent threat to the public health if a product is continued to be sold, then it should immediately be removed from the marketplace.

RESPONSE: The commenter is directed to former N.J.A.C. 7:30-4.2(j) which states, "Any person selling or offering for sale a pesticide which has been reclassified from general to restricted use shall not be required to register as a dealer business to sell such pesticide, provided that all quantities sold had been in stock prior to reclassification and that not more than one year has passed since the time of reclassification." The Department concurs that N.J.A.C. 7:30-2 is a more appropriate section in which to define the effective date(s) for sale and/or continued use of any restricted use pesticide. The Department also concurs that in the case of an imminent threat to public health if general use of the pesticide continues, there should be some provision to make the restriction immediate at all distribution levels. Therefore, in response to the comment, N.J.A.C. 7:30-4.2(j) is deleted and N.J.A.C. 7:30-2.4(e) adopted consistent with this stated intent. See also the Department's note on N.J.A.C. 7:30-4.2(j) at this subsection.

N.J.A.C. 7:30-6.1

COMMENT: The definition of agricultural crop was wholly unacceptable in that it narrowly limited agriculture to the production of food crops. (Note: "Agricultural crop" is also defined in N.J.A.C. 7:30-7.1 and 7:30-8.1.)

There should not be any distinction among crop types. We want to avoid a lack of uniformity in this definition and encourage the Department to consult the Farm Land Assessment Act and the Right To Farm/Agricultural Retention Act for guidance.

The Department should use the "agricultural commodity" definition since "agricultural crop" does not provide for application to hay and feed crops being used for horses and other breeding animals not intended for human consumption or for applications on forest crops and ornamentals.

RESPONSE: The definition of "agricultural crop" in this subchapter is intentionally limiting in scope. The Department suspects that the objections of the commenters are based on the more broadly accepted definition of agricultural commodity that is in common usage in the State and in N.J.A.C. 7:30. N.J.A.C. 7:30-6.1 defines the term as used in this subchapter and in other subchapters of the pesticide regulations as proposed with reference to pesticide application record keeping requirements. The commenters are specifically directed to the provisions of N.J.A.C. 7:30-6.8(a). In actual field situations where the Department has performed inspections of private pesticide applicators on farms, current record keeping requirements have not proven adequate to correctly define the field and crop on which the pesticide had been applied. Other pesticide applications to other sites, such as woodlands, which could be included under the current definition of "agricultural commodity" have not demonstrated this same problem. Therefore, N.J.A.C. 7:30-6.8(a), 7:30-7.3(a) and 7:30-8.8(a) more stringently regulates record keeping for farm crops. To return to the definition of agricultural commodity would make new record keeping provisions applicable to more applicators and commodities than proposed, even though not warranted by review of the regulatory history of these persons. To reiterate, "agricultural crop," as defined, is not intended to replace "agricultural commodity" except in the very limited context as explained.

N.J.A.C. 7:30-8.8(a)

COMMENT: This change would require all producers of agricultural products to report all pesticides upon the record of pesticide application, including non-restricted pesticides that even homeowners can obtain. The same commenter felt that this was unfair in that millions of non-agricultural homeowners or gardeners would still be using and purchasing substantial quantities of these same non-restricted pesticides with no record keeping requirements whatsoever. Many of these products are the same as those used and probably misused by homeowners on their property.

RESPONSE: The Department has carefully reviewed the provisions of this subsection in response to the comments received. A commenter noted that, under the current definition of "private pesticide applicator," the record keeping requirements of this subsection would apply to all applications of pesticides made for the production of an agricultural commodity. Under strict interpretation, this would include homeowners growing produce for their own use in vegetable gardens. This was not the Department's intent. The intent of the Department was to extend the general use record keeping requirements to all registered private applicators. This subsection has been amended accordingly.

N.J.A.C. 7:30-9.9(h)

COMMENT: In regard to the wording "the dates will be annually adjusted by the extension service," the witness expressed the thought that though these were average time frames, often the protection for beekeepers should be extended past some of the mandated dates or, in some situations, the time periods were excessive. This was due to annual fluctuations in the weather patterns and the different locations in the State of the growers.

RESPONSE: The Department agrees with this comment. The Cooperative Extension Service may annually review and amend these dates, and the person required to provide notification to the beekeepers under the provisions of N.J.A.C. 7:30-9.9(a) will be responsible for checking with the Department to verify the dates on an annual basis. A new subsection 7:30-9.9(i) has been added to include this provision in response to the comment received.

N.J.A.C. 7:30-10

COMMENT: The proposed regulations and amendments are discriminatory against the agricultural aviation industry without any corresponding benefit to the public at large. In addition, the proposed regulations constitute an impermissible and illegal usurpation of power not properly within the authority of the Department of Environmental Protection.

This is a separate section singling out aerial application for discriminatory regulation. We are not aware of a rash of "adverse effects" or the tendency to cause such upon man or the environment as stated by the Pesticide Control Act of 1971, as license to amend current regulations.

RESPONSE: The Pesticide Control Act grants the Department broad authority to regulate, among other things, the use and application of pesticides. The Department has regulated pesticide use and application since January 18, 1974. This included aerial application of pesticides. The Department has determined that N.J.A.C. 7:30-10.5 should be adopted to more effectively regulate this widespread application activity to protect the public health and the environment.

N.J.A.C. 7:30-10.5(a)

COMMENT: The Federal Aviation Act, Title 49 U.S.C. Section 1301 et seq. and the associated Title 14 of the Code

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of Federal Regulations, 14 C.F.R. 137, govern the control of aviation, pilots, equipment and agricultural aircraft operations. Accordingly, any portion of N.J.A.C. 7:30 which purports to regulate agricultural aviation or aviation in general and any New Jersey statutory authority which purports to do the same, has been preempted.

RESPONSE: It is the Department's position that federal law does not preempt New Jersey from regulating the aerial application of pesticides. N.J.A.C. 7:30-10.5(a) provides that, where there is a conflict between the Department's regulations and federal regulations concerning agricultural aircraft operations, 14 C.F.R. 137, federal law shall prevail.

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

SUBCHAPTER 1. PESTICIDE PRODUCT REGISTRATION AND GENERAL REQUIREMENTS

7:30-1.2 Definitions

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

...

"Antidote" means the most practical immediate treatment for poisoning and includes first aid treatment.

...

"Private residence" means any portion of a building or structure that is occupied exclusively for residence purposes.

...

"Significant risk of ***harm,*** injury or damage" means a potential for ***harm,*** injury or damage which is not purely remote or highly speculative, but capable of being perceived or recognized based on the location, type and amount of pesticide involved, and available scientific information about the pesticide and its effects on persons, property, and the environment.

...

"Use" means any act of handling or release of a pesticide, or exposure of man, property, or the environment to a pesticide through acts which include but are not limited to:

1. Applying a pesticide, including mixing and loading and any required supervisory action in or near the area of application;
2. Handling, transporting, or storing a pesticide or pesticide container;
3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.

...

7:30-1.3 Registration

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

(g) Before holding, using, distributing, selling, or offering for sale any pesticide in this State the applicant or registrant shall pay an annual registration fee of \$40.00 to the Department or its authorized representative for each pesticide to be registered. All such registrations shall expire on December 31 of each calendar year.

(h)-(l) (No change.)

7:30-1.6 Refusal, cancellation, or suspension of a pesticide registration

(a) The Department may refuse ***[the registration of]*** ***to register*** any pesticide, if:

1. ***[It appears to the]*** ***The*** Department ***determines*** that the pesticide does not warrant the proposed claims;

2. The pesticide is highly toxic and there is no effective antidote under the conditions of use for which such pesticide is intended or recommended;

3. The pesticide is recommended for use on food or feed crops, and the EPA has not established for such pesticide a tolerance or exemption from the need of a tolerance or a temporary tolerance or exemption from the need of a temporary tolerance; or

4. The pesticide and its labeling and other material required to be submitted for registration do not comply with the provisions of FIFRA, the Act or rules and regulations promulgated thereunder.

(b) The Department may cancel or suspend the registration of any pesticide upon determination that the pesticide or its labeling does not comply with the provisions of FIFRA, the Act or this chapter, or upon determination that continued use of a pesticide would present a significant risk of ***harm,*** injury or damage; provided, that no registration shall be cancelled or suspended until the registrant has been given a hearing pursuant to the Administrative Procedure 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.

(c) The Department, upon determination that an imminent hazard to man or the environment would result from continued distribution or use of a pesticide, may issue an order immediately prohibiting such distribution or use pending the final cancellation or suspension hearing given the registrant. Such hearing shall be scheduled on an expedited basis.

(d) If the Department refuses registration as provided in (a) above, the Department shall notify the registrant of the manner in which the pesticide, labeling, or other material required to be submitted fails to comply, so as to afford the registrant an opportunity to make the necessary corrections. If, after receipt of such notice, the registrant does not make the necessary corrections within 30 days, the Department shall refuse registration and afford the registrant a hearing pursuant to the Administrative Procedure Act and the Uniform Administrative Rules of Practice. ***In the event corrections take more than 30 days, the Department may hold the review status in abeyance for a period as determined by the Department to be adequate to comply with the mandated corrections.***

7:3-1.10 Stop sale, stop use, removal, or embargo orders

(a) When a pesticide is being held, used, distributed, sold, or offered for sale in violation of any of the provisions of the Act or this chapter, the Department may issue a stop sale, stop use*, removal, or embargo order, in writing, to the owner or custodian of any such pesticide. The owner or custodian of such pesticide shall be afforded an expedited hearing pursuant to the Administrative Procedure 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.

(b) The owner or custodian of the pesticide subject to an order issued pursuant to (a) above shall comply with the requirements of such order until the provisions of the Act and this chapter have been complied with, and the Department has issued a release, in writing, to the owner or custodian of the pesticide.

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SUBCHAPTER 2. PROHIBITED AND RESTRICTED
USE PESTICIDE LIST

7:30-2.1 Definitions

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

...

"CAS number" means the Chemical Abstract Society number.

...

["Toxicity category one pesticide" means any pesticide the label for which is required by EPA to prominently display the signal word "Danger" or the signal word "Poison" and the skull and crossbones symbol.]

["Toxicity category two pesticide" means any pesticide the label for which is required by EPA to prominently display the signal word "Warning".]

...

7:30-2.3 Restricted use pesticides

(a) The following pesticides are restricted use pesticides which can be purchased and/or used only by certified and registered responsible pesticide applicators or persons working under their direct supervision. Unless it is otherwise provided, all formulations and uses of the following pesticides are restricted use.

1. Any *[toxicity category one or toxicity category two]* pesticide if its labeling bears any restriction *[(such as "For Professional Use Only" or "For use only by service persons")]* which would cause any user who was not certified and registered, by virtue of the very fact that he was not certified and registered, to use the pesticide in a manner inconsistent with its labeling. ***Provisions of this subsection shall not apply to any pesticide classified as an antimicrobial agent the commercial applicator of which is not required to be certified and registered under the provision of N.J.A.C. 7:30-6.2(a)5 to purchase and use the pesticide.***

2. (No change.)

3. Any fumigant except:

i-iii. (No change.)

iv. Any resin strips unless so classified by the EPA as provided in 2 above.

4. Any pesticide which contains labeling instructions indicating that the pesticide is *[usable in the waters of the State]* ***intended for aquatic use*** and which contains restrictions on the use of the treated water for potable purposes, irrigation, agricultural sprays, stock watering, swimming, or the use of fish from the treated water for food or feed. If the labeling contains statements indicating that the pesticide cannot be applied to waters that are used for any of the above uses, or if there are restrictions on how close to a potable water intake the pesticide can be applied, those pesticides are also considered restricted use pesticides.

5. Any fungicides, nematocides, fumigants and related materials listed below:

CAS Number	Restricted Pesticides
7440-43-9	Cadmium products (containing salts or metal complexes)
297-97-2	0,0-diethyl 0-2-pyrazinyl phosphorothioate
534-52-1	4,6-dinitro-0-cresol and salts

131-89-5	4,6-dinitro-0-cyclohexyphenol and salts
87-86-5	Pentachlorophenol and salts—all concentrations above 5%
140-56-7	Sodium diazenesulfonate—all concentrations above 5%
76-87-9	Triphenyltin hydroxide—all concentrations above 10%
26628-22-8	Sodium Azide—all concentrations above 0.5%
7439-97-6	Any pesticide containing mercury as an inorganic or organic compound except those used as a drug as defined in N.J.S.A. 24:21-2, those used as a fungicide in the treatment of textiles and fabrics intended for continuous outdoor use, those used as an in-can preservative in water-based paints and coatings, or those used as a fungicide in water-based paints and coatings used for exterior application.
22224-92-6	Fenamiphos

6. Any herbicides and related materials listed below:

CAS Number	Restricted Pesticides
94-75-7	2,4-Dichlorophenoxyacetic acid (high volatile esters)
7775-09-9	Sodium Chlorate
93-76-5	2,4,5-Trichlorophenoxyacetic acid
50-31-7	2,3,6-Trichlorobenzoic acid and related polychlorobenzoic acids, dimethylamine salts
21725-46-2	2-2-methyl-propionitrile—all concentrations above 30%
61-82-5	Amitrole
88-85-7	Dinoseb
7784-46-5	Sodium arsenite

7. Any insecticides and related materials listed below:

CAS Number	Restricted Pesticides
57-74-9	Chlordane
62-73-7	2,2-dichlorovinyl dimethyl phosphate—all concentrations above 3% unless so classified by the EPA as referenced in 2 above.
2310-17-0	Phosalone—all concentrations above 12%
56-72-4	0,0-diethyl 0-(3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl) phosphorothioate—all concentrations above 5%
333-41-5	0,0-Diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate—all concentrations above 25%
315-18-4	Mexacarbate—all concentrations above 2%
122-10-1	Dimethyl 3-hydroxylglutaconate dimethyl phosphate—all concentrations above 1%
55-38-9	Fenthion—all concentrations above 0.5%
563-12-1	Ethion—all concentrations above 6% G; 3% all others
114-26-1	0-Isopropoxyphenyl-methylcarbamate—all concentrations above 2%; resin strips not restricted unless so classified by the EPA as referenced in 2 above.
58-89-9	Lindane (Gamma isomer of benzene hexachloride)—all concentrations above 20%
311-45-5	Paraoxon
60-51-5	Dimethoate—all concentrations above 25%
22781-23-3	Bendiocarb—all concentrations above 15%
732-11-6	N-(Mercaptomethyl)phthalimide S-(0,0-

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- dimethyl) phosphorodithioate—all concentrations above 20%
- 112-56-1 Beta-Butoxy beta'-thiocyano diethyl ether—all concentrations above 10%
- 2032-65-7 4-(Methylthio)-3,5-xylyl methylcarbamate—all concentrations above 2%
- 919-86-8 Metasystox—all concentrations above 7%
- 23103-98-2 Pirimicarb—all concentrations above 15%
- 23505-41-1 Pirimiphos-ethyl—all concentrations above 20%
- 52-68-6 Dimethyl (2,2-trichloro-1-hydroxyethyl) phosphonate—all concentrations above 15%
- 390-00-2 Aldrin
- 60-57-1 Dieldrin
- 76-44-8 Heptachlor
- 8001-35-2 Toxaphene
- 72-20-8 Endrin
- 2921-88-2 Chlorpyrifos—all concentrations above 15%
- 7440-38-2 Any inorganic arsenical pesticide not specifically covered elsewhere which has greater than 0.5 ounces of active ingredient
- 115-29-7 Endosulfan
- 86-50-0 Azinphos-methyl
- 298-04-4 Disulfoton
- 7681-49-4 Sodium fluoride

8. Any rodenticides and related materials listed below:

CAS Number	Restricted Pesticides
117-52-2	3-(alpha-acetylthiofurfuryl)-4-hydroxycoumarin—all concentrations above 3%
86-88-4	Alpha-Naphthylthiourea—all concentrations above 4%
504-24-5	4-Aminopyridine
535-89-7	2-Chloro-4-(dimethylamino)-6-methylpyrimidine
82-66-6	Diphacinone—all concentrations above 3%
7723-14-0	Phosphorus (yellow, white)
83-26-1	2-Pivalyl-1, 3-indandione—all concentrations above 3%
81-81-2	Warfarin—all concentrations above 3%
28772-56-7	3-[3-(4'-Bromo-[1,1'-biphenyl]-4-yl)-3-hydroxy-1-phenylpropyl]-4-hydroxy-2H-1-benzopyran-2-one—all concentrations above 0.01%
3691-35-8	2-[(p-Chlorophenyl)phenylacetyl]-1,3 -indandione—all concentrations above 0.2% and above.
507-60-8	Red Squill—all concentrations above 30%
1327-53-3	Arsenic Trioxide—all concentrations above 1.5% in products intended for the control of rodents.
56073-10-0	Brodifacoum

Note: Chemical Abstract Society (CAS) numbers of 7440-43-9, 7439-97-6, and 7440-38-2 are for the elemental form.

(b) Any pesticide restriction Federally imposed by the EPA shall take precedence over any restriction under the provisions of (a) above; providing, such federal restriction is more stringent than that of (a) above.

7:30-2.4 Amending prohibited and restricted-use pesticide lists

(a) The department may revise the list of prohibited and restricted use pesticides designated by the State of New Jersey;

provided that, any change in the list shall be made in accordance with the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

(b) (No change in text.)

(c) The Department shall consider the following criteria when evaluating a pesticide for placement on the prohibited or restricted use pesticide list:

1. Acute toxicity;
2. Chronic health effects, including but not limited to:
 - i. Carcinogenicity;
 - ii. Mutagenicity;
 - iii. Teratogenicity;
 - iv. Embryotoxicity;
 - v. Reproductive effects.
3. Environmental fate, including but not limited to:
 - i. Persistence;
 - ii. Bioaccumulation;
 - iii. Frequency of detection in environmental media;
 - iv. Potential for contamination of "waters of the State";
4. Pesticide use pattern(s); and
5. Pesticide regulatory history.

(d) For purposes of interpretation of (c) above, failure to evaluate all criteria or lack of definitive data in any review criterion so as to limit effective consideration in such area, shall not affect prohibition and/or restriction as determined by the department through evaluation of other criteria.

(e) When any pesticide is reclassified from general to restricted use, such restriction shall be immediate unless otherwise provided by the federal EPA for a pesticide restricted under N.J.A.C. 7:30-2.3(a)2 or unless otherwise provided by the Department in N.J.A.C. 7:30-2. The Department, at the time of reclassification, may provide a specified time period and any other condition for continued sale and/or use of the reclassified pesticide after evaluation of the criteria established in N.J.A.C. 7:30-2.4(c).

SUBCHAPTER 3. PESTICIDE DEALERS

7:30-3.1 Definitions

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

...

"Commercial pesticide applicator" means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator". Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

...

7:30-3.4 Registration

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

(f) No person shall be eligible for registration as a pesticide dealer until reaching 18 years of age.

7:30-3.8 Sale of restricted use pesticides

(a) No pesticide dealer shall distribute or sell a restricted use pesticide to an end user unless the purchaser presents a valid pesticide applicator registration.

1. For the purpose of this section, the presentation of only a pesticide operator's registration is not acceptable.

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2. (No change.)
- (b) (No change.)
- (c) No sales person or agent who distributes, sells, or offers for sale a restricted use pesticide to any person shall:

1. Misrepresent the degree of certification and registration required by such person to apply the pesticide being distributed, sold or offered for sale; or
2. Disseminate misinformation as to the correct use of the pesticide as provided in the Act and this Chapter.

7:30-3.9 Denial, suspension, or revocation of pesticide dealer documents

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for registration as a pesticide dealer;
2. Revoke a pesticide dealer registration;
3. Suspend a pesticide dealer registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice, failing to comply with provisions of the Act or this Chapter, ***or any Order issued by the Department pursuant thereto***;
2. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;
3. ***[Falsification]* *Falsifying*** or making misleading statements in the application for pesticide dealer registration;
4. Failing to keep or falsification of required records;
5. Allowing the dealer registration to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or this Chapter; or
6. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter.

7. Selling or distributing a pesticide in such a manner as to cause harm, injury or damage or a significant risk of harm, injury or damage to the public health, safety or welfare or the environment.

(c) Where the ***[department]* *Department*** acts pursuant to (a) above, the ***[department]* *Department*** shall afford a hearing pursuant to the Administrative Procedure 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.

7:30-3.10 (No change in text.)

7:30-3.11 (No change in text.)

SUBCHAPTER 4. PESTICIDE DEALER BUSINESSES

7:30-4.1 Definitions

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

...

“Commercial pesticide applicator” means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of “private pesticide applicator”. Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

...

7:30-4.2 Registration

(a) (No change.)

(b) Each pesticide outlet from which restricted use pesticides are distributed, sold, or offered for sale to end users, and each name under which such outlet operates, shall be required to be registered separately. This subsection also applies to out-of-state pesticide outlets from which restricted use pesticides are distributed, sold, or offered for sale to New Jersey end users.

(c) A location, such as the home of a salesperson or agent of a pesticide dealer business, which is different from the main location of the business with which he is associated and from which transactions, other than those specifically excluded in the definition of a pesticide outlet, are conducted, shall be considered to be a separate pesticide outlet which must be registered with the Department.

(d)-(i) (No change.)

[j] Any person selling or offering for sale a pesticide which has been reclassified from general to restricted use shall not be required to register as a dealer business to sell such pesticide, provided that all quantities sold had been in stock prior to reclassification and that not more than one (1) year has passed since the time of reclassification.]

7:30-4.4 Sale of restricted use pesticides

(a) (No change.)

(b) No person shall distribute or sell a restricted use pesticide for resale only to a retail dealer or distributor without first informing the purchaser that the pesticide being distributed or sold is a restricted use pesticide.

(c) (No change.)

7:30-4.5 Denial, suspension, or revocation of pesticide business documents

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for registration as a pesticide dealer business;
2. Revoke a pesticide dealer business registration;
3. Suspend a pesticide dealer business registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice failing to comply with provisions of the Act or this Chapter ***or any Order issued by the Department pursuant thereto***;
2. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;
3. ***[Falsification]* *Falsifying*** or making misleading statements in the application for pesticide dealer registration;
4. Failing to keep or falsification of required records;
5. Allowing the dealer registration to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or this Chapter.
6. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter.

7. Selling or distributing a pesticide in such a manner as to cause harm, injury or damage or a significant risk of harm, injury or damage to the public health, safety or welfare or the environment.

(c) Where the ***[department]* *Department*** acts pursuant to (a) above, the ***[department]* *Department*** shall afford a hearing pursuant to the Administrative Procedure 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.

7:30-4.6 (No change in text.)

SUBCHAPTER 5. PESTICIDE OPERATORS

7:30-5.1 Definitions

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

...

"Commercial pesticide applicator" means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator." Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

...

"Pesticide operator" as used in this Subchapter means both a commercial pesticide operator and a private pesticide operator.

...

"Private pesticide operator" means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible private pesticide applicator.

...

["Significant risk of injury or damage" means a potential for injury or damage which is not purely remote or highly speculative, but capable of being perceived or recognized based on location, type and amount of pesticide involved, and available scientific information about the pesticide and its effects on persons, property, and the environment.]

...

7:30-5.2 General requirements

(a) No commercial pesticide operator or private pesticide operator shall engage in, cause, suffer, allow, or permit the use or application of any pesticide without first meeting the training and registration requirements of this Subchapter unless:

1. Such person is certified and registered as a commercial pesticide applicator or private pesticide applicator; or
2. Such person is working under the direct supervision of a responsible commercial pesticide applicator or private pesticide applicator who is present at the time and place of application.

(b) Notwithstanding the responsibility of any other person or the exemption from the provisions of any other section of this Subchapter, any pesticide operator may be jointly and severally responsible for any aspects of any pesticide application in which he is involved.

(c) Persons exempt under this section from all training requirements shall not be considered to be commercial pesticide operators or private pesticide operators.

(d) No commercial pesticide operator or private pesticide operator shall supervise the use or application of any pesticide.

(e) The requirement for registration as a commercial pesticide operator shall be operative October 1, 1983. The requirement for registration as a private pesticide operator shall be operative *[October 1, 1985]* ***60 days after the effective date of this section (January 3, 1985).***

7:30-5.3 Training

(a) In order to meet the requirements for training, a pesticide operator must obtain instruction in and possess adequate knowledge of the proper use and application of pesticides.

1. The instruction must result in the pesticide operator having a working knowledge which shall include but not be limited to the following areas:

i.-vii. (No change.)

2. The instructions shall include a sufficient level of practical training to allow the pesticide operator to competently perform the functions associated with any applications in which the pesticide operator is expected to be involved.

(b) The pesticide operator must undergo training no less than annually to ascertain that his knowledge reflects the proper level for satisfactory completion of his work-related duties and significant advances in the state-of-the-art in pesticide control.

(c) Subject to the approval of the Department, the person responsible for the training of a pesticide operator shall determine the appropriate level of training needed for each pesticide operator.

7:30-5.4 Registration

(a) At the completion of training the pesticide operator must file with the Department, on forms provided by the Department, an application to register. The application must be co-signed by a certified and registered responsible pesticide applicator who was responsible for the training and shall indicate that the co-signer will be the responsible pesticide applicator for pesticide applications performed by the pesticide operator. An annual registration fee of \$5.00 must be included as an integral part of the application.

(b) (No change.)

(c) Applications for new registrations will be accepted from pesticide operators throughout the calendar year but a full year's registration fee will be required. All such registrations will expire on September 30 following the date of application, except that the Department may issue a registration for an additional year when an application is initially filed during the last three months of the registration year.

(d) The registration shall cease to be in force if the holder thereof or the co-signer of the application on which it was based terminates the supervisory relationship as defined by "under direct supervision."

1. Any pesticide operator whose registration has become void as a result of this subsection shall immediately be eligible to refile for another registration with a new co-signer.

i.-ii. (No change.)

2. Any pesticide operator whose registration has become void pursuant to this subsection shall be allowed to apply pesticides in accordance with his current registration for a period of 30 calendar days from the date of cessation if the supervisory relationship of the co-signer if the pesticide operator is applying pesticides under the direct supervision of a certified and registered responsible pesticide applicator.

(e) The registration of a pesticide operator is not transferable.

(f) A pesticide operator must notify the Department, in writing and within 30 days, if he changes his name or address or if he is no longer engaged in the application of pesticides.

(g) The pesticide operator and/or the cosigner of the application for registration must notify the Department, in writing and within 30 days, of any changes in the information contained on the application for registration.

(h) The pesticide operator must maintain his registration on his person whenever a pesticide application is performed.

(i) No person shall be eligible for registration as a commercial pesticide operator until reaching 18 years of age. No person shall be eligible for registration as a private pesticide operator until reaching 16 years of age.

7:30-5.5 Reregistration

A pesticide operator must re-register annually with the department and pay the reregistration fee of \$5.00.

7:30-5.6 Records

(a) The records of each application of pesticides made by a commercial pesticide operator must be kept by the co-signer of the commercial pesticide operator's registration application in the manner delineated in N.J.A.C. 7:30-6.8.

(b) The records of each application of pesticides made by a private pesticide operator must be kept by the co-signer of the private pesticide operator's registration application in the manner delineated in N.J.A.C. 7:30-8.8.

7:30-5.7 Denial, suspension, or revocation of pesticide operator documents

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for registration as a pesticide operator;
2. Revoke a pesticide operator registration;
3. Suspend a pesticide operator registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken ***[upon a finding that the applicant or registrant committed such act]***:

1. Refusing or, after notice, failing to comply with the provisions of the Act or this Chapter ***or any Order issued by the Department pursuant thereto***;

2. Operating in ***[a faulty, careless, or negligent]*** ***such a*** manner so as to cause harm ***[or]*** ***injury or damage*** to ***[the environment or to]*** ***persons*, property or the environment***, or a significant risk of ***harm,*** injury or damage;

3. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;

4. Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with use restrictions imposed by the Department under the authority of N.J.A.C. 7:30-10.2(a).

5. Applying any pesticide to an agricultural crop where any person other than those engaged in the application is present ***within the boundaries of the target site at the time of application***;

6. ***[Falsification]*** ***Falsifying*** or making misleading statements in the application for pesticide dealer registration;

7. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter.

(c) No person having a pesticide operator registration which has been revoked or suspended shall be allowed to register as a commercial pesticide applicator or private pesticide applicator or to apply pesticides under the direct supervision of a registered pesticide applicator who is physically present at the application location, during the time period in which the revocation or suspension is in effect.

(d) Where the ***[department]*** ***Department*** acts pursuant to (a) above, the ***[department]*** ***Department*** shall afford a hearing pursuant to the Administrative Procedure 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.

7:30-5.8 Requirement for pesticide operator certification and registration as pesticide applicators

(a) Any person registered or required to be registered as a pesticide operator working under the direct supervision of a registered pesticide applicator, who is held to be jointly or severally responsible for a violation of the Act or regulations promulgated thereunder, may be required by the Department to become a certified and registered pesticide applicator as provided in N.J.A.C. 7:30-6 or N.J.A.C. 7:30-8.

(b) Any pesticide operator required under (a) above to become a fully certified and registered applicator shall be so notified by the Department and shall have a maximum of 30 days from the date of such notice to comply.

(c) Failure to comply with (a) and (b) above will result in the pesticide operator registration being immediately suspended pending the outcome of a hearing which shall be granted the registrant upon request. Such hearing shall be scheduled on an expedited basis and shall be conducted pursuant to the Administrative Procedure 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 6. COMMERCIAL PESTICIDE APPLICATORS

7:30-6.1 Definitions

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

...

"Agricultural crop" means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

...

"Commercial pesticide applicator" means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator." Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

"Commercial pesticide operator" means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible commercial pesticide applicator.

...

7:30-6.2 General requirements; variances

(a) No commercial pesticide applicator shall engage in, cause, suffer, allow, or permit the use or application of, or supervise the use or application of, any pesticide in any category or subcategory in which he has not been certified and registered unless:

1.-2. (No change.)

3. Such person is applying pesticides by equipment other than aerial under the direct supervision of a responsible commercial pesticide applicator and where an employer-employee relationship exists between the person supervising the application and the person applying the pesticide; or

4.-5. (No change.)

6. Such person is applying wood preserving agents unless such agents have been classified as restricted use pesticides.

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

7:30-6.3 Categories

(a) Any commercial pesticide applicator who satisfactorily completes the requirements for Core certification may become certified in one or more of the following categories or subcategories:

1.-6. (No change.)

7. Industrial, institutional, structural pest control:

i.-iv. (No change.)

v. Wood preserving pest control: This subcategory includes commercial pesticide applicators using or supervising the use of ***restricted use*** pesticides to control fungi, insects, bacteria, marine borers and other wood destroying pests.

8.-11. (No change.)

(b) (No change.)

7:30-6.4 Certification

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

(f) Since there is a partial overlapping between certain categories and/or subcategories, it shall not be necessary for an applicator to become certified in certain additional categories or subcategories provided:

1. The study manual for the category or subcategory in which the applicator is actually certified covers the particular type of pesticide application in question as substantially as the manual for the category or subcategory in which the applicator would, by definition, be making the application.

2. The applicator customarily does work in the category or subcategory in which certified, with the type of application in question being supplemental to and not the sole emphasis of the work. (Example: An applicator mainly applies pesticides to forest trees for gypsy moth control and is certified in Category 2, Forest Pest Control. The applicator will not have to also be certified in Subcategory 3i, Ornamental Pest Control, when applying pesticides for gypsy moth control to ornamental trees in residential areas, since the manuals for both Category 2 and Subcategory 3i cover application for gypsy moth control similarly.)

7:30-6.5 Registration

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

(g) Rutgers University Cooperative Extension Service personnel who participate in applicator certification and/or recertification training programs shall be exempt from the fee requirements as provided in (a) above and N.J.A.C. 7:30-6.6(a).

(h) No person shall be eligible for registration as a commercial pesticide applicator until reaching 18 years of age.

7:30-6.7 Continuing certification

(a) In order to maintain his certification, the commercial pesticide applicator must meet the requirements for continuing certification as specified by the Department in N.J.A.C. 7:30-6.4. If the requirements for continuing certification are not met, the commercial pesticide applicator must again become certified in accordance with the provisions of this Subchapter.

(b) Persons registered as commercial pesticide applicators who are held to be responsible for a pesticide misuse under the provisions of the Act or this chapter, may be required by the Department to provide evidence of continued competency to apply or supervise the application of pesticides by repeating the certification requirements of N.J.A.C. 7:30-6.4.

(c) Provisions of (b) above shall be directed to the responsible commercial applicator for pesticide misuse by himself and/or for pesticide misuse by commercial applicators or commercial operators under his direct supervision.

(d) Any commercial pesticide applicator required under (b) above to become recertified shall be so notified by the Department and shall have a maximum of 30 days from the date of such notice to comply.

(e) Failure to comply with (a) through (d) above will result in the commercial pesticide applicator registration being immediately suspended pending the outcome of an expedited hearing which shall be granted the applicator upon request under the provisions of the Administrative Procedure 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.

7:30-6.8 Records

(a) A commercial pesticide applicator shall keep, for each application of pesticides made by him or under his direct supervision, a record of application containing the following information:

1. The date of application;

i. For pesticides having a reentry time of 24 hours or more date of application shall include the hour completed.

2. The place of application;

i. For applications by a commercial pesticide applicator to an agricultural crop, the place of application shall be the name and address of the farm and the specific field or land area and crop that was treated with the pesticide.

3.-6. (No change.)

(b) (No change.)

(c) All records and information required to be kept pursuant to this section shall be kept for a minimum of two years and must be immediately available upon request by the Department and by medical personnel in emergency cases. ***In non-emergency cases, medical personnel may request this information through the Department.*** These records may be kept by a business pursuant to N.J.A.C. 7:30-7.1 et seq.

(d) (No change.)

7:30-6.9 Denial, suspension, or revocation of commercial pesticide applicator documents

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for a commercial pesticide applicator registration;

2. Revoke a commercial pesticide applicator registration;

3. Suspend a commercial pesticide applicator registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice, failing to comply with the provisions of the Act or this Chapter *[,]* ***or any Order issued by the Department pursuant thereto;***

2. Operating in *[a faculty, careless, or negligent]* ***such a* manner so as to cause harm *[or]*, ***injury *or damage*** to *[the environment or to]* persons, ***property or the environment,*** or a significant risk of ***harm,*** injury or damage;**

3. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;

4. Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of N.J.A.C. 7:30-10.2(a);

5. Applying any pesticide to an agricultural crop where any person other than those engaged in the application is present ***within the boundaries of the target site at the time of application*;**

6. Failing to keep or falsification of required records;

7. ***[Falsification]* *Falsifying*** or making misleading statements in the application for a commercial pesticide applicator registration;

8. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this Chapter.

(c) No person having a commercial pesticide applicator registration which has been revoked or suspended shall be allowed to apply pesticides under the direct supervision of any registered pesticide applicator during the time period in which the revocation or suspension is in effect.

(d) Where the *[department]* ***Department*** acts pursuant to (a) above, the *[department]* ***Department*** shall afford a hearing pursuant to the Administrative Procedure 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.

7:30-6.10 Purchase of restricted use pesticides
(No change.)

7:30-6.11 Responsibility for commercial pesticide operator training

The commercial pesticide applicator co-signing the application for registration of a commercial pesticide operator, shall be responsible for the operator having obtained adequate training in the proper use and application of pesticides as required in N.J.A.C. 7:30-5.3(a).

SUBCHAPTER 7. PESTICIDE APPLICATOR BUSINESSES

7:30-7.1 Definitions

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

“Agricultural crop” means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

“Commercial pesticide applicator” means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of “private pesticide applicator”. Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

“Reentry time” means the period of time that must elapse after a field is treated with a pesticide, and before farm workers are permitted to enter to engage in an actively requiring substantial contact with treated plants, as provided in N.J.A.C. 7:30-9.10.

7:30-7.2 Registration

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

(g) Every unregistered pesticide applicator business found to be operating in the State of New Jersey shall be required to pay the registration fee as provided in (b) above for each year the unregistered business was in operation, as determined through investigation by the Department.

7:30-7.3 Records

(a) Every business required to register pursuant to the provisions of N.J.A.C. 7:30-7.2 shall keep, for each application of pesticides made by that business, a record of application containing the following information:

1. The date of application:

i. For pesticides having a reentrytime of 24 hours or more, date of application shall include the hour completed.

2. The place of application:

i. For pesticide applicator business applications to an agricultural crop, the place of application shall be the name and address of the farm and the specific field or land area and crop that was treated with the pesticide *[and, for pesticides having a reentry time of 24 hours or more, date of application shall include the hour completed]*.

3.-6. (No change.)

(b) (No change.)

(c) All records and information required to be kept pursuant to this section, or copies thereof, shall be kept for a minimum of two years at the place of business and must be immediately available upon request by the Department and by medical personnel in emergency cases. ***In non-emergency cases, medical personnel may request this information through the Department.***

(d) (No change.)

7:30-7.4 Financial responsibility

(a) Businesses required to register pursuant to N.J.A.C. 7:30-7.2 shall submit proof of financial responsibility with the application for registration to the Department and, upon obtaining a registration, shall maintain financial responsibility at all times while such registration is in effect. The financial responsibility shall meet or exceed the standards set forth below:

1. For pesticide applicator businesses which do not engage in fumigation pest control:

i. Bodily injury liability insurance:

(1) \$100,000 for each occurrence;

(2) \$300,000 in the aggregate.

- ii. Property damage liability insurance:
 - (1) \$50,000 for each occurrence.
- 2. For pesticide applicator businesses engaged, wholly or in part, in fumigation pest control:
 - i. Bodily injury liability insurance:
 - (1) \$300,000 for each occurrence;
 - (2) \$500,000 in the aggregate.
 - ii. Property damage liability insurance:
 - (2) \$300,000 for each occurrence.
- 3. As an alternative to insurance coverage, the business shall have deposited with the Department a surety bond in favor of any person who may suffer damage by reason of the operation of the pesticide applicator business. The surety bond for applicator businesses pursuant to (a)1. above shall be a minimum of \$100,000 and for applicator business pursuant to (a)2. above shall be a minimum of \$300,000, and shall be executed by a corporate surety company authorized to do business in New Jersey. The Department shall examine and approve as to adequacy all such bonds before acceptance. When the registrant ceases operation, the bond shall be returned after a period of six months following date of notice of withdrawal, provided that withdrawal shall not release the surety from liability existing hereunder at the time of the effective date of the withdrawal.

7:30-7.2 Denial, suspension, or revocation of pesticide applicator business documents

(a) The Department, when it determines that grounds exist, may:

- 1. Deny an application for an applicator business registration;
- 2. Suspend an applicator business registration; or
- 3. Revoke an applicator business registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

- 1. Refusing or, after notice, failing to comply with the provisions of the Act or this Chapter***[.] *or any Order issued by the Department pursuant thereto;***
- 2. Operating in ***[a faulty, careless, or negligent]* *such a* manner so as to cause harm ***[or]* ***, injury ***or damage*** to ***[the environment or to]* persons, ***property or the environment,*** or a significant risk of ***harm,*** injury or damage;****
- 3. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;
- 4. Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of N.J.A.C. 7:30-10.2(a);
- 5. Operating faulty or unsafe pesticide application equipment;
- 6. Applying any pesticide to an agricultural crop where any person other than those engaged in the application is present ***within the boundaries of the target site at the time of application;***
- 7. Failing to keep or falsification of required records;
- 8. ***[Falsification]* *Falsifying*** or making misleading statements in the application for applicator business registration;
- 9. Failing to submit and/or maintain adequate insurance or surety bond as provided for in N.J.A.C. 7:30-7.4; and

10. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this Chapter.

(c) The Department may deny registration of a new pesticide applicator business location or pesticide applicator business name by any person whose registration to apply pesticides has been revoked or suspended, or pending the outcome of a revocation or suspension action initiated by the Department.

(d) Where the ***[department]* *Department*** acts pursuant to (a) above, the ***[department]* *Department*** shall afford a hearing pursuant to the Administrative Procedure 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 8. PRIVATE PESTICIDE APPLICATORS

7:30-8.1 Definitions

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

...

"Agricultural crop" means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

...

"Commercial pesticide applicator" means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator." Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

...

***[Significant risk of injury or damage]** means a potential for injury or damage which is not purely remote or highly speculative, but capable of being perceived or recognized based on the location, type and amount of pesticide involved, and available scientific information about the pesticide and its effects on persons, property, and the environment.*

...

"Use" means any act of handling or release of a pesticide, or exposure of man, property, or the environment to a pesticide through acts which include but are not limited to:

- 1. Applying a pesticide, including mixing and loading and any required supervisory action in or near the area of application;
- 2. Handling, transporting, or storing a pesticide or pesticide container;
- 3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.

7:30-8.4 Registration

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

(e) No person shall be eligible for registration as a private pesticide applicator until reaching 18 years of age.

7:30-8.6 Continuing certification

(a) In order to maintain his certification, the private pesticide applicator must meet the requirements for continuing certification as specified by the Department. If the requirements for continuing certification are not met, the private pesticide applicator must again become certified in accordance with the provision of this Subchapter.

(b) Persons registered as private applicators who are held to be responsible for a pesticide misuse under the provisions of the Act or regulations promulgated thereunder, may be required by the Department to provide evidence of continued competency to apply or supervise the application of pesticides by repeating the certification requirements of N.J.A.C. 7:30-8.3.

(c) Provisions of (b) above shall be directed to the responsible private applicator for misuse by himself and/or for pesticide misuse by private applicators or private operators under his direct supervision.

(d) Any private pesticide applicator required under (b) above to become recertified shall be notified by the Department and shall have a maximum of 30 days from the date of such notice to comply.

(e) Failure to comply will result in the private pesticide applicator registration being immediately suspended pending the outcome of an expedited hearing which shall be granted the applicator upon request under the provisions of the Administrative Procedures 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.

7:30-8.8 Records

(a) A ***registered*** private pesticide applicator shall keep, for each application of a pesticide made by him or under his direct supervision, a record of application containing the following information:

1. The date of application;
 - i. For pesticides having a reentry time of 24 hours or more, date of application shall include the hour completed.
2. The place of application;
 - i. For pesticide application to an agricultural crop, place of application shall include the name and address of the farm and the specific field or land area and crop that was treated with the pesticide.

3.-5. (No change.)

(b) (No change.)

(c) All records and information required to be kept pursuant to this section shall be kept for a minimum of two years and must be immediately available upon request by the Department and by medical personnel in emergency cases. ***In non-emergency cases, medical personnel may request this information through the Department.***

7:30-8.10 Responsibility for private pesticide operator training

The private pesticide applicator co-signing the application for registration of a private pesticide operator, shall be responsible for the operator having obtained adequate training in the proper use and application of pesticides as required in N.J.A.C. 7:30-5.3(a).

7:30-8.11 Denial, suspension, or revocation of private pesticide applicator documents

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for registration as a private pesticide applicator;

2. Suspend a private pesticide applicator registration;

3. Revoke a private pesticide applicator registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice, failing to comply with the provisions of the Act or this Chapter ***or any Order issued by the Department pursuant thereto;***

2. Operating in ***[a faulty, careless, or negligent]* *such * manner so as to cause harm *[or]* *,* injury *or damage* to *[the environment or to]* persons, ***property or the environment,*** or a significant risk of ***harm,*** injury or damage;**

3. Making false or fraudulent claims through any form of written or verbal communication misrepresenting the effect of any pesticide or application methods to be utilized;

4. Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of 7:30-10.2(a);

5. Operating faulty or unsafe pesticide application equipment;

6. Applying any pesticide to an agricultural crop where any person other than those engaged in the application is present ***within the boundaries of the target site at the time of application;***

7. Failing to comply with reentry time requirements as provided in ***[7:30-9]* *7:30-9.10*** and any days to harvest interval as stated on a pesticide label(s);

8. Failing to keep or falsification of required records;

9. ***[Falsification]* *Falsifying*** or making misleading statements in the application for private pesticide applicator registration;

10. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter.

(c) No person having a private pesticide applicator registration which ***[as]* *has*** been revoked or suspended shall be allowed to apply pesticides under the direct supervision of any registered pesticide applicator during the time period in which the revocation or suspension is in effect.

(d) Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure 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.

7:30-8.12 (No change in text.)

7:30-8.13 (No change in text.)

SUBCHAPTER 9. PESTICIDE EXPOSURE ***MANAGEMENT***

7:30-9.1 Definitions

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

"Act" means the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.) as amended.

"Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

"Agricultural commodity" means any plant or part thereof, or animal, or animal product, produced by a person (in-

cluding farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animal.

"Application equipment" means any type of ground, water, or aerial apparatus or contrivance used to apply any pesticide.

"Brand" or "Brand name" or "Trade name" means the characteristic designation by words, symbols, name, number or trademark of a specific, particular pesticide or formulation thereof under which the pesticide is distributed, sold, offered for sale, handled, stored, used, or transported in the State of New Jersey.

"Commissioner" means the Commissioner of Environmental Protection in the State Department of Environmental Protection.

"Community or areawide" means any pesticide application performed on aggregate areas greater than three acres of land or water which is either part of a pesticide control program performed, or contracted for, by a governmental agency or is performed, or contracted for, by one person who has control over the use of the land to which the pesticide is applied.

"Department" means the State Department of Environmental Protection.

"Dispose of" means the final transfer of pesticides, pesticide containers or pesticide related equipment from the current possessor to a second party or place.

"Distribute" means to offer for sale, sell, barter, ship, or otherwise supply a pesticide.

"Emergency" means an occurrence which can impair the public health and safety or can cause ***harm,*** injury or damage to the environment or which presents a significant risk of ***harm,*** injury or damage.

"Environment" means water, air, land, and all plants and man and other animals living therein, and the inter-relationships which exist among these.

"EPA" means the United States Environmental Protection Agency.

"Farm worker" or "worker" means any person or persons engaged in agricultural hand labor in the field.

"Field" means any treated land area, or part thereof, upon which one or more pesticides are used for agricultural purposes.

"Label" means the written, printed or graphic matter on, or attached to, the pesticide or any of its containers or wrappers.

"Labeling" means the label and all other written, printed, or graphic matter:

1. Accompanying the pesticide at any time; or

2. To which reference is made on the label or in literature accompanying the pesticide except that it does not include current official publications of the EPA, the United States Department of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

"Ornamental" means trees, shrubs, and other plantings in and around habitations generally, but not necessarily located in urban and suburban areas, including residences, parks, streets, retail outlets, industrial and institutional buildings.

"Person" means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all

political subdivisions of this State or any agencies or instrumentalities thereof.

"Pest" means:

Any insect, rodent, nematode, fungus, weed; or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any substance or mixture of substances which the EPA does not consider to be a pesticide.

"Private ***pesticide*** applicator" means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

"Private residence" means any portion of a building or structure that is occupied exclusively for residence purposes.

"Reentry time" means the period of time that must elapse after a field is treated with a pesticide, and before farm workers are permitted to enter to engage in an activity requiring substantial contact with treated plants.

"Reportable pesticide spill" means:

1. Any spill of a termiticide inside a structure during treatment in a quantity of more than one gallon of liquid of diluent and pesticide, or more than 50 square inches of contaminated surface area at any one injection point, or more than one square yard aggregate contaminated surface area on or at the base of any interior wall, through seepage or other cause; or

2. Any spill ***inside a structure*** of any pesticide of more than one gallon liquid of any combination of pesticide and/or diluent, or dry pesticide formulations containing one pound or more of active ingredient.

3. Any spill outside a structure of any pesticide containing one pound or more of active ingredient.

"Restricted use pesticide" means any pesticide or pesticide use so classified under the provisions of N.J.A.C. 7:30-2 or so classified by the Administrator of the United States Environmental Protection Agency.

"Service container" means any container, other than the original labeled container of a registered pesticide provided by the registrant which contains the original material, that is utilized to hold, store or transport a pesticide concentrate or a pesticide use-dilution preparation.

"Service vehicle" means any motorized conveyance owned or operated by any person registered or required to be registered by the Department to apply or supervise the application of pesticides, and used to hold and/or transport a pesticide from any place to an application location; except the following:

1. Vehicles used to hold and/or transport pesticides by private pesticide applicators' providing, the vehicles are operated solely within the boundaries of property owned or controlled by the private applicator;

2. Vehicles used to hold and/or transport a pesticide to an application location which is owned or controlled by a private pesticide applicator performing or supervising the pesticide application; providing, the pesticide being held and trans-

ported is wholly contained within the final holding tank from which the application will be made; or

3. Vehicles not normally and customarily used in business operations to hold and/or transport pesticides to an application location, providing:

- i. The pesticide is transferred at the application location to a vehicle subject to the service vehicle requirements;
- ii. The person operating such vehicle making the delivery and transfer does not apply *or directly supervise the application of* the pesticide; and
- iii. The maximum quantity of pesticide being transported is five gallons liquid or 50 pounds dry formulation.

["Significant risk of injury or damage" means a potential for injury or damage which is not purely remote or highly speculative, but capable of being perceived or recognized based on location, type and amount of pesticide involved, and available scientific information about the pesticide and its effects on persons, property, and the environment.]

"Toxicity category one pesticide" means any pesticide the label for which is required by EPA to prominently display the signal word "Danger" *or* ***and may be additionally required to display*** the signal word "Poison," and to show the skull and crossbones symbol.

"Under direct supervision" means under the instructions and control of another person who is responsible for actions taken and who is available if and when needed, even if not physically present.

"Use" means any act of handling or release of a pesticide, or exposure of man, property, or the environment to a pesticide through acts which include but are not limited to:

1. Applying a pesticide, including mixing and loading and any required supervisory action in or near the area of application;

2. Handling, transporting, or storing a pesticide or pesticide container;

3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.

"Waters" or "waters of the State" means the ocean and its estuaries, all springs, streams, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State or subject to its jurisdiction.

"When unattended" means a situation wherein the person or a knowledgeable employee of the person possessing a restricted use pesticide or container contaminated by residues of restricted use pesticides either is not present at the storage site or is present but is so located that he cannot immediately detect and respond if any unauthorized second party enters the storage site.

7:30-9.2 Community or areawide mosquito or fly applications

(a) No person shall apply any pesticide on a community or areawide basis for the control of larval or adult forms of mosquitoes and/or flies (in the Order Diptera) unless the application is approved under the Department's mosquito permit program.

(b) The provisions of this section do not apply to:

1. Applications for agricultural purposes; or
 2. Programs conducted pursuant to the provisions of the Mosquito Extermination statutes (N.J.S.A. 26:9-1 et seq.)
- (c) All mosquito and fly control applications must conform to the applicable Guidelines of the New Jersey Agricultural Experiment Station (Rutgers University).

(d) Any person administering a community or areawide mosquito control program must contact and coordinate his

program with any county mosquito control agency which exists in the county in which the application is to be made.

(e) A \$5.00 fee may be charged for each permit.

7:30-9.3 Aquatic use permits

(a) No person shall apply an aquatic pesticide to any waters of the State without having obtained approval for an aquatic application from the Department prior to the proposed date of application.

(b) An approval is not required if the pesticide used is not a restricted use pesticide as specified by N.J.A.C. 7:30-2.3(a)4.

(c) An approval shall not be required if the application is to waters of the State which are not used as a source of potable water and:

1. The application is made to waters which have no outflow and which are bounded by land wholly owned or rented, and controlled, by one person;

2. The application is made for the control of mosquitoes or flies and the application procedure requires approval pursuant to the provisions of ***N.J.A.C. 7:30-9.2*(a) *above]*** or ***the application is made*** by the appropriate lead agency operating under the provisions of the Mosquito Extermination Statutes (N.J.S.A. 26:9-1 et seq.); ***or***

[3. The application is made to sanitary or storm sewers owned and maintained by any governmental body of this State or any agencies or instrumentalities thereof if the application is made by a properly certified and registered employee or contractor of said governmental agency; or]

[4.]*3. The application is made to drainage ditches with no water flow which are not used for any other purpose besides drainage.

(d) Applications for approval of an aquatic application must be made on forms supplied by the Department at least 21 days prior to the proposed application date.

1. Any information requested on the form must be submitted.

2. The Department may request any pertinent additional information which it deems necessary to evaluate the application.

3. The Department may require the submission of a report addressing the effectiveness of the treatment and any environmental effects as a condition for approval. The person performing the application shall submit such information to the Department at the time and in the format as specified on the approved aquatic pesticide application form.

4. The applicant must notify the Department of any proposed changes in the application and receive approval for such changes prior to the application.

(e) Failure to submit any requested information or the falsification of any information may result in the denial or revocation of an aquatic application approval; the aforementioned shall not constitute the only reasons for the denial or revocation of an approval.

(f) A \$5.00 fee may be charged for each permit.

(g) The Department may exempt any person from the formal application provisions of (d) above if the Department determines that such person has already satisfied the requirements necessary to obtain a permit.

(h) The Department will respond to any application for approval of an aquatic pesticide application within 21 days after the Department receives the information deemed necessary to evaluate the application.

7:30-9.4 Storage of pesticides

(a) Restricted use pesticides and containers contaminated by residues of restricted use pesticides shall, when unattended, be stored in a secure, locked enclosure. Such an enclosure shall bear prominently displayed warnings in English and any other language or languages as may be designated by the Department to reflect the ethnic majority of the local geographical area in which the storage area is located.

(b) Any person who stores any pesticide must maintain a list of the pesticides stored or likely to be stored during the calendar year and must notify the local fire department of the location of the storage area; provided that the provisions of this subsection shall not apply to individuals who are storing pesticides for their personal use on their private residence or persons who are storing pesticides for less than seven calendar days at loading or application sites in connection with their use.

1. The list must be updated annually.

2. The list must be kept at a location which is separate from the actual storage site.

(c) No person shall store restricted use pesticides in a building wholly or partly occupied as a private residence unless:

1. The actual storage area, such as a garage, is a structurally separate room for those commonly used as living areas of the residence, and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the living areas of the residence; and

2. In the case of a multi-family private residence, the location of the storage area does not present a significant risk of ***harm,*** injury or damage to residents in the building and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the living areas of the residence.

(d) No person shall store restricted use pesticides in a building wholly or partly occupied as a commercial establishment or institution unless:

1. The actual storage area is a structurally separate room from those occupied as work areas and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the occupied areas of the building; and

2. In the case of a multi-unit commercial establishment or institution, the location of the storage area does not present a significant risk of ***harm,*** injury or damage to occupants or employees in the building and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the occupied areas of the building.

(e) The storage of any restricted use fumigant as specified in N.J.A.C. 7:30-2.3(a)3. in a multi-family private residence, or multi-unit commercial establishment or institution is considered to present a significant risk of ***harm,*** injury or damage and is prohibited.

(f) No person shall store or transport pesticides in any service vehicle unless:

1. The service vehicle has posted thereon prominently displayed signs on at least two sides of the vehicle, which clearly identify the vehicle as containing pesticides or which clearly identify the vehicle as being a pest control service vehicle*. **Lettering on signs shall be a minimum of three inches high*;**

2. All containers smaller than five gallons are securely stored in such a manner as to be resistant to being spilled or directly bumped by other containers;

3. Glass containers of any size are securely padded to avoid breakage;

4. Five gallon or larger containers are tightly braced or secured to a structural part of the service vehicle such as to the side, to prevent or reduce movement resulting from a sudden stop;

5. The service vehicle is provided with a supply of an absorbent material to soak up ***[any]*** spills which may occur and a shovel to help contain the spill;

6. The service vehicle is equipped with a proper fire extinguisher;

7. The pesticides are stored in a compartment separate from the driver, such as the bed of a pick-up truck or a van equipped with a partition to limit movement of the pesticide containers. Provisions of ***[this subsection]*** ***N.J.A.C. 7:30-9.4(f)(7)*** shall be operative ***[October 1, 1985]*** ***90 days after the effective date of this section (February 2, 1986).***

8. All pesticide containers or any pesticide contained in portable application equipment, such as hand-held pressurized tank sprayers, are locked or secured to the vehicle in such a manner as to prevent removal by unauthorized persons, when such container or application equipment is located at an open, accessible area on the service vehicle when unattended; and

9. The hatch or door on any service vehicle tank containing a pesticide is equipped with a cover that will prevent spillage when the vehicle is in motion.

7:30-9.5 Containers and container labeling

(a) No person shall store, transport, or otherwise possess any pesticide if part or all of its registered label or labeling is missing, obscured, altered, unreadable or otherwise damaged beyond use or recognition. The provisions of this subsection shall not apply to pesticides in service containers, pesticides contained in application equipment, pesticides in the process of manufacturing or formulating, or pesticides in the possession of public officials of this State or Federal government while engaged in the performance of their official duties in administering State or Federal pesticide law.

(b) No person shall store, transport, or otherwise possess any pesticide in any service container unless the service container has attached to it a copy of the registered label that represents the pesticide contained therein or a readable label with the following information:

1. Brand or trade name;

2. EPA Registration Number;

3. Name and percentage of active ingredients in the service container; and

4. Appropriate signal word; that is, Danger-Poison, Warning, or Caution.

(c) No person shall place or keep any pesticide in any container commonly used for food, drink, or household products.

(d) No person shall use or otherwise possess any pesticide in any rodent control box unless:

1. The bait box is secured against tampering ***when placed in areas accessible to pets or persons under 18 years of age*;**

2. The bait box has attached to it or contained therein as part of the actual packaging of the pesticide, a copy of the registered label of the pesticide; or

3. The bait box has attached to it a readable label with the following information about the pesticide contained therein:

i. Brand or trade name;

ii. EPA Registration Number;

iii. Name and percentage of active ingredients in the bait box; and

iv. Appropriate signal word, that is, Danger-Poison, Warning, or Caution.

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(e) For purposes of interpretation of (d) above, a bait box shall be considered secured against tampering when:

1. It has met the standards for tamper proof/tamper resistant bait boxes used by the EPA;
2. The bait box containing the pesticide is in a secure storage area; or
3. The bait box is at the actual physical location and under the direct observation of a pesticide applicator.

7:30-9.6 Disposal

(a) No person shall dispose of pesticides, pesticide containers, or equipment that holds or has held a pesticide in a manner that causes harm or injury to persons or the environment, or a significant risk of *harm,* injury or damage.

(b) No person shall dispose of pesticides, pesticide containers, or equipment that holds or has held a pesticide in a manner that is in violation of State or Federal law.

7:30-9.7 Pesticide application and safety equipment

(a) No person shall apply a pesticide unless the application equipment is properly maintained.

(b) No person shall apply a pesticide unless the application equipment is properly calibrated.

(c) All persons having employees who use, apply, transport, or otherwise handle any pesticide shall make available to such employees any necessary or appropriate safety equipment in good working order and shall train such employees in the proper operation of such safety equipment.

7:30-9.8 Notification: community or areawide applications

(a) No person shall apply any pesticide on a community or areawide basis unless prior notification of the proposed application has been given to persons residing in the vicinity of the proposed target site.

1. The notification shall be made through advertisement in at least two newspapers having the greatest likelihood of informing the public within the area of application.

2. The newspaper notification must be given a maximum of 60 days and a minimum of seven days prior to the proposed application date.

3. The notification shall contain at least:

- i. The proposed application date(s);
- ii. The location of the application;
- iii. The name, address, and registration number of the applicator business or the responsible pesticide applicator associated with the application;
- iv. The brand name and active ingredients of the pesticide(s) to be used;
- v. Application equipment to be used; and
- vi. The name, address and phone number of a person who may be contacted and is responsible for supplying updated information on the advertised pesticide applications to those persons requesting it.

4. Upon the request by a person residing in the vicinity of the proposed target site, to a person designated pursuant to (a)3vi above, such designated person shall provide, at a minimum, the following information at least 12 hours prior to the application, except that if a reasonable attempt to provide notice is unsuccessful, an attempt to notify such person, by telephone, shall be made immediately prior to the application.

- i. The actual time and date of application;
- ii. The actual pesticide to be applied including the EPA registration number; and
- iii. Any precautionary statement(s) on the product's Federal registered label.

5. The person designated pursuant to (a)3vi above shall maintain a record of all telephone calls, attempted the completed, with persons requesting information referred to an (a)4 above, and a file of related correspondence. Such records and files shall be made available to the Department upon request. The minimum information required to be kept on the call record shall include:

- i. Name and phone number of the person contacted; and
- ii. The time and date of the call.

6. The person making the application subject to the notification requirements shall keep a record of the newspaper in which the advertisement was placed and the dates published. This information shall be made available to the Department upon request.

(b) The provisions of this section shall not apply to any pesticide application which is made for the purpose of producing an agricultural commodity, mosquito larviciding applications, or the application of granular formulations in nonresidential areas.

(c) A waiver from the provisions of this section may be granted by the Commissioner, at his discretion, for the purpose of controlling emergency outbreaks of pests.

7:30-9.9 Notification to apiarists (beekeepers)

(a) No person shall make an outdoor application of a pesticide product which has information on its label or labeling noting that the product is toxic to bees unless such person first notifies, at least 36 hours prior to the application, each apiarist who:

1. Desires notification;
2. Maintains an apiary which is located within one-half mile of the target site; and
3. Has been registered with the Department by March 1 of the calendar year in which the applications subject to the notification requirements of this section will occur.

i. The Department may charge a \$5.00 fee to offset its registry cost.

(b) The notification must include the following information:

1. The intended date of the application;
2. The approximate time of the application;
3. The brand name and active ingredient of the pesticide to be applied;
4. The location of the land on which the application is to be made; and
5. The name and certified pesticide applicator registration number of the responsible pesticide applicator.

(c) The Department may alter the interval of time needed for notification if any person can demonstrate to the satisfaction of the Department that an emergency situation has occurred and an immediate application is required to control a sudden and unexpected pest infestation, but time does not reasonably allow the giving of an advance 36-hour notice; provided, however, that notice of emergency applications shall be given to the apiarist himself as soon as reasonably possible before or after the application.

(d) If the owner or operator of an apiary does not choose to move, cover, or otherwise protect the apiary, the application may be made without delay; provided that such application complies with the pesticide labeling and any provisions of the Act or any rules and regulations promulgated thereunder.

(e) The provisions of this section shall not apply to any person using a pesticide on an aggregate area less than three acres; provided that the application is not made with hydraulic

spraying equipment operating at a rate greater than 300 psi and 10 gpm, airblast sprayers, or aerial equipment.

(f) Any person required to notify apiarists pursuant to the provisions of (a) above shall not be responsible for notifying any apiarist who cannot be notified because:

1. The Department failed to provide information deemed necessary by the Department for such notification; provided, that the person required to notify the apiarist requested the information from the Department at least two weeks prior to the application date; or

2. The person required to notify the apiarist was unable to contact the apiarist, providing at least three attempted telephone contacts were made between the hours at 9:00 A.M. and 10:00 P.M., at least one of which shall be made after 6:00 P.M., the calls being a minimum of one hour apart, on the last day before the 36-hour notification limit.

(g) If the applicant date is changed so that the application will not occur on the intended date specified in the original notification of application but will be conducted during the next consecutive day, notification must be given to the individual apiarist as soon as reasonably possible but not later than 10:00 P.M. the night prior to the new application date.

(h) The provisions of this section shall not apply to any pesticide application which is made for agricultural purposes, except to the crops within the dates and/or stage as stated below:

1. Apples	April 15 to May 15
2. Pears	April 15 to May 15
3. Strawberries	April 15 to May 15
4. Blueberries	April 15 to May 15
5. Cranberries	June 15 to August 15
6. Holly	June 1 to June 30
7. Vine Crops (Cucurbits)	June 1 to August 31
8. Sweet Corn	Flowering Stage

(i) The dates in (h) above may be annually adjusted by the Cooperative Extension Service of Rutgers University as determined by seasonal variations, subject to the approval of the Department. These adjusted dates shall be kept on file at the Office of Pesticide Control and shall become effective upon publication in the New Jersey Register. Applicators required to notify apiarists under the provisions of this section shall be responsible for ascertaining the correct dates from the Office of Pesticide Control.

7:30-9.10 Farm worker safety

(a) Unless exempted from such requirements as provided in (l) below or, a longer reentry time is designated by this section or stated on the pesticide label, any farm worker shall not be permitted to enter any field treated with a pesticide until the pesticide sprays has dried or the pesticide dust has settled.

(b) Pesticides classified as EPA toxicity category one pesticides shall have a reentry time of at least 24 hours, except as otherwise provided in this section.

(c) A 48-hour reentry time applies after each application of a pesticide containing one of the following ingredients:

Bidrin	Methidathion (Supracide)
Carbophenothion	Methyl Parathion
(Trithion)	Mevinphos (Phosdrin)
Demeton (Systox)	Parathion
Disulfoton (Di-Syston)	Phorate (Thimet)
Endosulfan (Thiodan)	Phosphamidon
Endrin	TEPP
Ethion	
Metasystox-R	

(d) When more than one pound ***active ingredient*** per acre of parathion, methyl parathion, or EPN is applied singly or in combination to any plant, a 14 day reentry time applies.

(e) Any restriction against workers entering treated fields which appears on a label for a pesticide or any reentry time for a pesticide established by the EPA, providing such restriction or reentry time is more stringent than those of this section, shall take ***[precedence]* *precedence*** over the provisions of this section.

(f) Workers who might reasonably be anticipated to unknowingly enter an area being treated or which has been treated with a pesticide for which the reentry time has not expired shall be warned orally in English. When workers do not understand English, the oral warning shall be in ***[a language understood by]* *the primary language of*** such workers.

(g) When any pesticide having a reentry time greater than seven days is applied to a field, the posting of warning signs is required as follows:

1. Warning signs shall be posted at the usual points of entry to the field.

2. When treated fields requiring posting are adjacent to a public right-of-way and are unfenced, warning signs shall be posted at each corner of the field and at intervals not exceeding ***[6700]* *600*** feet in addition to the normal points of entry.

(h) The warning signs posted under the provisions of (g) above shall:

1. Be of such durability and construction that they will remain clearly legible for the duration of the reentry time.

2. Be of such size that the word "Danger" is readable and ***[the skull and crossbone symbol]*** clearly visible at a distance of 25 feet and will be printed in English and a second language of the ethnic group usually employed as farm workers, substantially as follows:

Danger

[Place skull and crossbone symbol here]

(name of pesticide)

[Do not enter until]

[Grower's name]

Treatment date

Reentry date

3. Not be posted unless a pesticide application has begun or is scheduled within the next 24 hours.

4. Not be removed during the reentry time.

5. Be removed within five days after the end of the reentry time and before workers are allowed to enter to engage in an activity requiring substantial contact with treated plants.

(i) Workers who might reasonably be anticipated to enter a field being treated or which has been treated with a pesticide having a reentry time of ***[more than]* 24 hours *or more*** shall be warned by the posting of a sign on a bulletin board at ***[all]* *the* *[points]* *point(s)*** where the workers ***[usually]* assemble for instructions. *The bulletin board shall be visible and available to farm workers at this assembly point.***

1. Posted warnings shall clearly designate the treated field and the reentry time for such field.

(j) The persons responsible for compliance with the provisions of (a) to (i) above shall be:

1. The owner or lessee of the field being treated; and

2. The responsible private pesticide applicator for the application of the pesticide, providing the application is made by an applicator licensed or required to be licensed under the provision of N.J.A.C. 7:30-8.

(k) ***Any* *[Commercial]* *commercial*** pesticide ***[applicators]* *applicator*** and ***[or]* pesticide applicator**

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[businesses] ***business*** performing any application of a pesticide having a reentry time subject to the provisions of this section, except (a) above shall, prior to the application, *[inform]* ***notify*** the owner or lessee ***[of]* ***responsible for***** the field being treated of the reentry time.

(l) The provisions of this section shall not apply to:

1. Mosquito abatement treatments and related public pest control programs;
2. Greenhouse treatments which are applied in accordance with labeling directions and restrictions;
3. Livestock and other animal treatments which are applied in accordance with labeling directions and restrictions;
4. Treatment of golf courses and similar non-agricultural areas which are applied in accordance with labeling directions and restrictions; and
5. Applications incorporated in the soil by mechanical means and in accordance with labeling directions and restrictions.

(m) The provisions of this section shall be operative 60 days after the effective date of the section (January 3, 1986).

7:30-9.11 Reporting of pesticide spills

(a) Any registered pesticide applicator, or any registered pesticide applicator business, or any person required under the provisions of the Act and subchapters 6, 7, ***[and]* ***or*** 8** to be a registered applicator or applicator business, shall ***[inform]* ***notify***** the Department of any reportable pesticide spill occurring under such person's direct supervision and/or direct observation and shall provide the following information:²

1. The name of the pesticide applicator;
 2. The name of the applicator business, if any;
 3. The name of the property owner or operator;
 4. The location of the incident;
 5. The name and EPA registration number of the pesticide;
- *[and]***
6. The estimated amount of pesticide involved ***[.]* ***; and*****
 7. **The corrective action taken.***

(b) The report shall be made to the Department ***[no later than the end of the next working day]* ***immediately***** ***[following the date of occurrence]*** and may be made by ***[either]* telephone ***[certified mail.]* ***to the Office of Pesticide Control or the Department Hotline at 609-292-7172.****** **A written report of the pesticide spill, by the person responsible for the report pursuant to (a) above, shall be mailed to the Department within ten days of the date of occurrence.***

(c) ***[In the event of a telephone report of a pesticide spill, the]* ***The***** Department shall maintain a log dedicated to recording ***[these]* reports ***made pursuant to (a) and (b) above***** and shall immediately enter such ***[report]* ***reports***** upon receipt.

(d) Any pesticide applicator and/or pesticide applicator business shall be jointly and severally responsible for the reporting of a pesticide spill as required by this section.

SUBCHAPTER 10. PESTICIDE USE

7:30-10.1 Definitions

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

...

"Agricultural aircraft operation" means the operation of an aircraft for the purpose of applying any pesticide directly

affecting agriculture, horticulture, forest preservation, or for any other pest control operation.

...

"Agricultural crop" means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

...

"Aircraft" means a weight-carrying structure for navigation of the air that is supported either by its own buoyancy or by the dynamic action of the air against its surfaces and includes either fixed wing or rotary-wing aircraft.

...

"Basement" means any accessible space under a structure, wholly or partly below the surface of the ground, that is greater than three feet in height and contained by foundation walls.

...

"Community or areawide" means any pesticide application performed on aggregate areas greater than three acres of land or water which is part of a pesticide control program administered by a governmental agency or which is contracted for or performed by one person who has control over the use of the land to which the pesticide is applied.

"Crawlspace" means any accessible space under a structure that is three feet or less in height and contained by foundation walls.

...

"Emergency" means an occurrence which can impair the public health and safety or can cause ***harm,*** injury or damage to the environment or which presents a significant risk of ***harm,*** injury or damage.

...

"F.A.R.-137" means Federal ***[Aviation Regulations Volume VII, Part 137,]* ***aviation regulations***** relating to agricultural aircraft operations ***, Title 14 Code of Federal Regulations part 137.***

*****Low pressure injection" means the application at 25 psi or less pressure at the pump or, the minimum amount of pressure required for the termiticide to clear the hose at the nozzle where 25 psi is insufficient.***

...

"Operation SAFE" ***[mans]* ***means***** Self-regulating Application and Flight Efficiency, a program sponsored by the National Agricultural Aviation Association to improve agricultural aircraft operation by analysis of aerial spray deposition patterns and use of this information to calibrate such aircraft for the most effective placement of pesticides on a target site.

...

"Persistent pesticide" means any pesticide, or its metabolites of equal or greater toxicity, which will be present in the environment beyond one year from the date of application.

...

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"Pesticide spill" means any intentional or unintentional action or omission resulting in the releasing, discharging, leaking, pumping, pouring, emitting, emptying, or dumping of any pesticide to any location which is not a labeled and intended site.

"Plenum air space" means any space under a structure which acts as an air circulation chamber for air circulated throughout the structure.

...

"Psi" means pounds per square inch.

"Reportable pesticide spill" means:

1. Any spill of a termiticide inside a structure during treatment in a quantity of more than one gallon liquid of diluent and pesticide, or more than 50 square inches of contaminated surface area at any one injection point, or more than one square yard aggregate contaminated surface area on or at the base of any interior wall, through seepage or other cause; or

2. Any spill ***inside a structure*** of any pesticide of more than one gallon liquid of any combination of pesticide and/or diluent, or dry pesticide formulations containing one pound or more of active ingredient.

3. Any spill outside a structure of any pesticide containing one pound or more of active ingredient.

...

"Retreatment" means the reapplication of a pesticide, whether or not it is the same concentration or formulation as applied initially, to a structure or any part thereof, provided the application is for the control of the same pest as initially treated.

****"Right of way" means the surface of a paved or unpaved road and its adjacent shoulders, whether paved or unpaved.***

"Rodding" means the application of a pesticide by means of the ***[verticle]* *vertical*** or horizontal insertion of section treating rods or subslab injectors into the soil to a depth of at least four inches when the injection site is visible ***[and]* ***, ***beneath the soil surface when the injection site is not visible to the applicator, as when treating an inaccessible sub-floor area from the outside *[*] **, and beneath slab on grade construction.***

"Sandy soil" means soil containing 70 percent or more of sand particles and 0-30 percent of any combination of silt, clay, and/or other soil material.

["Significant risk of injury or damage" means a potential for injury or damage which is not purely remote or highly speculative, but capable of being perceived or recognized based on the location, type and amount of pesticide involved, and available scientific information about the pesticide and its effects on persons, property, and the environment.]

"Structure" means any building or part thereof, including outside extensions such as patios, which are included as sites to which a pesticide is to be applied.

"Subterranean application" means the placement of any pesticide:

1. Under or adjacent to structures by trenching;
2. Under slabs or under or within six inches of foundation walls by rodding; or
3. Within the interior voids of foundation walls.

...

"Termiticide" means any pesticide labeled, designed, or intended for use in preventing, destroying, repelling or mitigating termites.

"Trench" or "Trenching" means the application of a pesticide by means of the excavation of a narrow ditch and the application of the pesticide into the ditch. It may also mean treatment of successive layers of the excavated soil as it is replaced into the trench. A trench shall be ***[a maximum of ten inches wide at the surface.]* *as wide as necessary to effectuate treatment, but in no case may the layer of pesticide treated soil extend more than ten inches horizontal linear distance from the structural wall.***

7:30-10.2 Restriction of pesticide use

(a) Upon determination that a specific use of any pesticide or group of pesticides consistent with the Federal registered label or labels presents a significant risk of ***harm,* injury or damage**, the Department may place restrictions on such use of the pesticide or group of pesticides as deemed necessary by the Department.

(b) All applications performed with any pesticide on which the Department has imposed restrictions as authorized by (a) above, must be done in accordance with both the pesticide label directions and any additional restriction. If the Federal registered label is revised by EPA to be more stringent than the restrictions imposed by the Department, then such amended more stringent label shall take ***[precedent]* *precedence,*** consistent with effective dates of such more stringent requirement as may be provided by the EPA.

7:30-10.3 Pesticide use and/or application

(a) No person shall use or apply a pesticide in a manner inconsistent with its Federal or State registered label or labeling or restrictions as provided for in this Chapter.

(b) No person shall transport, handle, store, mix or load any pesticide or pesticide container in a manner that causes harm ***[or]* ***, ***injury *or damage*** to persons *****, **property*** or the environment, or a significant risk of ***harm,* injury or damage**.

(c) No person shall apply pesticides in a manner that causes ***[damage to non-target sites, harm or injury to persons]* *harm, injury or damage to persons, property*** or the environment, or a significant risk of ***harm,* injury or damage**.

(d) No person shall directly apply any pesticide to a non-target site.

(e) No person shall make any application of a pesticide unless he takes reasonable precautions, before, during and after the application, to minimize exposure of individuals to the pesticide and insure the safety of any individuals necessarily exposed. Such precautions ***[may include]* *shall include, but not be limited to*** transmittal from the applicator to the exposed and/or potentially exposed individual of precautionary label statements relevant to such individuals.

(f) No person shall make an application of a pesticide to a target site in such a manner or under such conditions that drift or other movement of the pesticide, which is avoidable through reasonable precautions, infringes on a non-target site.

(g) No person shall clean or rinse containers or application equipment which holds or has held a pesticide in a manner that causes harm ***[or]* ***, ***injury *or damage*** to persons *****, **property*** or the environment, or a ***significant*** risk of ***harm,* injury or damage**.

(h) No person shall add water to any pesticide handling, storage, or application equipment via a hose, pump, or other equipment unless such hose, pump, or other equipment is fitted with an effective valve or device to prevent backflow of pesticides or liquids containing pesticides into sater supply systems, streams, lakes, other sources of water or other areas;

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except that such backflow devices or valves are not required when the hose, pump, or other equipment is not allowed to contact or fall below the level of the liquid in the handling, storage, or application equipment to which water is being added and no other possible means of establishing a back-siphon or backflow exists.

(i) No person shall mix or apply or use a pesticide unless a readable copy of the registered label for the pesticide which is being mixed or applied is available at the application or mixing site.

(j) No person shall apply or use pesticides on a field or any other area used for agricultural purposes when persons other than those involved in the application or evaluation of the applied pesticide are ***[in the area]* *within the boundaries of the target site*** to which the pesticide is being applied; unless such persons have appropriate protective clothing and/or equipment as required by the labels or labeling of the pesticides being applied.

(k) No person shall perform a community or areawide pesticide application for gypsy moth control between 7:30 and 8:30 A.M. within two miles of a school including part or all of grades K through 8 and within two and one-half miles of a school including part or all of grades 9 through 12. Provisions of this subsection shall not apply on those days when a school is not in session.

(l) No person shall apply a community or areawide application of a pesticide product, which has information on its label or labeling noting that the product is toxic to bees, on hardwood tree species within one mile of a commercial blueberry field during the period April 15 through May 31 unless:

1. The applicator has received written permission to perform the application from all blueberry growers located within the one mile distance.

7:30-10.4 Restrictions on use of termiticides

(a) No person shall make an application of a pesticide for control of termites unless at least one applicator certified and registered in the termite subcategory as described in N.J.A.C. 7:30-6.3(a)7ii is present at the application location for the duration of the application.

(b) No person shall apply any termiticide without first pressurizing the application equipment and inspecting for leaks, including but not limited to observation of the tank, pump, hose, fittings, and injection apparatus. Any leak detected during this inspection shall be repaired prior to starting the application. If any leaks are detected during the application, the application shall immediately cease until the leak has been repaired and the spill soaked up with an absorbent material. Provisions of N.J.A.C. 7:30-10.8 may also apply.

(c) All pressurized termiticide application equipment must be equipped with a properly operating pressure gauge, accurate to within plus or minus 5 p.s.i. Provisions of this subsection do not apply to hand-held pressurized tank type sprayers which may be used for control of swarming termites with pesticides labeled for this use.

(d) No person shall add water to any termiticide application equipment unless adequate provision is made for prevention of backflow as stated in N.J.A.C. 7:30-10.3(h).

(e) When treating a structure with a termiticide, hoses acting as the conduit between the tank holding the termiticide and the injection apparatus shall be routed through the structure in the manner most likely to minimize the potential for contamination should a hose rupture during treatment. Whenever possible, keep hoses outside of the structure being treated.

(f) No organo-chlorine termiticide may be sprayed onto any interior surface exposed to the air or injected into wood structural elements in any post-construction termite application.

(g) No person shall make a subterranean application of a termiticide to soil along the exterior of a foundation wall by rodding or trenching unless:

1. The surface of the treated soil is covered with at least one-half inch of untreated soil, except in the erosion prone areas as provided in 4. below.

2. When backfilling a trench with soil removed prior to starting the application, the final layer of backfill is not added until all the termiticide puddles have been absorbed into the bottom of the trench.

3. Visible holes, cracks, and other above grade surface openings in the foundation wall which extend below the level of the outside grade are filled with mortar or other suitable material to the extent feasible prior to the application to prevent infiltration of pesticides into basements or crawlspaces.

4. Soil in areas along a foundation obviously prone to erosion, such as soil immediately adjacent to a gutter downspout, shall have treated soil covered with enough untreated soil to prevent the erosion from reaching the treated layer, but in no case less than two inches of untreated soil.

5. Provisions of this subsection shall not apply when the soil removed by trenching is treated away from the site as provided in (p)5iv below except coverage with at least one-half inch or two inches of untreated soil is required as in 1. and 4. above.

(h) Voids in foundation walls may be left untreated when deemed appropriate, in the experience of the applicator and after review of the structure and evidence of damage or infestation therein, to effect a successful treatment. Upon selection of this option, with subsequent discovery of continued infestation necessitating treatment of the voids, treatment shall be performed consistent with label directions and the provisions of (i) below.

(i) No person shall make an application of a termiticide into voids of foundations unless done pursuant to the following restrictions listed by foundation type:

1. Hollow block, brick, and ***[title]* *tile*** foundations shall:

i. Be capped at the top of the foundation with cement, mortar, or other suitable material in such a manner as to completely seal the opening;

ii. Have all visible holes, cracks, and other openings sealed to the extent feasible prior to treatment; and

iii. Have any paneling or other wall covering, as in the case of a finished basement, removed prior to treatment for inspection and sealing as in lii above or, have a member of the termite application crew inside the basement during treatment observing for evidence of leaks. If a leak is observed by such crew member, application shall immediately cease, the spill be absorbed, the paneling or other wall covering removed, and any visible holes or cracks sealed prior to continuing treatment. If this second option is selected, other clean-up procedures, to be determined by the Department when discovered or reported pursuant to N.J.A.C. 7:30-10.8 may be required in addition to absorption of the termiticide.

2. Rubble and stone foundations shall:

i. When the mortar is in good condition, have test holes drilled, any of which reaching voids may be treated as consistent with label directions. Test holes not reaching voids shall be left untreated and must be sealed along with the treated holes after application;

ii. When the mortar is in poor condition as determined by inspection or test application using water only, the inside wall must be sealed with cement or equivalent covering prior to treatment, or the voids injected with a pesticide, other than an organo-chlorine, which is federally registered for this use;

iii. Be injected at a treatment pressure not exceeding 25 psi at the pump; and

iv. Be injected only in conjunction with positive ventilation using fans inside the basement and/or crawlspace to remove solvent and pesticide vapors from the treated structure.

(j) No person shall treat the void behind a brick, stone, or other veneer on the exterior of a structure with an organo-chlorine termiticide unless the injections hole is below the top of the foundation. If treatment is required above the foundation, application must be made with a pesticide, other than organo-chlorine, which is Federally registered for use at this site.

(k) No person shall make a subterranean application of any organo-chlorine termiticide to a basement floor, unless applied pursuant to the following restrictions listed by structural floor type and/or condition:

1. Exposed soil basement floors shall be treated by shallow trenching adjacent to the foundation, rodding or flooding the trench and backfill or covering with a least two inches of untreated soil.

2. Wood basement floors over soil shall be treated by removal of the wood floor and treating the perimeter consistent with label directions and 1 above. Treated soil shall be covered with at least two inches of untreated soil or the entire soil floor covered with a concrete slab.

3. Concrete slab floors with an expansion joint more than 1/4 inch wide shall be treated by first sealing the expansion joint with cement, mortar, or equivalent material and then treating consistent with label directions.

4. Concrete slab floors with a French drain system shall be ***not* be treated*.* *Treatment*** by low pressure injection, ***[, not to exceed 25 psi at the pump,]* *may be done*** beneath the slab and/or expansion joint with a pesticide, other than an organo-chlorine, labeled for this site.

5. Basement floors which are very wet and the source of the water is a high local water table which is known to the person contracting for the termite treatment and communicated to the applicator, or basement floors which have a sump pump pit in which there is standing water, or basement floors which are wet and the proximate cause is readily identifiable to a person using reasonable care in inspecting the premise to be treated, shall not be treated unless it can be determined that the site of injection is above the level of the surrounding water table.

(l) No person shall make a subterranean application of a termiticide to a crawlspace unless applied pursuant to the following restrictions listed by structural type and/or other conditions:

1. Accessible crawlspaces with no heating unit present and with exposed soil shall be treated by shallow trenching adjacent to the foundations, application consistent with label directions for trenching and then coverage of the treated soil with a minimum of two inches of untreated soil.

2. Accessible crawlspaces with no heating unit present and with the soil covered with a thin grout or equivalent material shall be treated consistent with label direction for treatment of slabs, unless the grout or equivalent material breaks up upon drilling, whereupon these areas shall be sealed with concrete or equivalent material in such a manner as to adequately close all holes, cracks, or seams resultant from the

treatment. Coverage of the treated surface with a minimum of two inches of untreated soil is also acceptable.

3. Accessible crawlspaces with a heating unit present shall be treated consistent with 1 or 2 above, any air intakes in the heating unit which draw air from the crawlspace shall be ducted to the exterior of the building and seams on the ducts inspected for tightness of fit and taped or equivalently sealed as necessary. In addition, adequate cross-ventilation must be present or shall be provided prior to treatment with a minimum total ventilation opening size requirement of 1/150th of the square footage of the crawlspace surface. As an alternative, this crawlspace may also be treated as in 4 below.

4. Accessible plenum crawlspaces shall be treated consistent with 1 or 2 above, but only with a termiticide other than an organo-chlorine which is labeled for this site and only in conjunction with positive ventilation during and for 24 hours following the end of the plenum crawlspace treatment. Pump pressure shall not exceed 25 psi at the pump and the point of termiticide injections shall be at least four inches beneath the crawlspace floor. Immediately following treatment, cover treated soil with at least 4 mil polyethylene of equivalent sheeting as may be approved by the Department. Occupants of the treated structure shall be advised to vacate during treatment and for the 24 hour aeration period.

(m) No person shall make a subterranean application of a termiticide to an inaccessible sub-floor area unless applied pursuant to the following restrictions:

1. Access shall be created to permit visual inspection of the area to be treated.

2. If there is a minimum of two feet of clearance between the soil surface and the bottom of the floor joists, treatment shall be made consistent with label directions using the access point in 1 above.

3. If there is less than two feet of clearance and if entry can be made into the area to be treated, remove soil to obtain adequate clearance and treat consistent with label directions, or;

i. If the ceiling of the space is concrete, drill through the foundation walls from the exterior at an angle and rod beneath the soil surface or drill vertically through the top of the concrete and rod beneath the soil surface; or

ii. If the ceiling of the space is wood, apply as in 3.i. above, but only with a termiticide other than an organo-chlorine.

(n) No person shall make a subterranean application of a termiticide to a slab unless applied in accordance with the following restrictions by slab type and/or other conditions:

1. Prior to treatment, inspect the structure containing the slab to determine the location of utility lines, sewer waste lines, water shut-off valves, radiant heat and hot water baseboard heat lines and any other conduits or ducts that may be contained therein.

2. When slabs are drilled from the inside, a device such as a drill stopper must be used.

3. Each hole drilled through the slab shall be plugged immediately following treatment by sub-slab injector. Such plug may be temporary, until permanently sealed following completion of the job, with mortar or equivalent material.

4. Wood over slab construction shall be drilled and treated as in 2 and 3 above, except pressure shall not exceed 25 psi at the pump and the quantity of termiticide pumped into each hole shall not be great enough to cause excess termiticide to emerge from adjacent holes.

5. Slabs covering or containing air ducts may be treated with an organo-chlorine termiticide if the treatment is limited to outdoor trenching or rodding on the exterior of the foun-

dation, or the air circulation ducts are securely and permanently filled at the duct openings with a concrete or equivalent plug, any visible cracks or seams in the slab surface sealed, and the slab then treated consistent with label directions.

6. Slabs covering or containing air ducts may be treated with a termiticide, other than an organo-chlorine, without sealing of the duct openings and installation of an alternative air circulation/heating system provided:

i. There is evidence of an existing termite infestation in the structure;

ii. The exact location of the air ducts can be determined;

iii. Application under the slab is limited to gravity or low pressure injection not to exceed 25 psi at the pump;

iv. At least one member of the termite application crew is familiar with initial duct decontamination procedures;

v. Equipment necessary to facilitate initial clean-up, should accidental contamination occur, shall be present at the application location. The equipment shall include, but not be limited to, a wet/dry vacuuming system, spill absorbent material, five gallons of sodium hypochlorite and filters of charcoal or comparable efficacious material sized for or capable of being readily adapted for use in the type ducts and/or heating system present; and

vi. The applicator obtains a signed statement from the contracting party for whom the termite treatment is to be performed, requesting such treatment, and stating that the contracting party understands the potential for contamination of the air ducts and resultant possible required modifications to the heating system.

(o) Accidental duct contamination resultant from an application performed in strict accordance with (n)6i-vi above, shall be subject to reporting and review under the provisions of N.J.A.C. 7:30-10.8.

(p) No person shall make a subterranean application of a termiticide to a property on which wells and/or related water sources are located unless applied pursuant to the following restrictions:

1. If the well or other water source is within the linear distance of the treatment site as provided in 4 below and if connection to a public water supply system is practical and feasible, delay treatment until this is done.

2. Do not treat any structure if a well, cistern, or spring, currently in use or capable of being used, is located within the foundation walls, except subterranean application around the perimeter of the foundation.

3. If a well is down grade (at a lower elevation) from the application site, and there is a structural conduit, such as a paved driveway between the well and the application site, provision must be made to block the conduit or dike the area around the well to prevent movement of the termiticide to the well should a spill occur.

4. If the well or other water source is more than 20 feet from the treatment site in sandy soil, or more than 100 feet in other soils, treatment shall be consistent with label directions.

5. If the well or other water source is located closer to the treatment site than as stated in 4 above, treat as follows:

i. The foundation wall voids shall not be treated;

ii. The soil outside the foundation within two feet of the water or septic lines shall not be treated, except as provided in iv below.

iii. To treat the soil adjacent to the foundation ***within the linear distance specified in 4 above,*** other than that through or adjacent to which water or sewer lines run, dig a shallow

trench adjacent to the foundation and flood it with termiticide. Allow the termiticide to seep downward with gravity. Do not rod under pressure; or

iv. Remove soil from grade to top of footing, place it on polyethylene sheeting, mix the termiticide with it, permit to dry a minimum of 15 minutes, and replace the soil into the trench.

v. Soil within two feet of the water or sewer lines must be treated as provided in iv above; and not by trenching or gravity treatment, unless left intentionally untreated as in ii above.

vi. Soil adjacent to the foundation which is covered by a concrete or other soil covering shall be treated by drilling through the covering surface at ***a maximum of*** one foot intervals and using a funnel to gravity feed the correct quantity of termiticide into each hole. Do not apply the termiticide under pressure.

vii. If the soil beneath the basement floor must be treated, space treatment holes ***a maximum of*** one foot apart and apply using a funnel as in vi above.

(q) Retreatments with termiticides are allowed only when there is evidence of reinfestation subsequent to the initial treatment, or if there is a disruption of the pesticide barrier in the soil due to construction, excavations, or landscaping. In cases of disruption of the soil barrier, only those locations where this occurred may be retreated. In cases of evidence of termite infestations, the entire premises may be treated if:

1. The history of treatment of the structure is not known and cannot be readily determined, or

2. Live termites are found.

(r) For purposes of interpretation of (q)1 above, retreatment by the same person as originally performed the initial treatment shall presume knowledge of the history of treatment.

(s) Prior to entering into any contract to apply a termiticide, the applicator shall provide the contracting party with a copy of the Federal registered label of the pesticide to be used and a copy of this section (N.J.A.C. 7:30-10.4). ***The applicator may provide a summary in lieu of a copy of N.J.A.C. 7:30-10.4, subject to the approval of the summary by the Department.***

7:30-10.5 Aerial application of pesticides

(a) All agricultural and aircraft operations in New Jersey shall comply with those parts of F.A.R.-137 not covered in this section. In the case of conflict, a regulation of F.A.R.-137 shall take precedence over any of this section.

(b) The pilot of an agricultural aircraft shall, prior to any pesticide application, learn and confirm:

1. The boundaries and exact location of the target area(s); and

2. The identity of non-target areas and safety hazards located on or adjacent to the target area.

(c) Spray and spreading equipment shall be thoroughly rinsed after each agricultural aircraft operation, except when the next application will be made using the same pesticide or, if another pesticide is to be used, it is compatible with that previously in the equipment and will not result in illegal residues or significant risk of injury or damage when applied to the new target site.

(d) During pesticide application, the flow and mixture of the pesticide(s) shall be uniform and applied with spray or spreading equipment suited for the pesticide(s) used. Application equipment shall be properly calibrated, according to the manufacturers' specification for the equipment utilized, for the specific type of pesticide application being performed and

proof of this proper calibration shall be maintained by the aerial pesticide applicator business and be available, upon request, to the Department.

(e) For interpretation of (d) above, participation of the individual aircraft in the Operation SAFE program shall presume proper equipment calibration; providing, the type of application(s) for which it is calibrated remains the same and the equipment set-up is not modified from that determined to be the most efficient under Operation SAFE.

(f) Participation of each aerial pesticide applicator business in the Operation SAFE program shall be mandatory; providing, the program addresses the type of application to be performed and providing the program is offered within New Jersey and for a sufficient time period to allow this participation.

(g) Aircraft of the exact type and conformation, including but not limited to the application equipment utilized, shall also be considered to be properly calibrated if set-up to the specification determined from Operation SAFE to be the most efficient for that type aircraft; provided, this extension provision shall only apply to aircraft owned and operated by the aerial pesticide applicator business that has calibrated at least one of each type of aircraft under Operation SAFE.

(h) The Department may require full participation of all aerial application aircraft if experience in working with the Operation SAFE program shows the need, as determined by the Department, to require the participation of each aircraft regardless of sameness of conformation.

(i) All aerial spray or spreading equipment shall be free of leaks and shall have a positive shutoff system to prevent leaking and dissemination of pesticide on any non-target areas over which the flight is made.

(j) The shape of the tank or hopper of the spray or spreading equipment shall be such as to allow the complete drainage during flight and on the ground.

(k) Any emergency or accidental release of pesticide(s) from the aerial application or auxiliary equipment shall be subject to the reporting provisions of N.J.A.C. 7:30-9.11.

(l) All pesticides applied aerially as liquids, in liquid carriers, or as dusts shall be released within 15 feet above the target, except for applications to forests and/or trees, such application height shall be within *[40]* *50* feet above the target, and except where obstructions in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude.

(m) All pesticide applied aerially as dry granules or pellets shall be released within 40 feet above the target, except where obstructions in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude.

(n) No aerial pesticide application for non-agricultural purposes and using rotary wing aircraft shall be performed on a target site less than three contiguous acres in size.

(o) No aerial pesticide application for non-agricultural purposes and using fixed-wing aircraft shall be performed on a target site less than ten contiguous acres in size.

(p) Aerial pesticide application to an agricultural *[crop]* *commodity* may be performed on any size field; providing, the field being sprayed is part of a larger property of five or more acres wholly owned or controlled by the person contracting for the application.

(q) No pesticide shall be applied by aircraft within 300 feet horizontally of the premises of schools, hospitals, nursing homes, *[churches]* *houses of religious worship,* or any building, other than a private residence, which is used for

business or social activities, if either the premise or the building is occupied by people*[.]* *, except:*

1. Pesticide application within 100 feet of a building used for an agricultural business shall be allowed; providing, only a general use pesticide is applied and warning is given prior to application so that doors and/or windows on the building are closed and the occupants thereof allowed time to vacate the building.

(r) No pesticide shall be directly sprayed by aircraft on the right-of-way of a public road, except when the right-of-way is included as the target site.

(s) No pesticide shall be deposited by aircraft within 100 feet of any private residence unless the aerial pesticide applicator and/or applicator business has written consent of an inhabitant of said private residence of legal age. The aerial applicator business shall obtain the written consent, or the party who is contracting for the services of an aerial applicator business shall obtain the written consent and forward it to the aerial applicator business for record keeping purposes. The consent agreement shall include:

1. Date of agreement;
2. Time period for which the consent is valid;
3. Location or designation of the private residence; and
4. Signature of the consenting inhabitant of the private residence.

i. Any consenting inhabitant may withdraw consent *[at any time]* by notifying, in writing, the party which requested the consent. ***Consent may be withdrawn following the application seas or at any time for a pesticide misapplication involving the consenting inhabitant's property under this Chapter.*** Upon such notification, the previous consent shall be invalidated. Copies of all consent agreements shall be maintained by the aerial pesticide applicator and/or applicator business and made immediately available, upon request, to the Department. Provisions of this subsection shall not apply to any private residence that is occupied by the person contracting to have the spray performed and which is located on a property which includes the target site.

(t) No person shall be exempt from any of the provision of this section except under the following conditions:

1. During an emergency proclaimed by the Commissioner, specific aerial applicators may be exempted from all, or from specific regulations as deemed necessary by the Department to handle the emergency situation.

2. Any State, Federal, or public agency or aerial applicator under contractual agreement with such an agency when conducting a pest control operation shall be exempted from (l) *[to]* *through* (n) and *[(g)]* *(g) through* *[to]* (s) above.

7:30-10.6 Pesticide contamination cleanup

(a) In situations involving misapplication of a pesticide(s) with resultant citation of application section(s) of N.J.A.C. *[.]* 7:30-10, and where the Department determines an imminent hazard or significant risk of ***harm,*** injury or damage to *[man]* *persons* or the environment would result, or in the case of a reportable pesticide spill, the Department may order the person responsible for the misapplication or spill to return to the site location and conduct a cleanup to reduce or remove the pesticide to a level acceptable by the *[department]* *Department*. The cleanup procedure is to be in accordance with the methods approved by the Department and subject to follow-up sampling by the responsible person to verify the efficacy of the cleanup.

(b) The person held responsible for the cleanup shall notify the Department when the cleanup has been completed and,

upon request, provide to the Department copies of the analytical results of all samples collected to verify the efficacy of the cleanup.

(c) For purposes of interpretation of (a) above, the basis for issuance of a cleanup order by the Department may include, but not be limited to:

1. Any application and/or spill or a persistent pesticide to a non-target site, as determined by review of the product's Federal registered label or other use restrictions adopted under the authority of N.J.A.C. 7:30-10.2(a); or

2. Any application of a pesticide to a non-target site where evaluation of the pesticide use pattern in conjunction with properties of the pesticide in addition to persistence, are deemed by the Department to present a significant risk of ***harm,*** injury or damage.

7:30-10.7 Assessment of fees for sample analysis

In any situation involving a suspected misapplication or spill of a pesticide and where the sample(s) routinely collected during the initial inspection and sampling date define a violation of the Act or regulations promulgated thereunder and show the need for collection of additional samples to define the extent of the contamination as required by the Department to fully evaluate the procedure necessary to remedy the violation, a fee for all sampling may be assessed against the person responsible for the violative application or spill, such fee to reflect the actual cost incurred by the Department for the analyses of the sample(s).

7:30-10.8 Accidental pesticide misapplications and spills

(a) When, during the application of a pesticide, it can be shown that an accidental reportable pesticide spill has occurred, or if movement of a pesticide to a non-target site within a structure has occurred, no violation of the pesticide regulations shall be cited provided:

1. The person responsible for the application reports the spill or movement of the pesticide to the Department ***[by the end of the next working day following the date of occurrence]*** ***in accordance with N.J.A.C. 7:30-9.11*;**

2. Necessary procedures to ***[cleanup]*** ***clean up*** the pesticide, subject to the review of and to a level deemed acceptable by the Department, are immediately implemented to reduce or remove resultant contamination at the non-target site. The Department may, at its discretion, ***[extended]*** ***extend*** the time period for initiation of the clean up; and

3. It can be adequately demonstrated to the Department that the following conditions relevant to the application were met:

i. No injury to persons resulted from the incident or the presence of the pesticide at the non-target site;

ii. All persons involved in the application were properly licensed under the provisions of the pesticide regulations;

iii. Equipment used during the application was properly maintained and/or calibrated;

iv. The record of pesticide application contains all mandated information; and

v. The application was performed in a manner consistent with the provisions of the Federal registered label of the pesticide used and other restrictions as contained in the Act or regulations promulgated thereunder.

7:30-10.9 Submission of data on pesticide use

(a) The Department may require the annual submission from any person registered to apply pesticides in New Jersey of information specifying the type and amount of pesticide applied by that person within a time interval as determined

by the Department. The information shall be submitted on forms supplied by the Department and contain the following information:

1. The product name and EPA registration number of all pesticides applied within the time period specified; ***[and]***

2. The total quantity of each pesticide applied within such time period ***[.]*** ***;***

***3. The site(s) of application; and**

4. The method of application (aerial or ground).*

(b) Additional information relating to the use of a specific pesticide or type of pesticide may be requested by the Department, at any time, when deemed necessary to evaluate a significant risk of ***harm,*** injury or damage to ***[man]*** ***persons*** or the environment.

HEALTH

HOSPITAL REIMBURSEMENT

(a)

Procedural and Methodological Regulations

Readoption with Amendments: N.J.A.C.

8:31B-3

Proposed: August 19, 1985 at 17 N.J.R. 2000(a).

Adopted: October 10, 1985 by J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of the Health Care Administration Board).

Filed: October 15, 1985 as R.1985 d.551, **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. 26:2H-1, et seq., specifically 26:2H-5b, and 26:2H-18d.

Effective Date: October 15, 1985 for readoption; November 4, 1985 for amendments.

Expiration Date pursuant to Executive Order No. 66(1978): October 15, 1990.

Summary of Public Comments and Agency Responses:

Written comments were received during the comment period from the following persons and organizations:

New Jersey Hospital Association (NJHA)
Hospital Financial Management Association
Health Insurance Association of America
Newark Beth Israel Medical Center
Raritan Bay Medical Center
St. Francis Medical Center
Muhlenberg Hospital
Overlook Hospital
Besler & Morrisy
Touche Ross & Co.
N.J.H.A. Council on Finance

Economic Impact Statement

COMMENT: Commentors requested clarification on the intent of the statement that charges are not expected to have a marginal economic impact. Respondents also requested that

the statement referencing the exclusion of parking facilities from the capital payment scheme be eliminated.

RESPONSE: The Department has revised the Economic Impact Statement to reflect the comments.

8:31B-3.19 Patient care cost findings: Direct costs per case, physician and non-physician

COMMENT: Comments addressed the treatment of same day surgery as a clinical outpatient service and the applicability of the volume variability formula to same day surgery. One commentor suggested that same day surgery should not be reported on the UB-82 form.

RESPONSE: The Department agrees that the reclassification of same day surgery as an outpatient service should be considered in a manner that does not penalize any hospital. Details of the Volume Variability formula are of a methodological nature which will be part of the reconciliation methodology presented to the Hospital Rate Setting Commission.

The goal of the Department is to include all outpatients on the UB-82 by 1987. Same day surgery patients must be identified on the UB-82.

8:31B-3.19 Patient care costs findings: Direct costs per case, physician and non-physician

(b) 1. footnote 1.

COMMENT: Respondents object to the 1986 implementation date of the RIMs methodology and suggest that it be postponed until further data are available.

RESPONSE: The Department received approval from the Health Care Administration Board in September to delay implementation of the RIM Methodology until 1987. A Miscellaneous Notice will be published in the New Jersey Register on October 7, 1985.

8:31B-3.22(a) Standard Costs Per Case

COMMENT: Commentors believe that all hospitals that have submitted data should be included in the data base. One respondent suggested that the Department of Health develop a methodology which measures the level of resident intensity in a hospital and compensates a hospital by adjusting the standards based on its intensity level.

RESPONSE: The Department is bound by reasonableness to include only appropriate hospitals which are peers in the standard.

The Department does not intend to support any adjustment for a hospital's level of resident intensity. This methodology has been found unacceptable at the federal level.

8:31B-3.23(a)1. Reasonable Direct Costs Per Case

COMMENT: Respondents found the phrase "first receiving rates" to be unclear and ambiguous.

RESPONSE: The Department has agreed to eliminate the word "first."

8:31B-3.23(a)1.iii. Reasonable Direct Costs Per Case

COMMENT: The New Jersey Hospital Association agrees with the proposed deletion of the incorrect formula.

8:31B-3.23(d) Reasonable Direct Costs Per Case

COMMENT: Most comments request the inclusion of the Length of Stay adjustment methodology in the 1986 regulations. One respondent objected to the concept of a Length of Stay adjustment which ensures a floor of payment as resulting in excessive payment.

One comment stated that acute days only will be used for billing purposes and that total length of stay will be used at Final Reconciliation for reimbursement.

RESPONSE: It is the Department of Health's intention that 1986 outlier reimbursement continue to be based on 1982 costs and length of stay (increased by economic factors). The Length of Stay adjustment is the means to ensure that interim and final payment equals at least the 1982 costs based on the 1982 Length of Stay. This is accomplished by a methodological device to carry out the intent of the current outlier payment regulation. As such, the procedure need not be specified in the regulations but is included as part of the rate year rate package approvable by the Hospital Rate Setting Commission.

The last comment is a misstatement of Department policy. Acute days will be used for billing purposes as well as at Final Reconciliation. Total days are used only to determine DRG assignment.

8:31B-3.27 Capital Facilities

COMMENT: The respondents commented on the Department's already withdrawn proposal to exclude depreciation and interest for parking facilities from the Capital Facilities Allowance. Some suggested that existing parking facilities should be exempt from the proposal, while another claimed that, in the absence of adequate on-street parking, parking lots are an integral part of patient care.

RESPONSE: The parking facility proposal was withdrawn following discussion upon presentation to the Health Care Administration Board and was published in the New Jersey Register.

8:31B-3.38(c)2. Derivation from Preliminary Cost Base

COMMENT: Several commentors had questions as to which rule governing the calculation of a standard rate/per diem applies. Furthermore, they question the use of three or less cases as a criteria for using the standard (8:31B-3.38(c)2.i. and ii.) versus fewer than six cases which decides whether a DRG is Low Volume also requiring the use of a standard rate.

One commentor suggested that the outlier incentive/disincentive be corrected where a low outlier case receives the standard per diem due to three or less base year low outlier cases.

RESPONSE: When the total number of inpatient cases in a given DRG is fewer than six cases, this "Low Volume" DRG receives the standard rate and/or per diems. The "Low Volume" outlier status should not be confused with the methodology governing the use of a standard per diem rate where either the low or high outlier cases in a given DRG is three or less. Therefore, if a DRG has four cases in the base year, the standard rate will apply even if all four cases were high outliers.

The hierarchy of inpatients is as follows:

Clinical DRG

Low Volume DRG

Trim Point Status—Low or High Outlier

Transfer to Another Acute Care Hospital—only applies to billing; not the setting of rates. (See comments on Transfer Patients)

A clinical DRG outlier will receive a per diem rate based upon the hospitals' historical cost, regardless of the number of cases.

COMMENT: One commentor suggested that reference be made to the outlier incentive where a standard low per diem is imposed.

RESPONSE: The Outlier Methodology as approved by the Hospital Rate Setting Commission assures the hospital a floor based on its 1982 cost experience. The imposition of a stan-

dard per diem is for billing purposes only. The hospital will be reconciled to its own cost via the inclusion of the outlier incentive/disincentive amount as determined on Report 5 of the hospital's rate package. The hospital's rate package indicates the difference between actual costs and standard rates. As noted in the hospital's rate packages this artifact of the new methodology, the incentive or disincentive, will be adjusted through the overhead mark-up factor.

8:31B-3.38(c)2.i Derivation from Preliminary Cost Base

COMMENT: The commentor suggests that final reimbursement will be calculated using total rather than acute days.

RESPONSE: Final reimbursement of outliers will not be based upon the inlier rate plus the per diem multiplied by total days. Total days are used to determine if the case has exceeded the high trim point and then qualifies as a high outlier. The final reimbursement will be calculated using acute days as the multiplier, not total days. The difference between total and acute is assumed to be the sum of all days certified as SNF or ICF days or denied days.

COMMENT: Several commentors stated that wording would be clearer if it read "acute days of the patient's total stay" rather than "from date of admission to date of discharge."

RESPONSE: Several commentors feel that "acute days of the patients total stay" is clearer than "acute days from date of admission to date of discharge."

N.J.A.C. 8:31B-3.23(d) defines the number of acute days as "the acute days of the patient's total stay (admission to discharge)." The Department believes either statement would have sufficed and that both statements together certainly should make the concept even clearer. There does not appear to be any difference between the two statements. The wording "admission to discharge date" was added to drive home the point that the high outlier per diem is based not on the high acute days but every acute day admission to discharge. Acute days of the stay could be falsely interpreted as acute days of the outlier portion of the stay. In fact, this error was made by some prompting this additional language.

8:31B-3.38(c)2.v. Derivation from Preliminary Cost Base

COMMENT: Commentors proposed that transfer regulations should provide exceptions for hospitals that have tertiary care services where transfers regularly occur (that is, neonatal services).

RESPONSE: The transfer billing logic is intended to limit reimbursement to the lower of the low outlier rate or the inlier rate in recognition of the fact that the transferring hospital has not, in most cases, provided the full amount of care as compared with other patients in that DRG who are discharged home.

The commentors point out that the regional neonatal tertiary care hospitals routinely transfer these babies to other acute care hospitals due to the proximity of the hospital to the baby's family or because the tertiary care hospital has no Newborn Nursery acute care beds.

The Commission approved Outlier Methodology assures that the hospitals shall receive no less than their base year costs. Interim and year end calculations will be performed which will, among other things, identify the potential shortfall between the revenue generated via the transfer patient logic compared with the base year experience.

If the affected hospitals maintain that the calculation does not assure at least the base year costs taking all DRG's into account, then the hospital may make a DRG appeal which

would address clinical differences in that DRG or group of DRG's between the base and rate years.

8:31B-3.43(b) Adjustment of Charges

COMMENT: The commentor questions the need for the cross subsidization penalty in light of the changes in the outlier methodology, and characterizes it as an administrative burden to the hospitals.

RESPONSE: Continued monitoring of the distortion of charges across cost centers via cross subsidization penalties remains an important rate setting tool. It deters unreasonable distortion of charges between cost centers which may be used disproportionately by different patient groups, that is, pharmacy as compared to radiology. The Department does agree that it may more appropriately be done on a sampling basis.

8:31B-3.51 Notification Appeal and Review

COMMENT: Respondent agrees that ten working days is more realistic than the current five. The respondent also says that, if the Department does not notify the hospital within the ten working days that there are not substantial calculation errors, the hospital should be able to implement the Proposed Schedule of Rates including the calculation errors as identified by the hospital.

RESPONSE: The Department does not agree with the comment regarding treatment of calculation errors since the comment is a misinterpretation of the current regulation.

8:31B-3.71 Reconciliations and Adjustments

COMMENT: The respondent requested that the Department of Health define in detail the Final Reconciliation Methodology on a prospective basis by proposing the methodology as part of the applicable year's regulations.

RESPONSE: The Department of Health agrees that prospective determination of the reconciliation methodology could improve prospective certainty and predictability and that this determination should be made as close to the end of the rate year as possible. However, as long as there are state or national reimbursement regulatory changes and appeals which affect reconciliation methodology, this idealized goal cannot be realized entirely.

8:31B-3.74 Reconciliation: Payors

COMMENT: The respondent addressed the problem of inconsistent overpayment by the commercial insurance industry and requested that the Department establish a mechanism to deal with this through payor reconciliation.

RESPONSE: The Department agrees that there has been no consensus developed among the industry, payors and Department of Health concerning the issue of payor reconciliation. It remains unclear how an alternative cost allocation mechanism can be developed that will not violate the overriding principles of payor equity found in the law.

APPENDIX X. VOLUME VARIABILITY ADJUSTMENT

COMMENT: Respondents request that any change in the volume variability methodology should be formalized prior to rate year 1986. Also, respondents suggested special treatment where an increase in same day surgery yields a decrease in volume.

RESPONSE: The appropriate rulemaking approach to Volume Variability as with any regulatory change is for the Commissioner to propose changes in regulatory language to the Health Care Administration Board. The Department is dependent on prompt submission of 1984 volume data before reach-

ing recommendations of any changes. Data for 1984 has only recently been completed by the industry.

The critique of current treatment of revenue under the existing methodology will be evaluated as part of the overall volume variability question. This includes the treatment of SDS cases.

8:31B-3.76(b) Necessity and appropriateness of health care services

COMMENT: No comments were received on this proposed amendment; however, the Department recognizes that the language of the change is inappropriate and illogical and is therefore deleting that portion of the text. This is not a substantive change.

8:31B-3.26 Economic Factor

Appendix II Cost Components and Proxies for the Economic Factor Labor 1.

COMMENT: It was verbally brought to the attention of the Department that the Proxy: Employment Cost Index (ECI) Northeast; and Source: Bureau of Labor Statistics (BLS), Employment Cost Index was not in accordance with the text of N.J.A.C. 8:31B-3.26(b).

RESPONSE: Effective June 6, 1983, the text of the subsection (N.J.A.C. 8:31B-3.26(b)) was changed to state that the proxy for labor costs in 1983 and subsequent years would be the Bureau of Labor Statistics (BLS) Series "Average Hourly Wages Hospital Workers (U.S.). The Department recognizes that this change was not reflected in the appropriate Appendix and the oversight is now being corrected. This is not a substantive change.

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

Economic Impact Statement

The individual sections proposed for readoption with change ***[are not expected to have a]*** ***will have no*** marginal economic impact^{*}. ***[with the exception of exclusion of the parking facilities from the capital payment scheme. This should save consumers approximately one-half million to two million dollars for every such parking facility project.]***

8:31B-3.19 Patient care cost findings: Direct costs per case, physician and non-physician

(a) Hospital case-mix:

1.-3. (No change.)

4. Commission approved Same Day Surgical Services as defined in N.J.A.C. 8:31B-3.11 are considered a clinical, outpatient service but are assigned to a DRG and reported on a UB-PS (a bill type 131S) in accordance with N.J.A.C. 8:31B-2.1.

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

8:31B-3.20D (Reserved)

8:31B-3.22 Standard costs per case

(a) Pursuant to N.J.A.C. 8:31B-3.5 various standards will be determined including incentive standards. The incentive standards to be used in the calculation of the proposed PCB for each inpatient DRG are determined as the mean non-physician direct patient care costs per case in all teaching and non-teaching hospitals, whose costs are included in the data base, adjusted for labor market differentials. Standards shall be calculated across all hospitals for which current costs bases were derived from a common reporting period.

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

8:31B-3.23 Reasonable direct costs per case

(a) Inpatient:

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

degree of confidence X labor market standard

plus

(1-degree of confidence) X hospital current
non-physician direct cost per case

plus

hospital current physician patient service cost per case

i.-ii. (No change.)

iii. And where the standard deviation of a DRG is calculated across all patients in the DRG in the given teaching category;

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

(b) (No change.)

(c) Patients not included on schedule of rates: Private referred outpatients are shown as per case amount as calculated above in the reporting period only for purposes of accounting for total direct patient care costs. Such costs will be included in the reasonable direct costs of the PCB at Reconciliation, subject to utilization review (see N.J.A.C. 8:31B-3.71 through 3.86).

(d) Inpatient outliers: The costs of low length of stay outliers will be divided by the low length of stay days to arrive at a low per diem. The costs of high length of stay outliers will be divided between both high outlier per diems and the inlier rate. The mean high outlier cost net of the inlier rate will be divided by the acute days of the patient's total stay (admission to discharge) to arrive at a high outlier per diem. High outlier cases are reimbursed the inlier rate plus the high per diem multiplied by the acute days of the stay.

8:31B-3.27 Capital Facilities

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

1. Building and fixed equipment:

i. (No change.)

ii. Capital Facility Formula Allowance: For hospitals receiving a Preliminary Costs Base and Schedule of Rates the allowance provides funds for replacements or major renovations of the future acute care capital facility needs of the hospital's service area as determined through the planning process; i.e., 20 percent of current replacement costs, less the portion of the fund target designated by the hospital's governing board at the time its initial Schedule of Rates is set, spread over the adjusted remaining useful life of buildings, building components, and fixed equipment for the target bed complement of the hospital, in accordance with the planning needs of the hospital's service area.

iii.-vi. (No change.)

2. (No change.)

8:31B-3.38 Derivation from Preliminary Cost Base

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

(c) Basic rate order:

1. (No change.)

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

i. High length of stay—the rate is the inlier rate per case plus a per diem for each acute day from the date of admission to date of discharge. For DRG's with 3 or *[less]* ***fewer*** high length of stay outlier cases in the base year, the standard high length of stay per diem is the rate.ii. Low length of stay—the rate is the low per diem rate for each acute day of the stay. For DRG's with 3 or *[less]* ***fewer*** low length of stay outlier cases in the base year, the standard low length of stay per diem is the rate.

iii. Low volume (fewer than six cases)—the rate is the standard rate per case and standard per diem if also a length of stay outlier (as described above.)

iv. Clinical outliers—the rate per case and per diems are based upon the hospital specific or "Historical" cost. Inlier or outlier status determines the use of the inlier rate or outlier per diem rates.

v. Transfer patients—where a patient's discharge status is that of a transfer to another acute care facility (inpatient), the rate is limited to the lower of the inlier rate per case or the sum of the acute days multiplied by the low outlier per diem. The hospital which receives the transfer patient (and that patient is subsequently a non-transfer status discharge) will receive the appropriate rate per case or per diem based upon DRG assignment and trim point status.

3. (No change.)

(d) (No change.)

8:31B-3.51 Notification appeal and review

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

(b) (No change.)

8:31B-3.76 Necessity and appropriateness of health care services

(a) (No change.)

(b) This section *[which replaces N.J.A.C. 8:31B-5 of the Procedural and Methodological Regulations,]* sets forth minimum qualification criteria for utilization review organizations, defines the appropriate uses for the findings of such organizations, prescribes the qualification procedure, and establishes a method for financing organizations which qualify. The criteria are designed to delineate the respective roles of payment and review so as to capitalize on the strengths of each. In this way, the systems may complement one another to the greatest degree, thereby promoting "effectiveness and efficiency of the health care system as a whole." L.78, c.83, Section 11C.

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

8:31B-3.77 Definitions

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

"Focused review" means an application of sampling techniques such as an intensification of or an exemption from detailed review of certain groups of patients or common diagnoses where data indicate it is reasonable to do so.

1. Focus-in describes an intensified review of a specified category of patients, diagnoses, procedures, and/or physicians.

2. Focus-out describes specific categories of patients, *[diagnosis]* ***diagnoses***, procedures, and/or physicians who are exempt from concurrent review, diagnosis, procedures, and/or physicians.

"Outliers" means patients who display atypical characteristics relative to patients assigned to DRGs, or have been transferred from one New Jersey hospital to another. (See N.J.A.C. 8:31B-5.2). Outliers have lengths of stay either above or below the LOS trim points established for any given DRG.

APPENDIX II COST COMPONENTS AND PROXIES FOR THE ECONOMIC FACTOR

LABOR 1.

COST COMPONENT: Non-physician Salaries, Physicians' Salaries and Fees **SHARE COST CENTER:** All Cost Centers for which employee salaries are reported; contracted services in MSA, OBS, PED, PSA, ICU, CCU, NNI, NBN, EMR, CLN, and OHS Cost Centers; physicians' salaries and fees for all Cost Centers except RSD; and physicians' fees for RSD Cost Center.

PROXIES: *[Employment Cost Index (ECI), Northeast]* ***BLS, Average Hourly Wages—Hospital Workers (U.S.)***

LABOR 2.-3. (No change.)

(a)**Financial Elements and Reporting Regulations****Readoption with Amendments: N.J.A.C.****8:31B-4**

Proposed: August 19, 1985 at 17 N.J.R. 2004(a).

Adopted: October 10, 1985 by J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of the Health Care Administration Board).

Filed: October 15, 1985 as R.1985 d.550, **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. 26:2H-1 et seq., specifically 26:2H-5b, and 26:2H-18d.

Effective Date: October 15, 1985 for readoption; November 4, 1985 for amendments.

Expiration Date pursuant to Executive Order No. 66(1978): October 15, 1990.

Summary of Public Comments and Agency Responses:

Written comments were received from the following persons and organizations.

Passaic Co. Legal Aid Society

Health Care Finance Mgmt. Assoc.

St. Francis Hospital

N.J. Hospital Association (N.J.H.A.)

Muhlenberg Hospital
 Raritan Bay Medical Center
 Touche, Ross and Company
 Overlook Hospital
 N.J.H.A. Council on Finance
 Underwood Hospital
 Newark Beth Israel Medical Center
 Hudson Co. Legal Services Corp.
 New Jersey Public Advocate
 Mercer Co. Vol. Lawyers Project
 Consumers League of New Jersey
 Cape-Atlantic Legal Services
 Health Law Task Force of Legal Services of New Jersey
 N.J. Federation of Senior Citizens, Inc.
 N.J. Dept. of Human Services

8:31B-4.21(g) Accounting for capital facilities cost

COMMENT: Expenditures for parking garages should continue to be included in debt service requirements in accounting for the cost of capital facilities.

RESPONSE: The parking facility proposal was withdrawn following discussion when presented to the Health Care Administration Board and was not published in the New Jersey Register.

8:31B-4.38(a)1. Uncompensated care and 8:31B-4.40(b)5. Appropriate collection procedures

The Department is withdrawing the proposal to reduce the minimum length of time that a patient's account must be held prior to write-off from 120 to 90 days. By leaving the limit at 120 days, the Department will be encouraging each provider to use in-house efforts to collect the patient's accounts. The Department reviewed the potential abuses associated with the proposed change and especially the problem of assigning potentially collectable accounts to an outside collection agency without fully exhausting all in-house resources. The provider will still retain the discretion over the determination of uncollectable accounts when strong evidence exists that further in-house collection efforts would be futile during the 120 day period.

8:31B-4.39(a)7. Determination of uncompensated care factor

COMMENT: In situations where the Hospital Rate Setting Commission may determine that other criteria are appropriate with regard to determining indigency, the respondents have requested that the HCAB should have the authority to determine any other criteria.

RESPONSE: The HCAB reviews and approves the Department's regulations besides providing an open forum for discussing health care policy. The Department feels that there is no need to change the revised regulations at this time since further changes will be required as a result of a supplemental proposal by the New Jersey Public Advocate's office. These proposed changes will add a new section to Chapter 83 that will clearly identify the eligibility standards for determining indigent care designation. The new section will also outline the hospital's obligation to notify patients of the availability of free care and of the appeal process in the event that a patient is determined not to qualify for free care. The wording of these changes should eliminate the need for any criteria of other than the one adopted in the regulations and this section will be revised appropriately.

8:31B-4.40(a) Appropriate collection procedures

COMMENT: All respondents requested that the word "or" be added to the statement "and additional documentation stored on computer."

RESPONSE: The purpose for this revision was to establish regulatory acknowledgement of supplemental information regarding in-house collection efforts which is stored on computers. By inserting the word "or" in this regulation, the intent of the revised regulation would be changed. If the respondents change were to be adopted, the provider may interpret the regulation in a manner that would allow for the entire substitution of documented screening and collection efforts with a computer stored file which may not contain sufficient evidence of the provider's actual effort. The Department therefore, proposes to retain this wording in order to insure the existence of compliance documentation.

8:31B-4.40(b) and (c)1. Appropriate collection procedure

COMMENT: The respondents all requested that non-emergency treatment be excluded from the regulatory mandate that "treatment cannot be denied when a patient is unable to meet the financial requirements in (a) above."

RESPONSE: The Department will add the words "Necessary and Appropriate" to the beginning of this sentence in order to be consistent with N.J.A.C. 8:31B-3.76 of the 1985 Procedural and Methodological regulations.

8:31B-4.40(b)2.ii. Appropriate collection procedure

COMMENT: The respondents have requested that this section either be eliminated or modified to increase the time limit for seeking payment from the appropriate source from seven days to twenty-five days.

RESPONSE: The Department is deferring a decision until an adequate review of all the available facts is performed. At such time, the Department will revise the questioned regulation if the findings of the aforementioned review dictate that such changes are necessary.

8:31B-4.40(d) Appropriate collection procedures

COMMENT: Representatives from the New Jersey Department of Human Services expressed the opinion that patients who qualify for Medicaid coverage could not be sued. N.J.D.O.H. reasoned that Medicaid coverage reimburses the provider for all bills incurred on behalf of the patient. Furthermore, Medicaid patients should automatically be determined to qualify as medically indigent.

RESPONSE: The Department concurs with this logic and will reinstate this sentence which prohibits court action against Medicaid patients.

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

8:31B-4.21 Accounting for Capital Facilities cost

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

(g) Debt service requirements are principal and interest on buildings, fixed equipment, land, land improvements, leasehold improvements, and capitalized renovations as well as escrow payments in addition to principal and interest required under the terms of a mortgage but not including operating expenses as defined by GAAP and lease payments required for leased assets capitalized in accordance with the GAAP.

1.-5. (No change.)

6. Depreciation Policies:

i.-iii. (No change.)

iv. When an asset is retired, the difference between its book value (historical acquisition cost plus capitalized renovations less accumulated depreciation) and its net salvage value shall be recorded as an adjustment to that year's depreciation ex-

pense in the cost center or classification to which the asset was assigned.

v. (No change.)

7.-9. (No change.)

8:31B-4.38 Uncompensated care

(a) Uncompensated care includes the reasonable cost of the following:

1. Bad debts, provided appropriate collection procedures as defined in N.J.A.C. 8:31B-4.40 are followed and the account is at least ***120* *90*** days old;

2.-3. (No change.)

(b) Uncompensated care shall be determined prospectively as the cost associated with deductions from Revenues Related to Patient Care for Charity Care, net of grants and other funds available for the medically indigent, and for a hospital's Bad Debt Provision provided appropriate collection procedures have been followed.

8:31B-4.39 Determination of uncompensated care factor

(a) In order to prospectively include a factor for Uncompensated Care, such care shall be measured for the Current Cost Base pursuant to N.J.A.C. 8:31B-4.131 as follows:

1.-4. (No change.)

5. Hospitals shall implement appropriate collection procedures as defined in N.J.A.C. 8:31B-4.40. Hospitals that fail to follow the appropriate collection procedures shall receive reductions in their Uncompensated care amounts that do not exceed the aggregate amount of improper billings.

6. (No change.)

7. In evaluating a hospital's compliance with appropriate collection procedures, the Commissioner shall consider patients who are incapable of paying for hospital care if the patient fulfills all the necessary requirements for indigent care per Title XIX Federal regulations and/or other criteria deemed appropriate by the Hospital Rate Setting Commission. The hospital shall not pursue payment according to specified billing procedures for those patients who meet the aforementioned criteria.

8. (No change.)

8:31B-4.40 Appropriate collection procedures

(a) Generally, in determining eligibility for medical assistance, seeking payment, or determining uncollectibility, the provider shall take into account a patient's total resources including, but not limited to, an analysis of assets (except those which may be necessary for the patient's daily living,) liabilities, and income and expenses. Although extenuating circumstances may be considered, independent verification of both the patient's financial condition and the circumstances shall be required unless totally unobtainable. Moreover, the provider shall make a continuing, diligent effort to secure payment from the patient, any legally responsible individual, or any other potential source, unless otherwise indicated below. The provider's collection effort shall be documented by copies of bills, follow-up letters, reports of phone calls, personal contact, and additional supporting documentation stored on computer. Minimum appropriate collection procedures are defined as those set forth in this section, given the cost-benefit of their application to the individual situation of each hospital.

(b) In-Patient:

1. Pre-Admission/Admission Procedures: Except where an emergency medical condition dictates otherwise, prior to or upon admission a patient or their legally responsible individual shall be interviewed in order to:

i.-ii. (No change.)

iii. If the patient does not qualify or qualify fully under (b)1 i. and ii. above, an appropriate deposit shall be required and a reasonable payment scheme negotiated prior to admission, based on the patient's ability to pay and the type of services to be rendered. ***Necessary and appropriate treatment*** ***[Treatment]*** cannot be denied when the patient is unable to meet the financial requirements in (a) above. However, upon adequate documentation and independent verification of the patient's qualification as a medically needy individual (per Title XIX Federal regulations) the hospital should not pursue the collection procedures set forth herein.

2. Pre-Discharge/Discharge Procedures:

i. With respect to patients admitted on an emergency basis, the interview required in (b)1 above shall be conducted as soon thereafter as possible. If, due to the nature of the illness, the patient cannot be interviewed, the procedure required above shall be conducted by other means including, but not limited to, direct contact by the provider of relatives, and legally responsible individuals or third parties.

ii. Once the information required in (b)1 above is obtained, the provider shall seek payment from the appropriate carrier, or follow-up to obtain the medical assistance, or secure the deposit agreement required in (b)1 above from the patient or legally responsible individual, as appropriate, on or no longer than seven days following discharge or verification of eligibility. The provider must document all cases when compliance with the aforementioned collection procedures cannot be accomplished.

3. Post-Discharge Follow-up/In-House Efforts: The hospital shall follow-up periodically with the proper carrier until the amount owing has been paid in full. Except for denials due to lack of medical necessity, a patient shall be contacted and payment requested concerning any portion of the bill declined by third party carriers. With respect to these patients, self-pay patients and legally responsible individuals, collection procedures must include but are not limited to:

i. (No change.)

ii. Sending collection follow-up letters or statements;

iii. (No change.)

iv. Documentation in each patient's file shall indicate bona fide collection efforts or adequate reasons related to the case which support the provider's decision to terminate the collection effort as listed in i, ii, and iii above.

4. Post Discharge/Out-of-House Collection Efforts: Not more than 90 days following discharge, all remaining unpaid balances due and owing shall be reviewed and a determination made with respect to whether or not an account should be held in house for an additional thirty days or longer if strong evidence exists that the bill can be collected, sent to an outside collection agency, pursued through appropriate court action. Appropriate collection procedures shall be fully pursued unless and until:

i. Evidence clearly shows that there is no likelihood of recovery at any time in the future;

ii. Based on sound business judgment, the cost of collection is likely to exceed the estimated recovery, in which case, upon adequate documentation contained in the account file, a responsible officer of the hospital shall so certify; or

iii. Existing evidence that further in-house collection efforts would be futile after adhering to the appropriate procedures in 3. above.

5. While the hospital may write off accounts, or portions thereof, ***120* *90*** days after discharge, this does not relieve

the hospital of the obligation to continue to make reasonable efforts to obtain payment.

(c) Outpatients:

1. Clinics and Private Referrals: Except for emergent medical situations, all patients shall be screened for existing third party benefits and eligibility for medical assistance; and except where services are fully covered, or where exceptional financial circumstances dictate otherwise, all patients shall be required to pay at least a portion of the clinic fee and/or ancillary charges, or balance due thereof, in advance of provision of the service. Treatment cannot be denied when the patient is unable to meet the financial requirements in (a) above.

2. (No change.)

3. Renal Dialysis: Patients shall be screened as in (a) above prior to acceptance in program. Screening should include an effort to obtain third party coverage when the patient is not covered by Medicare. Non-eligible patients shall provide proof of their ability to pay and an appropriate payment scheme negotiated prior to a patient's acceptance into the program.

4. (No change.)

(d) Collection efforts required for all outpatients shall be the same as in (b)3 and 4 above except that court action shall not be required unless, based on sound business judgment, the estimated recovery is likely to exceed the cost of collection. ***In no event should court action be taken for Medicaid beneficiaries for medically necessary Services Related to Patient Care.*** However, the hospital shall make continuing efforts to verify possible eligibility for payment from any source.

8:31B-4.47 Return on Investment

(a) (No change.)

(b) However, because the Major Moveable Equipment Price Level Allowance is not available to for-profit hospitals and because for-profit hospitals have obligations that non-profit hospitals do not, e.g., income taxes and stockholder returns, for-profit hospitals shall receive, as a distinct Financial Element, a return on investment calculated in the manner described in N.J.A.C. 8:31B-3.29(b).

8:31-4.64 Sales and services not related to patient care

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

(e) Cafeteria operations, including vending machines, are treated as Case C, except for the subsidization of employee meals and meals for students in approved programs. Cafeteria operating losses are to be apportioned among employees, students and others per N.J.A.C. 8:31B-4.131. Subsidization of employee (including resident) meals is included as an employee fringe benefit. Subsidization of student meals is included as other direct expenses in either EDU or GME cost centers (see N.J.A.C. 8:31B-4, Part V).

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

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

Minority Faculty Advancement Loan and Loan Redemption Program

Adopted New Rules: N.J.A.C. 9:2-1

Proposed: June 17, 1985 at 17 N.J.R. 1512(a).

Adopted: September 25, 1985 by Board of Higher Education, T. Edward Hollander, Chancellor and Secretary.

Filed: October 15, 1985 as R.1985 d.567, **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:72F-1 et seq.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): June 17, 1990.

Summary of the Public Comments and Agency Responses:

The Board of Higher Education received one letter in response to the proposal which raised several issues of concern. The comments raised in the letter and the agency responses thereto are set forth in detail below.

Comment: Since the program is open to professional staff, the provisions that refer only to faculty should be amended to include such persons.

Response: The program has two tracks, one for faculty members and one for professional staff, with differing requirements, thus not allowing for such a double reference in all provisions.

Comment: Participation in the program should be assured for those individuals whose eligible discipline is subsequently dropped in the annual determination of eligible program disciplines.

Response: The current proposed rules provide for continued eligibility in the program, including redemption, regardless of changes in eligible disciplines.

Comment: Proposed N.J.A.C. 9:2-1.14 (a) 1 regarding re-employment of program participants is inconsistent with N.J.A.C. 9:2-1.14(c) and 9:2-1.6.

Response: N.J.A.C. 9:2-1.14 has been reorganized to clarify the intent of the section.

Comment: Reemployment and redemption rights of a tenured minority faculty member who already has a doctorate and is seeking a second doctorate under the program are not set forth.

Response: The program is only available to participants seeking an initial doctorate.

Comment: Redemption and reemployment rights for service other than faculty rank are not clear.

Response: N.J.A.C. 9:2-1.14 has been revised to clarify this area.

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]***).

CHAPTER 2 ADMINISTRATIVE POLICIES

SUBCHAPTER 1. MINORITY FACULTY ADVANCEMENT LOAN AND LOAN REDEMPTION PROGRAM

9:2-1.1 Definitions

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

"Authority" means New Jersey Higher Education Assistance Authority created pursuant to chapter 72 of Title 18A of the New Jersey Statutes.

"Eligible discipline" means an academic discipline in which minority faculty members are underrepresented in comparison to non-minority faculty members with doctorates, including but not limited to the physical and life sciences, engineering, mathematics, management, computer sciences, environmental science and statistics. "Eligible discipline" shall not, however, include the disciplines of law, medicine or dentistry.

"Faculty member" means any person employed full-time by a New Jersey state college or other sponsoring institution, to perform primarily teaching or research duties for a full academic year.

"Faculty service requirement" means that service which qualifies a program participant for loan redemption as set forth in N.J.A.C. 9:2-1.14.

"Full-time student" means one who, in each semester, quarter or equivalent thereof, carries the minimum number of credit hours or other coursework necessary to constitute a full-time graduate student courseload as defined by the host institution attended.

"Host institution" means an institution of higher education having authority under the laws of New Jersey to award doctoral degrees which elects to participate in the program through the awarding of doctoral degrees to program participants.

"Institution of higher education" means an institution of collegiate grade in New Jersey which is approved or licensed by the New Jersey Board of Higher Education.

"Minority" means any United States citizen or permanent resident who is a member of a racial-ethnic group that has been historically disadvantaged in obtaining access to equal educational opportunities as designated by the United States Department of Education, Office of Civil Rights, including Blacks, Hispanics, Native Americans, Asians and Pacific Islanders.

"Program" means the Minority Faculty Advancement Loan and Loan Redemption Program.

"Program participant" means an individual who has been recommended by the Minority Faculty Advancement Program Advisory Committee and accepted by the Chancellor to participate in the program.

"Sponsoring institution" means an institution of higher education which nominates and sponsors either a minority faculty member, a member of the non-teaching professional staff or any other recipient of a baccalaureate or master's degree from its or another institution to participate in the program or other eligible minority as defined herein.

9:2-1.2 Degree requirements

(a) Each program participant must pursue doctoral studies as a full-time student at an approved host institution.

(b) Eligible disciplines shall be determined on an annual basis by the Chancellor and reported to the Board of Higher Education.

9:2-1.3 Program participation eligibility

(a) To qualify for eligibility under the program, an applicant must:

1. Be a member of a minority group;
2. Be admitted on a full-time basis as a graduate student pursuing a doctoral degree in an eligible discipline at a host institution;
3. Have demonstrated a potential for academic excellence based upon superior performance in previous academic work and graduate admission testing; and
4. Have a high interest and potential for success in college teaching and academic research and agree to fulfill a faculty service requirement in New Jersey for at least four years.

(b) In addition to the requirements in (a) above, to qualify for eligibility under the program, an applicant must fulfill one or more of the following requirements:

1. Be a faculty or staff member of a sponsoring institution who has been nominated by his or her respective institution and has been granted up to a four year leave of absence and a commitment for reemployment upon completion of the program; or
2. Be a recipient of a baccalaureate or master's degree in an academic discipline in which minorities are underrepresented and have a desire to teach that subject at the collegiate level. Included in this category are members of the non-teaching professional staff at New Jersey colleges and universities.

9:2-1.4 Admission to host institution

Admission to the graduate program will be determined by each individual host institution.

9:2-1.5 Participation in program

(a) The nomination of eligible candidates for participation in the program after institutional admission, shall be determined by the Department of Higher Education Minority Faculty Advancement Program Advisory Committee, established pursuant to N.J.A.C. 9:2-1.15.

(b) Approval of eligible candidates for participation in the program shall be granted by the Chancellor of Higher Education.

9:2-1.6 Sponsoring institution responsibilities

(a) A sponsoring institution may nominate one of its minority faculty members to participate in the program under the following conditions:

1. The minority faculty member must be granted a leave of absence from his or her regular duties at the sponsoring institution for the amount of time necessary for the faculty member to obtain the doctoral degree but no greater than four academic years in length; and
2. The minority faculty member must be given a commitment by the sponsoring institution for reemployment, in at least an equivalent teaching position at the institution, when the doctoral degree has been completed.

(b) A sponsoring institution may nominate a member of the non-teaching professional staff or any other recipient of a baccalaureate or master's degree to participate in the program under the following conditions:

1. The sponsoring institution is willing to give serious consideration to the appointment of said person to the faculty of the institution upon completion of the doctorate; and

2. The sponsoring institution shall involve said person in a variety of faculty activities during his or her participation in the program.

(c) Prior to a minority faculty member's entrance into the program pursuant to the provisions of this section, the sponsoring institution and the program participant shall execute a written agreement, consistent with existing applicable statutes and regulations, which shall set forth the program participant's employment rights, including but not limited to the areas of tenure, seniority, salary and promotion, upon his reemployment by the institution.

9:2-1.7 Host institution responsibilities

(a) A host institution shall:

1. Offer a doctoral degree in at least one of the eligible disciplines designated in the program;

2. Provide to each program participant an annual grant of at least \$5,000, which may include tuition remission, each year for up to four years;

3. Recruit candidates for the program from among minority faculty members who are currently teaching in New Jersey institutions of higher education and minority graduates of baccalaureate and masters programs both in and out of state;

4. Make available appropriate support services;

(b) Each host institution participating in the program shall develop a written policy concerning the operation of the program at that institution which shall include but not be limited to policies regarding admission, institutional aid, appeal procedures and support services.

1. A copy of the written policy shall be provided to each program participant at the host institution upon commencement of the program by the participant.

9:2-1.8 Program participant responsibilities

(a) Each program participant shall:

1. Abide by all rules and regulations of the host institution applicable to full-time graduate students;

2. Pay all tuition, fees and other educational expenses, except for any charges or costs waived by the host institution pursuant to the provisions of N.J.A.C. 9:2-1.7(a)2; and

3. Maintain satisfactory academic progress as defined by the host institution attended by the program participant.

9:2-1.9 Source of loan funds

(a) The eligible student will be considered for two loan sources: the Guaranteed Student Loan and the Minority Faculty Advancement Loan, in that order. The type and amount of loan(s) will depend on the student's eligibility, in accordance with the policies and procedures set forth by the Guaranteed Student Loan and the Minority Faculty Advancement Loan. Regardless of the loan(s) for which the recipient qualifies, these loans will be eligible for loan redemption upon qualifying service as set forth in N.J.A.C. 9:2-1.14.

(b) The maximum loan amount received shall not exceed \$10,000 annually and \$40,000 aggregate for any combination of Guaranteed Student Loan and Minority Faculty Advancement Loan.

(c) Sequence of funding will be:

1. Subsidized Guaranteed Student Loan;

2. Non-subsidized Guaranteed Student Loan;

3. Minority Faculty Advancement Loan.

(d) The combined maximum annual loan and grant amounts may not exceed the student's budget determined by the educational institution for the program year.

9:2-1.10 Loan application process

(a) All eligible participants being considered for participation in Minority Faculty Advancement Loan Program will apply through the Authority's Direct Loan Office. The Authority will serve as lender, guarantor, and servicer of this loan program.

(b) Each academic year, the borrower will obtain a Guaranteed Student Loan application from the Direct Loan Office which will be used to process a subsidized and/or non-subsidized Guaranteed Loan, and a Minority Advancement Loan.

(c) Finance charges levied will be as follows:

1. As required by Federal rules, an origination fee will be levied on the subsidized and/or non-subsidized Guaranteed Student Loan and will be deducted from the proceeds of the loan disbursement.

2. A one percent insurance premium/processing fee will be levied on the subsidized and/or non-subsidized Guaranteed Student Loan and will be deducted from the proceeds of the loan disbursement however, it will not be levied on the Minority Faculty Advancement Loan.

9:2-1.11 Redemption

(a) Borrowers with earned doctoral degrees will be eligible for redemption of their Guaranteed Student Loan(s) and Minority Faculty Advancement Loan(s) over a four-year period of qualifying service as defined by N.J.A.C. 9:2-1.14.

(b) The principal balance of each loan will be cancelled at an annual rate of 25 percent, in return for each full academic year of service as set forth in N.J.A.C. 9:2-1.14.

(c) Total cancellation of loan indebtedness will not exceed the maximum of \$40,000 per student. Any previous loans obtained by the borrower will not be eligible for loan redemption.

(d) Prior to the annual redemption of loan indebtedness, participants shall submit institutional certification of qualifying service to the Department of Higher Education.

(e) If the borrower is deemed ineligible for loan redemption or chooses not to have the loans redeemed, the unpaid principal balance plus accruing interest at the prevailing rate for Guaranteed Student Loans and Minority Faculty Advancement Loans at the time the loans were made on the portion of loans not already redeemed will be converted to an installment contract and serviced by the Direct Loan Office of the Authority.

9:2-1.12 Terms of repayment

(a) Repayment of loans under the program shall be governed under the following conditions:

1. For subsidized Guaranteed Student Loan:

i. Repayment of the loan shall be governed by the appropriate policies and procedures of the Guaranteed Student Loan program.

2. Interest shall be at the prevailing rate established for the Guaranteed Student Loan program at the time the loan is made, and will be paid by the Federal government during inschool enrollment and grace periods and authorized periods of deferment.

3. Interest will begin accruing at the time of repayment, which will commence six months following less than half-time enrollment, withdrawal, graduation, or thereafter, in the absence of qualifying service as defined in N.J.A.C. 9:2-1.14.

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2. For non-subsidized Guaranteed Student Loan:

i. Repayment of the loan shall be governed by the appropriate policies and procedures of the Guaranteed Student Loan program.

ii. Interest shall be at the prevailing rate established for the Guaranteed Student Loan program at the time the loan is made and will be waived during full-time enrollment periods, grace period, and authorized periods of deferment.

iii. Interest will begin accruing subsequent to a six month grace period, following less than half-time enrollment, withdrawal, or graduation or thereafter in the absence of qualifying service as defined in N.J.A.C. 9:2-1.14.

iv. Repayment shall then commence following a six month grace period, with all outstanding accrued interest being capitalized to the principal balance at the time.

3. For Minority Faculty Advancement Loan:

i. Repayment of the loan shall be governed by the appropriate policies and procedures of the Guaranteed Student Loan program.

ii. Interest shall be at the prevailing rate established for the Guaranteed Student Loan program at the time the loan is made, and will be waived during full-time enrollment, grace period and authorized periods of deferment.

iii. Interest will begin accruing subsequent to a six month grace period, following less than full-time enrollment, withdrawal, graduation, or thereafter, in the absence of qualifying service as defined in N.J.A.C. 9:2-1.14.

iv. Repayment shall then commence following a six month period of forbearance, with all outstanding interest being capitalized to the principal balance at that time.

(b) The Guaranteed Student Loan and Minority Faculty Advancement Loan will be converted to repayment simultaneously.

9:2-1.13 Loan forgiveness

(a) In the case of a program participant's death or total and permanent disability, the loan will be forgiven pursuant to the guidelines set forth under the guaranteed student loan program.

(b) Requests for deferment or forgiveness of loans must be made by the borrower to the Chancellor. Such requests shall be referred for an initial recommendation to a three member panel appointed by the Chancellor. Following receipt of such recommendation the Chancellor shall issue a final determination.

9:2-1.14 Faculty service requirements

(a) Faculty service requirements for loan redemption purposes shall be satisfied:

1. For those program participants nominated by a sponsoring institution, by faculty service at the sponsoring institution unless otherwise mutually agreed upon by the president of the institution and the program. ***Professional employees from a sponsoring institution may redeem their loan by service in an academic administration position at the sponsoring institution if no faculty position is available at a New Jersey college or university. A sponsoring institution which does not desire to reemploy a program participant who successfully completes the program and was nominated by that institution may not reemploy the program participant only under extreme circumstances and with the approval of the Chancellor; or***

2. By faculty service in an appropriate position, as determined by the Chancellor of Higher Education, at an institution of higher education within New Jersey; or

3. ***If no faculty position is available at a New Jersey college or university, *[B]**b*y service in an appropriate position, as**

determined by the Chancellor of Higher Education, in an agency of State government.

(b) Host institutions shall be responsible for assisting program participants not nominated by a sponsoring institution who successfully complete the program in obtaining an appropriate position to fulfill faculty service requirements.

[(c) A sponsoring institution which does not desire to reemploy a program participant who successfully completes the program and was nominated by that institution may not reemploy the program participant only under extreme circumstances and with the approval of the Chancellor.]

9:2-1.15 Minority faculty advancement program advisory committee

(a) A Minority Faculty Advancement Program Advisory Committee shall be appointed by the Chancellor.

(b) The committee shall meet at least four times per year or more frequently if necessary.

(c) The committee shall:

1. Make recommendations to the Chancellor for participants in the program from among those candidates admitted by the academic programs of the host institutions who have applied for the program;

2. Make recommendations to the Chancellor regarding appropriate eligible disciplines and faculty service requirement positions;

3. Recommend to the Chancellor policies governing the program;

4. Engage in other such activities as designated by the Chancellor which will further the quality of the program.

(a)

STUDENT ASSISTANCE BOARD

Tuition Aid Grant Program 1985-86 Award Table

Adopted New Rule: N.J.A.C. 9:7-3.1

Proposed: August 19, 1985 at 17 N.J.R. 2050(a).

Adopted: October 15, 1985 by Student Assistance Board, Joseph Streit, Chairman.

Filed: October 15, 1985 as R.1985 d.572, **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:71-47(b) and 18A:71-48.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 13, 1988.

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

Full text of the adoption follows (additions to the adopted emergency amendment and concurrent proposal shown in boldface with asterisks ***thus***; deletions shown in brackets with asterisks ***[thus]***).

9:7-3.1 Tuition Aid Grant Award Table

(a) The value of the grant is related to the tuition charges of the various institutional sectors in New Jersey and the

student's ability to pay for educational costs. The award tables below show approximate award levels depending upon tuition and ability to pay:

1. (No change.)

**2. TUITION AID GRANT (TAG) AWARD TABLE FOR
1985-86
APPROXIMATE TUITION AID GRANT VALUES
NEW JERSEY COLLEGES AND UNIVERSITIES**

NJ Eligibility Index (NJEI)	County Colleges	State Colleges	Independent Institutions	Rutgers Univ. & UMDNJ ¹	NJ Inst. of Tech.
A	B	C	D	E	F
Under 950	\$825	\$1184	\$2300	\$1748	\$1940
950-1349	725	1080	2150	1640	1820
1350-1749	625	980	2000	1540	1700
1750-2149	525	880	1850	1440	1580
2150-2549	425	780	1700	1340	1460
2550-2949	325	680	1550	1240	1340
2950-3349	200	580	1400	1140	1220
3350-3749	0	480	1250	1040	1100
3750-4149		380	1100	940	980
4150-4549		280	950	840	860
4550-4949		200	800	740	740
4950-5349		0	650	640	640
5350-5749			550	540	540
5750-6149			450	440	440
6150-6549			200	200	200
Over 6549			0	0	0

¹* Rutgers Engineering, Pharmacy, and Cook College students will have their awards increased to offset the higher tuition charged for these programs of study. *[Approved]* *Students enrolled in eligible* programs *[only]* at UMDNJ. Contact the financial aid office for details.

(a)

Tuition Aid Grant Program

**Renewal of Grants Awarded Prior to
March 1, 1978**

Public Tuition Benefits Program

**Verification of Enrollment and Academic
Performance**

**Garden State Graduate Fellowship Program
Amount of the Award**

Adopted Repeal: N.J.A.C. 9:7-3.3

Adopted Amendments: N.J.A.C. 9:7-5.9 and 6.8

Proposed: July 15, 1985 at 17 N.J.R. 1734(a).

Adopted: October 15, 1985 by Student Assistance
Board, Joseph Streit, Chairman.

Filed: October 15, 1985 as R.1985 d.571, **without change**.

Authority: N.J.S.A. 18A:71-48, 18A:71-77 and P.L.
1984, c.94.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): April 13, 1988.

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

Full text of the adoption follows.

9:7-3.3 (Reserved)

9:7-5.9 Verification of enrollment and academic performance

Before payment may be made to an eligible student, the institution must have satisfactory evidence that the student is eligible for tuition benefits, and has registered for an academic term in an undergraduate degree program, and that the student is meeting the minimum standards for academic performance and academic progress at the institution in accordance with N.J.A.C. 9:7-2.10.

9:7-6.8 Amount of the award

Graduate Fellowships may be awarded up to an annual maximum established annually by the Student Assistance Board.

(b)

**Garden State Scholars
Eligibility Requirements**

Adopted Amendments: N.J.A.C. 9:7-4.1

Proposed: August 19, 1985 at 17 N.J.R. 2007(a).

Adopted: October 15, 1985 by Student Assistance
Board, Joseph Streit, Chairman.

Filed: October 15, 1985 as R.1985 d.570, **without change**.

Authority: N.J.S.A. 18A:71-26.6 and 26.8 and P.L.
1984, c.94.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): April 13, 1988.

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

Full text of the adoption follows.

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 undergraduate'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. The academic requirements shall include secondary school ranking in the graduating class and/or a combination of the secondary school ranking and combined Scholastic Aptitude Test scores. Each year the Student Assistance Board shall determine and publicize the actual academic requirements prior to the distribution of awards. Such scholarships may be awarded on the basis of indicators of academic merit

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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 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 four or 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.

(a)

Vietnam Veterans Tuition Aid Program**Adopted New Rules: N.J.A.C. 9:7-8**

Proposed: July 15, 1985 at 17 N.J.R. 1735(a).

Adopted: October 15, 1985 by Student Assistance Board, Joseph Streit, Chairman.

Filed: October 15, 1985 as R.1985 d.569, **without substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: P.L. 1985, c.114.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 13, 1988.

Summary of Public Comments and Agency Responses:

COMMENT: The Department received a letter from the Eastern Paralyzed Veterans Association requesting a change in the proposed new rules which would permit eligible Vietnam veterans with a 30 percent or more service connected Veterans Administration rated disability to be exempted from the six credits per term eligibility requirement.

RESPONSE: The Department reviewed this request and amended the regulations to reflect this change and thus provide a better opportunity for disabled veterans to pursue their undergraduate education with the assistance of this financial aid program.

Full text of the adoption follows (additions to the proposed new rules shown in boldface with asterisks ***thus***; deletions shown in brackets with asterisks ***[thus]***).

SUBCHAPTER 8. VIETNAM VETERANS TUITION AID PROGRAM**9:7-8.1 Eligible Vietnam veteran**

(a) For purposes of the Vietnam Veterans Tuition Aid Program, an eligible Vietnam veteran shall have:

1. Served in the Armed Forces of the United States in Southeast Asia in the Vietnam conflict and received a Vietnam Service Ribbon; and

2. Been honorably discharged or generally discharged under honorable conditions; and

3. Been domiciled in New Jersey at the time of the effective date of N.J.S.A. 18A:71-76.1 et seq. for a period of not less than two consecutive years, exclusive of any time spent on active duty.

9:7-8.2 Eligible institution

Tuition benefits are available to eligible Vietnam veterans enrolled in a public institution of higher education in this State as enumerated in N.J.S.A. 18A:62-1 or at an independent college or university located in this State licensed by the Board of Higher Education or approved for the training of veterans by the Department of Higher Education.

9:7-8.3 Undergraduate enrollment

(a) The eligible Vietnam veteran must be enrolled or plan to enroll in an approved undergraduate degree program on at least a one-half time basis, that is, six credits per term, to be eligible to receive tuition benefits. ***The eligible Vietnam veteran with a 30 percent or more service connected Veterans Administration rated disability will be exempted from the six credit per term requirement and will be allowed to register for less than six credits and still receive tuition assistance.***

(b) The program is only applicable to the student's initial undergraduate degree program. A student who has earned the highest undergraduate degree offered by an institution shall not be eligible for benefits under this program at that institution. Students already possessing a baccalaureate degree are not eligible.

9:7-8.4 Award amount

(a) Eligible Vietnam veterans attending a public institution of higher education ***[at least half time]*** ***pursuant to N.J.A.C. 9:7-8.3*** shall be entitled to tuition assistance in an amount not to exceed the tuition which they are charged.

(b) Eligible Vietnam veterans attending an independent college or university ***[at least half time]*** ***pursuant to N.J.A.C. 9:7-3.8*** shall be eligible for tuition assistance in an amount not to exceed the tuition which they are charged, however, the award shall not exceed the maximum tuition charged a resident undergraduate student at Rutgers, the State University.

(c) For purposes of this program, students who attend less than full time will be eligible to receive awards during summer terms as long as their total award during the period from September 1 to the following August 31 of any academic year does not exceed the award amount to a full-time undergraduate student at the same institution participating in this program during the regular academic year.

9:7-8.5 Other financial aid programs

(a) No tuition award shall be granted unless the Vietnam veteran has applied for all other available State and Federal scholarship and grant assistance.

(b) The amount of tuition assistance through this program when combined with other scholarship and grant assistance may not exceed the student's educational budget.

9:7-8.6 Duration

Eligibility for this program shall be limited to a period of five years from the effective date of this program, April 9, 1985. A Vietnam veteran shall be eligible for a tuition award for four academic years, unless enrolled in an undergraduate

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program regularly requiring five academic years for completion, in which case the student shall be entitled to a tuition award for a fifth year.

9:7-8.7 Application procedure

(a) The eligible Vietnam veteran should obtain an application for this program from the Department of Higher Education or the financial aid or veterans affairs office at the institution the student attends.

(b) The eligible Vietnam veteran must complete all sections of the application, sign it, attach a copy of DD Form 214 (report of Separation or Discharge) and submit it to the authorized college official for review and approval.

(c) Students must apply for all other available State and Federal programs of student financial aid by filing the New Jersey Financial Aid Form.

(d) The authorized college official will:

1. Review the application for completeness;
2. Indicate enrollment status and tuition charges for each applicant;
3. Maintain documentation that the amount of tuition assistance plus other scholarship and grant assistance does not exceed the eligible veteran's educational costs;
4. Maintain in the student's file proof that the residency requirement is met;
5. Maintain proof that the academic standard has been met;
6. Maintain proof that the veteran has applied for State and Federal financial assistance;
7. Affix the authorized college official's signature on each application.

(e) Applications shall be mailed to:

New Jersey Department of Higher Education
Vietnam Veterans Tuition Aid Program
CN 540
Trenton, New Jersey 08625

9:7-8.8 Renewal

In order to continue to receive tuition benefits under this program, the eligible Vietnam veteran must maintain good academic standing. Good academic standing shall be defined in accordance with the standards established and enforced by the institution and approved by the Department of Higher Education, State Approving Agency, pursuant to Title 38, United States Code, Section 1775. To enable the continuation of tuition benefits an annual renewal form will be available to each recipient prior to the start of the next academic year.

9:7-8.9 Payments

Upon verification of eligibility by the Department of Higher Education, Office of Student Assistance, payments will be made by the Department of Treasury on behalf of eligible veterans to institutions in equal installments over the regular academic year. The number of installments will correspond to the number of school terms. Listings containing the names of eligible students to be credited will accompany the payments to institutions. In some cases, the Student Assistance Board may elect to provide payments directly to individual students.

9:7-8.10 Institutional responsibilities

(a) Institutions shall be responsible for the following:

1. Maintain a separate account for all funds received from the State of New Jersey for the veterans tuition aid program;
2. Deposit all checks received promptly;
3. Disburse funds received either directly to the veteran or as a credit toward any outstanding balance that may exist;

4. Provide access to the Chancellor of Higher Education, upon request, to any audit report or books and records of the institution pertaining to this program.

9:7-8.11 Deadlines

Deadlines under this program will be set pursuant to other programs administered by the Student Assistance Board except during the 1985-86 academic year when the fall and spring term deadline will be March 1, 1986. All summer payments must be submitted to the Department of Higher Education in accordance with annual administrative directives and guidelines.

(a)

BOARD OF HIGHER EDUCATION

Jobs, Science and Technology Bond Act of 1984 Policies and Procedures

Adopted New Rules: N.J.A.C. 9:8

Proposed: June 17, 1985 at 17 N.J.R. 1516(a).

Adopted: October 5, 1985 by Board of Higher Education, T. Edward Hollander, Chancellor and Secretary.

Filed: October 15, 1985 as R.1985 d.566, **without change**.

Authority: P.L. 1984, c. 99.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): November 4, 1990.

Summary of Public Comments and Agency Responses:

The agency received one comment as follows:

Comment: Consortial grants under this program may be difficult to work out in many instances.

Response: The emphasis on funding consortial proposals with bond act monies is consistent with Board of Higher Education policy, as stated in *The Statewide Plan for Higher Education*, to encourage interinstitutional cooperation in current and future program development. Cooperative relationships in costly technical and engineering programs enable institutions to develop high quality programs with state-of-the-art equipment which serve a large number of students. Given the potential statewide educational and economic impact that such cooperative relationships may have, the agency believes that consortial arrangements should remain part of the program under this proposal.

Full text of the adoption follows.

CHAPTER 8 DISBURSEMENT OF FUNDS FOR TECHNICAL AND ENGINEERING FACILITIES AND EQUIPMENT UNDER THE JOBS, SCIENCE AND TECHNOLOGY BOND ACT OF 1984, P.L. 1984, c.99

SUBCHAPTER 1. FUNDS FOR UNDERGRADUATE TECHNICAL AND ENGINEERING RELATED FACILITIES AND

EQUIPMENT AND FOR HIGH TECHNOLOGY JOB TRAINING AND RETRAINING PROGRAMS

9:8-1.1 Objectives

The primary goal of the instructional portion of the Jobs, Science and Technology Bond Act of 1984, P.L. 1984, c.99, is improved education of undergraduate students in science and technology, through the construction and upgrading of undergraduate science and technical/engineering related facilities and equipment.

9:8-1.2 Use of funds

(a) Funds shall be used for construction of major new buildings, or to support major laboratory renovation or for construction of small additions to science and technology/engineering buildings, along with the initial equipping or re-equipping of such new or renovated facilities. In addition, funds may be used for the purchase of large scale equipment that does not require facilities construction or renovation but that has extended useful life and significant educational impact.

(b) Only projects which support undergraduate science or technical/engineering programs and coursework directed toward job training and retraining (occupational and professionally oriented programs) will be funded.

(c) The intent is to fund a limited number of projects of significant scope and impact. Only projects involving major capital expenditures and with an extended useful life expectancy will be funded.

9:8-1.3 Eligibility

(a) Only New Jersey institutions of higher education are eligible to receive funds.

(b) Priority will be given to institutions not receiving major institutional support under other provisions of the Bond Act.

9:8-1.4 Review process

(a) The review procedures will consist of two stages: first, a competitive request for proposals process to determine educational viability; and, second, the Board of Higher Education's existing Facilities Planning Standards and Approval Procedures, N.J.A.C. 9:3.

(b) The initial stage will be a competitive process whereby institutions shall submit proposals in accordance with procedures specified in a Departmental request for proposals. The primary focus of this stage will be the educational value of the proposed project. Institutions will also be asked to provide basic information regarding the nature and cost of any construction and equipment required by the project.

(c) The review will be conducted by the Department with the assistance of external consultants.

(d) Proposals will be reviewed in accordance with the following criteria:

1. The overall consistency of the proposed project's objectives with the objectives of the Jobs, Science and Technology Bond Act of 1984, P.L. 1984, c.99;
2. The consistency of the proposed project with institutional mission;
3. The quality of the idea and importance of the project with respect to education and economic development;
4. Clarity and attainability of the objectives;
5. The extent to which equipment to be purchased represents the state of the art;
6. Appropriateness of the academic qualifications of key personnel and their proposed roles in the projects;

7. Appropriateness of the budget request;
8. The extent of institutional commitment of resources (both capital and operating);

9. The extent to which the institutions establish appropriate linkages with other higher education institutions and/or with industry;

10. The type and number of jobs available for which students would be educated;

11. Reasonableness of the construction cost estimates;

12. Feasibility of construction.

(e) Priority will be given to projects in those areas identified by the Governor's Commission on Science and Technology for present and future development.

(f) Priority will be given to projects that have regional and statewide economic development impact and which are consortial in nature. Projects which involve institutions from various sectors are encouraged.

(g) Projects that are judged to be superior by external consultants will be brought to the Board of Higher Education for approval. Those projects approved by the Board will be advanced to the second stage. If a project involves a new degree program and/or a new branch campus, Board approval for the degree program and/or the branch campus, where required, must be obtained before the project will be advanced to the second stage.

(h) The second stage of the review process will consist of the Board's established Facilities Planning Standards and Approval Procedures, N.J.A.C. 9:3, which shall be used in the review of proposals from both the public and independent sectors.

SUBCHAPTER 2. FUNDS FOR CAPITAL CONSTRUCTION

9:8-2.1 Objectives

(a) The primary goal of the Capital Construction portion of the Jobs, Science and Technology Bond Act of 1984, P.L. 1984, c.99 is improved education of students in technical and engineering programs, through capital construction of technical and engineering related facilities.

9:8-2.2 Use of funds

(a) Funds shall be used for the construction and initial equipping of major new technical and engineering buildings.

(b) Only projects which support undergraduate (or a combination of undergraduate and graduate) programs and coursework directed toward job training and retraining in technology and engineering will be funded.

9:8-2.3 Eligibility

(a) Projects to be funded under this category shall include those specified in the Jobs, Science and Technology Bond Act of 1984, P.L. 1984, c.99, and those later identified by the Department of Higher Education.

(b) Only New Jersey institutions of higher education are eligible to receive funds.

9:8-2.4 Review process

(a) For the funds in this subchapter not already specified in the Jobs, Science and Technology Bond Act of 1984, P.L. 1984, c.99, or identified by the Department of Higher Education, the Department of Higher Education will invite proposals from accredited engineering schools for a northern and/or central region computer integrated manufacturing (CIM) center(s).

(b) The initial review of the invited proposals will be conducted by the Department of Higher Education with the assistance of external consultants.

(c) Priority will be given to projects that have an impact on the economic development of the northern and/or central region of the State and which are consorial in nature.

(d) Projects that are judged to be superior by external consultants will be brought to the Board of Higher Education for approval. Those projects approved by the Board will be advanced to a second stage of review. If a project involves a new degree program and/or a new branch campus, Board approval for the degree program and/or the new branch campus, where required, must be obtained before the project will be advanced to the second stage.

(e) The second stage of the review process will consist of the Board of Higher Education's established Facilities Planning Standards and Approval Procedures, N.J.A.C. 9:3, which shall be used in the review of proposals from both the public and independent sectors.

(a)

HIGHER EDUCATION ASSISTANCE AUTHORITY

Guaranteed Student Loan Program Loan Amounts

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

Proposed: June 17, 1985 at 17 N.J.R. 1518(a).

Adopted: October 8, 1985 by New Jersey Higher

Education Assistance Authority, Jerome Lieberman,
Chairman.

Filed: October 15, 1985 as R.1985 d.568, **without change**.

Authority: N.J.S.A. 18A:72-10.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66
(1978): October 3, 1988.

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

Full text of the adoption follows.

9:9-1.2 Loan amounts

(a) No student shall be permitted to borrow a second time for the same stated grade level in school, as indicated on the previous loan application, if the request is the result of either academic failure or the failure to complete a full-time course load for the stated grade level at the institution attended; provided however that the Authority shall have the discretion to permit borrowing a second time for the same stated grade level in school when, in the discretion of the Authority, the borrower's request for repetitive funding is substantially based upon circumstances which were beyond his or her immediate control.

(b) (No change.)

HUMAN SERVICES

(b)

DIVISION OF DEVELOPMENTAL DISABILITIES

Manual of Standards for Private Licensed Facilities for the Mentally Retarded

Adopted Repeal and New Rule: N.J.A.C. 10:47

Proposed: November 5, 1984 at 16 N.J.R. 2902(a).

Adopted: October 7, 1985 by Geoffrey S. Perselay,
Acting Commissioner, Department of Human
Services.

Filed: October 8, 1985 as R.1985 d.540, **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. 30:1-12, 30:1-15, 30:1-15.1,
30:6D-23 et seq.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): November 4, 1990.

Summary of Public Comments and Agency Responses:

The Department received comments from the State Fire Marshal, the Bancroft School, Haddonfield, New Jersey, and from two components of the Department of Human Services. The comments received were generally supportive. Recommendations for some technical and grammatical changes were submitted and those comments which served to clarify a standard were incorporated into this adoption.

The designation of "resident" for the individuals served was changed to the term "client." This administrative decision by the Department was reached after a review of the other regulations promulgated. The term "client" is consistently applied in regulations of the Division of Developmental Disabilities. The consistent use of the term "client" prevents undue confusion for the licensee.

The State Fire Marshal presented suggested changes in the wording of 10:47-7.1 through 10:47-7.4. The wording suggested that which appeared in the New Jersey Fire Safety Act. All suggestions of the State Fire Marshal were adopted.

The Bancroft School submitted a number of suggestions. In Standard 10:47-3.1(f)3, the term Chief Administrative Officer was changed to Chief Executive Officer. The wording of Standard 10:47-3.2(b) was altered to clarify that "Unusual Incidents" rather than "Major Activities" are reportable. Standard 10:47-3.4(f) was changed to require an annual performance evaluation rather than a semi-annual evaluation.

Agency comments suggested changes in the chronological ages for education from 5-20 to 3-21, as reflected in Standard 10:47-6.1(e). Standard 10:47-3.2(y) was added to reflect the requirement of the Division for Human Rights Committees.

Some of the comments received seem to reflect a lack of understanding regarding the intent of certain standards. Additionally, some of the issues raised involved policy decisions and questions regarding implementation practices, and do not belong in licensing standards. These comments will be ad-

dressed in individual correspondence to provide clarification for the commenting parties.

The title of the regulations were changed from Private Licensed Facilities for the Developmentally Disabled to Private Licensed Facilities for the Mentally Retarded. Those facilities regulated by the Department at this time are exclusively Private Licensed Facilities for the Mentally Retarded. To expand the licensure to facilities serving the developmentally disabled would involve applying these regulations to facilities presently licensed by another state agency.

Finally, at the suggestion of both the Bancroft School, as well as the Department components, wording was changed to clarify whether a standard was the requirement of the Department of Health or the Department of Human Services. Similarly, wording was applied in some instances to more clearly indicate the specific requirement.

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]***).

CHAPTER 47 MANUAL OF STANDARDS FOR PRIVATE LICENSED FACILITIES OF THE ***[DEVELOPMENTALLY DIS- ABLED]*** ***MENTALLY RETARDED***

SUBCHAPTER 1. GENERAL PROVISIONS

10:47-1.1 Scope

The Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., vests the responsibilities for licensing and regulation of health care facilities with the State Department of Health. N.J.S.A. 30:1-15 and Title 30:1-15.1, however, ***[in]*** vests the New Jersey ***[State]*** Department of Human Services with the responsibility for inspection of private residential facilities for the ***[developmentally disabled]*** ***mentally retarded*** as necessary but at least once a year. These statutes also authorize the Commissioner of the Department of Human Services to set appropriate operating standards for these facilities. The standards set forth in this chapter are minimum operating standards for private facilities serving the ***[developmentally disabled]*** ***mentally retarded*** in the State of New Jersey.

10:47-1.2 Definitions

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

"Administrator" shall mean the chief executive officer of a non-proprietary institution or the manager of a proprietary institution.

"Classification of institutions" shall mean the identification of facilities according to the type of developmentally disabled persons treated. Such classification shall be by mental level, age, sex, and secondary handicap. Institutions may be licensed for more than one classification group only if specific treatment is provided for each group. Details of the classification shall be specified in the letter from the Commissioner, Department of Health, which accompanies the license.

1. Mental level: Classification of residents by mental level shall be made only through professional diagnosis.

i. There are two generally accepted scales for categorizing mental level—educational capabilities and measured intelligence. Although the scales are not interchangeable, there is correlation between them. Both are outlined here. Either may be used to identify the mental levels served by the institution.

(1) Educational capabilities (Division of Mental Retardation, Standards for Public Institutions): For residents, chronological age range ***[5-20]*** ***3-21*** inclusive:

(A) "Educable:" Persons whose potential mental capabilities, although of inferior order, are capable of further development through education (minimum overall IQ of 50).

(B) "Trainable:" Persons whose mental capabilities are significantly retarded but who, through training, may be capable of some degree of self-help, personal independence, and social and economic usefulness within a sheltered environment (maximum overall IQ of 49 to minimum IQ of 24).

(C) "Sub-trainable:" Persons who are markedly mentally retarded so as to be neither educable nor trainable and who are dependent on the institution for continuous personal care and supervision (maximum overall IQ of 24). This definition does not relieve the administrator of the institution from responsibility to provide education and training opportunities defined under N.J.A.C. 10:47-6.1(a).

(2) Measured intelligence: Four levels of deviation in measured intelligence are identified adjectively by the American Association of Mental Deficiency. (AAMD)[†] They correspond to ranges in IQ values on intelligence tests and have become the standard descriptive terms used to identify mental levels. The four levels are listed here with the corresponding IQ ranges of Stanford-Binet and Cattrell Tests of Intelligence:

(A) "Mild Mental Retardation," IQ 67-52.

(B) "Moderate Mental Retardation," IQ 51-36.

(C) "Severe Mental Retardation," IQ 35-20.

(D) "Profound Mental Retardation," IQ 19 and below.

[†]Manual on Terminology and Classification in Mental Retardation 1977, revision, page 19.

ii. Although there is no absolute correlation, in general, children in the Mild ranges are considered Educable; children in the Moderate range and some in the Severe range are considered Trainable; others in the Severe range and those in the Profound range are considered neither educable nor trainable. It is important to remember that measured intelligence categories reflect current intellectual functioning as indicated by performance on an intelligence test. They are not meant to reflect potential or absolute level of intelligence. The categories of educational capabilities reflect current functioning with some consideration of potential.

2. Age: The minimum and maximum ages of residents accepted for treatment shall be specified in the license.

3. Sex: The license shall specify whether the institution shall admit males only, females only, or both males and females.

4. Secondary handicap: The license shall specify whether the institution may serve developmentally disabled persons who have additional handicaps of blindness, deafness, crippling or emotional disturbance.

***["Commissioner"]** shall mean the Commissioner of the Department of Human Services.]^{*}

***["Department"]** shall mean the Department of Human Services.]^{*}

***["Resident"]** ***["Client"]** shall refer to the developmentally disabled person admitted to or seeking admission to a residential facility.

***["Developmentally disabled"]** is a severe, chronic disability of a person which:

1. Is attributable to a mental or physical impairment or combination of mental or physical impairments;

2. Is manifest before age 22;

3. Is likely to continue indefinitely;

4. Results in substantial functional limitations in three or more of the following areas of major life activity, that is, self care, receptive and expressive language, learning, mobility, self-direction and capacity for independent living or economic self-sufficiency; and

5. Reflects the need for a combination and sequence of special inter-disciplinary or generic care, treatment or other services which are of life-long or extended Developmental disabilities includes but is not limited to severe disabilities attributable to mental retardation, autism, cerebral palsy, epilepsy, spina bifida and other neurological impairments where the above criteria are met.*

["Developmentally disabled" means a disability which originated before 18 years of age, which has continued or is expected to continue indefinitely, which constitutes a substantial handicap, and which is attributable to mental retardation, cerebral palsy, epilepsy, autism, or other conditions found by the Commissioner of Human Services to give rise to an extended need for similar services.]

"Division" shall mean the Division of Developmental Disabilities.

"Individual Habilitation Plan" (IHP) is a plan written in terms of measureable goals and behaviorally stated objectives presenting an integrated program of individually suited activities, experiences or therapies necessary to achieve the optimal physical, intellectual, social or vocational functioning of which the individual is capable and shall conform to the requirements of N.J.S.A. 30:6D-10 et seq.

"Institution" shall mean a private residential facility for the *[developmentally disabled,]* ***mentally retarded*** whether operated for profit or not, which is not maintained, supervised or controlled by any agency of the government, of the State, or any county or municipality and which maintains and operates facilities and collects fees for the residential care and habilitative training of *[four]* ***sixteen*** or more non-related developmentally disabled individuals for periods exceeding 24 hours. The term "institution" as used in these standards, includes residential schools, homes or other specialized facilities.

"License" is the authorization issued by the New Jersey State Department of Health, for a period of one year, to the proprietor of the facility providing residential services to developmentally disabled persons. Upon issuance or renewal, a fee of not less than \$100.00 and not more than \$500.00 shall be collected by the New Jersey Department of Health. A license may be denied, revoked, suspended or may be placed on provisional status for violation of the governing law or minimum standards promulgated thereunder (Chapter 136, Law of 1971, N.J.A.C. 26:2H-12).

"Mental deficiency" shall mean that state of mental retardation in which the reduction of social competence is so marked that persistent social dependency requiring guardianship of the person shall have been demonstrated or be anticipated. (N.J.S.A. 30:4-23). Basic criteria for the determination of mental deficiency are:

1. Mental retardation, substantiated by measured intelligence with I.Q. scores;
2. Reduced level of adaptive behavior with behavioral description;
3. Clinical and social factors.

"Mental retardation" shall mean a state of significant sub-average intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. (AAMD—Manual on Terminology and Classification in Mental Retardation, N.J.S.A. 30:4-23.)

"Sponsor" shall mean the responsible adult (usually a parent or legal guardian) or agency who authorizes placement of the developmentally disabled person in the institution and who retains continuing responsibility for the resident.

SUBCHAPTER 2. LICENSURE PROCEDURE

10:47-2.1 General Provisions

[(a)] When used in this subchapter, the term "Commissioner" shall mean the Commissioner of the New Jersey State Department of Health and "Department" shall mean the New Jersey State Department of Health.

10:47-2.2 Certificate of Need

(a) According to Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq. and amendments thereto, a health care facility shall not be instituted, constructed, expanded, or licensed to operate except upon application for and receipt of a Certificate of Need issued by the Commissioner.

(b) Application forms for a Certificate of Need and instructions for completion may be obtained from:

Review and Comment Program
Division of Health Planning
and Resources Development
New Jersey State Department of Health
CN 360
Trenton, New Jersey 08625

10:47-2.3 Application for licensure

(a) Following acquisition of a Certificate of Need, any person, organization, or corporation desiring to operate a facility shall make application to the Commissioner for a license on forms prescribed by the Department. Such forms may be obtained from:

Licensing, Certification and Standards
Division of Health Facilities Evaluation
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625

(b) The Department shall charge a nonrefundable fee for the filing of an application for licensure of a health care facility and for the annual renewal of the license in accordance with the following:

Number of Beds	Fee
1-99	\$100.00
100-199	\$200.00
200-299	\$300.00
300-399	\$400.00
400-999	\$500.00

(c) Any person, organization, or corporation considering application for license to operate a facility shall make an appointment for a preliminary conference at the Department with the Licensing, Certification and Standards Program.

10:47-2.4 Newly constructed or expanded facilities

(a) The application for license for a new facility shall include written approval of final construction of the physical plant by:

Health Facilities Construction and
Monitoring program
Division of Health Planning and
Resources Development
New Jersey State Department of Health
CN 360
Trenton, New Jersey 08625

(b) A final on-site inspection of the construction of the physical plant shall be made by representatives of the Health Care Facilities Construction and Monitoring Program and the Health Facilities Inspection Program, to verify that the building has been constructed in accordance with the final architectural plans approved by the Department.

(c) Any health care facility with a construction program, whether a Certificate of Need is required or not, shall submit plans to the Health Facilities Construction and Monitoring Program of the Department for review and approval prior to the initiation of any work.

10:47-2.5 Surveys and temporary license

(a) When the written application for licensure is approved and the building is ready for occupancy, a survey of the facility by representatives of the Health Facilities Inspection Program of the Department ***of Health*** shall be conducted to determine if the facility meets the standards contained in this chapter.

(b) The facility shall be notified in writing of the findings of the survey, including any deficiencies found.

(c) The facility shall notify the Health Facilities Inspection Program of the Department ***of Health*** when the deficiencies, if any, have been corrected, and the Health Facilities Inspection Program will schedule one or more resurveys of the facility prior to occupancy.

(d) A temporary license may be issued to a facility when the following conditions are met:

1. An office conference for review of the conditions for licensure and operation has taken place between the Licensing, Certification and Standards Program and representatives of the facility, who will be advised that the purpose of the temporary license is to allow the Department to determine the facility's compliance with Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, and the rules and regulations pursuant thereto;

2. Written approvals are on file with the Department ***of Health*** from the local zoning, fire, health, and building authorities;

3. Written approvals of the water supply and sewerage disposal system from local officials are on file with the Department ***of Health*** for any water supply or sewage disposal system not connected to an approved municipal system;

4. Survey(s) by representatives of the Department ***of Health*** indicate the facility meets the standards contained in this chapter;

5. Professional personnel are employed in accordance with the staffing requirements ***contained in this chapter*** ***[in these standards]***.

6. No ***[health care facility]* *private facility for the mentally retarded*** shall accept ***clients*** patients until the facility has the written approval and/or license issued by the Licensing, Certification and Standards Program of the Department ***of Health***. The facility shall accept only that number of ***[patients]* *clients*** for which it is approved and/or licensed.

7. Survey visits may be made to a facility at any time by authorized staff of the Department. Such visits may include, but not be limited to, the review of all facility documents and patient records and conferences with patients.

8. A temporary license may be issued to a facility for a period of six months and may be renewed as determined by the Department ***of Health***;

9. The temporary license shall be conspicuously posted in the facility;

10. The temporary license is not assignable or transferable and shall be immediately void if the facility ceases to operate or if its ownership changes.

10:47-2.6 Full license

(a) A full license shall be issued on expiration of the temporary license, if surveys by the Department ***of Human Services*** have determined that the ***[health care facility]* *private mental retardation facility*** is operated as required by Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, and by the rules and regulations pursuant thereto.

(b) A license shall be granted for a period of one year or less as determined by the Department ***of Health upon the recommendation of the Department of Human Services***.

(c) The license shall be conspicuously posted in the facility.

(d) The license is not assignable or transferable and it shall be immediately void if the facility ceases to operate or if its ownership changes.

(e) The license, unless sooner suspended or revoked, shall be renewed annually on the original licensure date, or within 30 days thereafter but dated as of the licensure date. The facility will receive a request for renewal fee 30 days prior to the expiration of the license. A renewal license shall not be issued unless the licensure fee is received by the Department ***of Health***.

(f) The license may not be renewed if local regulations or any other requirements are not met.

10:47-2.7 Surrender of license

(a) The facility shall directly notify each ***[patient]* *client***, the ***[patient's]* *client's*** physician, and any guarantor of payment concerned at least 30 days prior to the voluntary surrender of a license, or as directed under an order of revocation, refusal to renew, or suspension of license. In such cases, the license shall be returned to the Licensing, Certification and Standards Program of the Department ***of Health*** within seven working days.

(b) A facility seeking a waiver of these standards contained in this chapter shall apply in writing to the Director of the Licensing, Certification and Standards Program of the Department ***of Health***.

(c) A written application for waiver shall include the following:

1. The nature of the waiver requested;
2. The specific standards for which waiver is requested;
3. Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the facility upon full compliance;
4. An alternative proposal which would ensure ***[patient]* *client*** safety; and
5. Documentation to support the application for waiver.

(d) The Department ***of Health*** reserves the right to request additional information before processing an application for waiver.

10:47-2.8 Action against a license

(a) Violations of the following ***[standards]* *regulations*** shall result in action to impose a fine: Sec. ***10:47 2.2(a); 2.4(c) and 2.5(d)6, above*** ***[2.1.1, 2.3.3, and 2.4.3]***.

(b) If the Department ***of Health*** determines that operational or safety deficiencies exist, it may require that all new admissions to the facility cease. This may be done simultaneously with, or in lieu of, action to revoke licensure and/or impose a fine. The Commissioner ***of Health*** or his or her designee shall notify the facility in writing of such determination.

1. If the Department of Health takes negative licensing action against a facility, the licensee can invoke the appeal process in accordance with Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A., 26:2-1.1-1 et. seq. and amendments thereto.

(c) The Commissioner ***of Health*** may order the immediate removal of ***[patients]* *clients*** from a facility whenever he/she determines imminent danger to any person's health or safety.

(d) Standards (a) through (c) above shall apply to facilities with a temporary license and facilities with a full license.

10:47-2.9 General requirements

(a) The facility shall provide nursing care and ***[other health and]* health-related services**, under the supervision of a physician, to ***[patients]* *clients*** for 24 or more consecutive hours.

(b) The facility shall comply with applicable Federal, State, and local regulations and requirements ***[which concern private licensed facilities for the developmentally disabled]***.

(c) The facility shall comply with all applicable provisions of Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto.

(d) The facility shall be responsible for providing or arranging services for ***[patients]* *clients*** as required by the standards contained in this chapter.

(e) The ownership of the facility and the property on which it is located shall be disclosed to the Department ***of Health***. Proof of this ownership shall be available in the facility. Any proposed change in ownership shall be reported to the Department ***of Health and Department of Human Services*** in writing at least 30 days prior to the change.

(f) The facility shall comply with N.J.A.C. 8:31-26.1, ***[Ownership and operation convicted person's]***.

(g) The facility shall, upon request, submit in writing any documents which are required by this chapter to be approved by the Department ***of Human Services and forwarded to the *Director of Licensing, Certification and Standards Program of the Department *of Health***.

(h) All documents required by this chapter shall be retained for a period of at least three years after the date of the annual licensure inspection.

(i) All documents required by this chapter shall be made available, upon request, to ***[patients,]* *clients*** staff, and the public. Copies of these documents shall be provided, upon request, within a reasonable time, at a reasonable charge, and in accordance with the rules and regulations regarding confidentiality. If any of the requested documents contain information involving confidential corporate or business materials, such information may be deleted; however, if information is deleted for such reasons, the requesting party shall be so informed in writing by the administrator of the reasons for deletions.

SUBCHAPTER 3. ADMINISTRATIVE POLICIES

10:47-3.1 Management and organization standards

(a) The ***[residential]* facility** shall have available a copy of the Manual of Standards for Private ***[Licensed Facilities for the Developmentally Disabled]* *Facilities for the Mentally Retarded*** (N.J.A.C. 10:47) and other regulations relevant to the function of the facility.

(b) A ***[residential]* facility** shall allow the licensing authority to inspect all aspects of a program's functioning and

to interview any staff member of the facility or ***[resident]* *client*** in the care of the facility.

1. A ***[residential]* facility** shall make any information reasonably related to assessment of compliance with these requirements available to the licensing authority.

(c) ***[residential]* facility** shall comply with all ***[relevant requirements, including DMR circulars]*, *Administrative Orders to the Department of Human Services and Circulars of the Division of Developmental Disabilities*** unless a waiver for specific requirement(s) has been granted through a prior written agreement with the licensing ***[authority]* *agency***. This agreement shall specify the particular requirement(s) to be waived, the duration of the waiver, and the terms under which the waiver is granted.

1. Waiver of requirements may be granted providing that such a waiver would present no danger to the health, safety, welfare, or rights of the ***[residents]* *clients*** and when strict enforcement of a requirement would place an undue burden upon the ***[residential]* facility**.

(d) A ***[residential]* facility** shall have a written statement specifying its philosophy, purposes, and program orientation, and describing both short and long-term aims. The statement should identify the types of services provided and the characteristics of the ***[resident]* *client*** population to be served by the ***[program]* *facility***.

1. The statement of philosophy and goals shall be re-evaluated periodically.

(e) A ***[residential]* facility** shall not permit public funds to be paid or committed to be paid to any corporation, firm, association, partnership, or business in which any of the members of the governing body of the facility, or the members of the immediate families of members of the governing body or executive personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the facility.

(f) In a non-proprietary facility, there shall be a Board of Directors, Board of Trustees, or other similar governing body responsible for the facility's management, control, and operation, the welfare of the ***[residents,]* *clients*** and the formulation of administrative policy.

1. A ***[residential]* facility** shall have a governing body which includes representatives of the community in which the facility is located, representatives of the parents, and providers of ***[residential]* services**.

i. The names and addresses of all board members shall be supplied to the licensing ***and inspecting* [agency]* *agencies***;

ii. The professional background of each member shall be provided; and

iii. Changes in membership shall be reported as they occur.

2. The governing body shall elect from its membership a president or chairperson, vice president, secretary, and treasurer. It shall have the power to appoint such officers and committees as it may require to assist in carrying out its functions.

i. It shall conduct regular meetings and such special meetings as are required;

ii. Minutes shall be recorded and readily available to representatives of the ***[appropriate]* licensing agency *and inspecting agency***;

3. The governing body of a ***[residential]* facility** shall designate a person to act as Chief ***[Administrative]* *Executive*** Officer of the facility and shall delegate sufficient

authority to such person as to manage the affairs of the facility effectively.

i. The Chief Executive Officer, in conjunction with the governing body, shall be responsible for the general direction and establishment of policies concerning the operation of the facility and welfare of its **[residents]* *clients**.

4. The governing body of a **[residential]** facility shall ensure that the facility;

i. Is in continual compliance and conformity with all relevant laws and/or regulations, whether Federal, State, local or municipal, affecting the operation of the facility;

ii. Is in continual compliance and conformity with the terms of all leases, contracts, or other legal agreements to which the facility is a party;

iii. Is maintained, staffed, and equipped in such a manner as to effectively implement the program of that facility;

iv. Is adequately funded and fiscally sound. To this end, the governing body shall be responsible for:

(1) The review of an annual report completed by an independent auditor. This audit shall be made available upon request to any public agency which provides funds to the facility and the licensing agency.

v. Consults with the licensing agency **and inspecting agency** prior to making any substantial alteration in the program provided by the facility or the physical plant.

(g) A proprietary facility operated by any owner, partnership, or corporation **[for mentally retarded persons]** shall certify to the licensing **[authority]* *agency and inspecting agency** the names, addresses, occupations or professions of all the owners and the extent of financial interest to each.

(h) A proprietary facility shall have documents which fully identify its ownership. A corporation, partnership, or association shall identify its officers and shall have, where applicable, the charter; partnership agreement; constitution; articles of association; and/or by-laws of the corporation, partnership, or association.

(i) Any change in the ownership or the identity of the person or persons owning and operating such a facility shall be reported to the licensing **[authority]* *agency and inspecting agency** within 15 days of the date on which such change occurs.

(j) In instances where the owner of the facility assigns the responsibility for management to another individual, the preceding requirements of this section relative to the governing body of the residential facility shall apply to the administrator.

10:47-3.2 Administrative standards

(a) A **[residential]** facility shall assemble and maintain an administrative procedures manual which incorporates all of the written procedures and policies designed to implement the facility's objectives.

1. The administrative procedures manual shall describe the policies and procedures of the major operating units, be kept current, and shall be available to all interested parties.

2. A table of organization shall be incorporated in the administrative procedures manual to clearly identify the responsibility for major functions and lines of authority.

(b) A procedure shall be available that specifies one individual responsible for the overall operation of the facility at any specific time. The procedure shall provide a schedule of continuous coverage, identify responsibility, and assure that a log of **[major activities]* unusual *events]* *incidents** is maintained.

(c) A written procedure providing round-the-clock accountability of **[residents]* *clients** shall be implemented.

(d) A written procedure shall be available to provide rapid, effective action in cases where a **[resident]* *client** is discovered to be missing.

(e) The facility shall have a written statement of policies and procedures concerning the rights of **[residents]* *clients** that assure the civil and legal rights of all **[residents]* *clients** in accordance with N.J.S.A. 30:6D-4.

1. The facility shall ensure that each **[resident]* *client** admitted is fully informed of his rights and responsibilities as a **[resident]* *client** and of all rules and regulations governing **[resident]* *client** conduct and responsibilities.

i. Such information must be provided prior to or at the time of admission or, in the case of **[residents]* *client** already in the facility, upon the facility's adoption or amendment of **[resident]* *client** right policies, and its receipt must be acknowledged by the **[resident]* *client** in writing.

[ii. In the case of a mentally retarded individual, the resident's signature must be witnessed by a third person.]

ii. In the case of a deficient or incompetent client, receipt of such information must be acknowledged by the client's guardian.

2. The rights mentioned in (e)1 above shall include, but not necessarily be limited to, the right of the client to:

i. Register and vote at elections;

ii. Free exercise of religion;

iii. Receive and send unopened correspondence and, upon request, to obtain assistance in the writing and reading of such correspondence;

iv. Private visitations and private telephone conversations without prior notice to the facility during such reasonable hours as may be established by the facility with interested parties;

v. Reasonable opportunities for interaction with members of the opposite sex;

vi. Confidential handling of personal and medical problems.

(f) A reward and restriction program shall be developed, written and implemented providing procedures for effective reinforcement in the continual process of developing the highest degree of self-reliance in the **[resident]* *client**.

1. Provision for treatment of **[residents]* *clients** manifesting behavior problems shall be included in this procedure **and shall comply with Division Circular 34. This Circular can be obtained from the Administrative Practice Officer, Division of Developmental Disabilities, Capitol Place 1, 222 S. Warren St., Trenton, N.J. 08625*.*

(g) Chemotherapy shall not be used for the convenience of staff, as a substitute for programs, as punishment, or in quantities that interfere with an individual's habilitation program.

(h) Corporal punishment, **physical and verbal abuse, neglect and exploitation** shall be prohibited.

(i) **[Residents]* *Clients** shall not discipline other **[residents]* *clients** except as part of an organized self-government program, for which written policies are formulated.

(j) Seclusion and isolation (that is, the placement of a **[resident]* *client** alone in a locked room) shall be prohibited.

(k) The **[residential]** facility shall have a written policy that defines the use of mechanical restraints **[the staff members who may authorize its use, and a mechanism for monitoring and controlling its use]* *that is in compliance with Division Circular 20, Emergency Use of Mechanical Restraints. Such policies must be approved by the Director, Division of Developmental Disabilities, prior to implementation. Circulation 20 can be obtained from the Administrative Practice Officer,*

Division of Developmental Disabilities, Capitol Place 1, 222 S. Warren St., Trenton, N.J. 08625*.

[1. This policy shall be approved by the licensing agency prior to implementing; any subsequent modifications shall also be approved.]

[2. The residential facility shall provide classes of instruction as necessary to insure appropriate staff are familiar with such aspects of restraints as are necessary in the proper performance of their duties. Documentation of such training shall be maintained.]

(l) Restraints shall not be employed as punishment, for the convenience of staff, or as a substitute for programs.

1. Totally enclosed cribs and *[barred enclosures]* ***time-out rooms*** shall be considered *[restraint devices]* ***mechanical restraints***.

(m) Mechanical supports used in normative situations to achieve proper body position and balance shall be designed and applied under supervision of a professional staff member designated by the administrative officer. Such use shall be documented in the *[resident's]* ***client's*** file.

(n) Each *[resident]* ***client*** must be free from chemical and/or mechanical restraints unless the restraints are:

1. Authorized by a physician in writing, except in an emergency, for a specified period of time but not to exceed 12 hours.

i. An emergency situation requiring immediate application of mechanical restraints, in the absence of written authorization by a physician, shall be considered an unusual incident and an investigation must be filed in accordance with (t) ***and (x)*** below.

(o) Mechanical restraints shall only be applied by properly trained staff.

1. *[Residents]* ***Clients*** in mechanical restraints will be checked by *[authorized]* trained staff every 15 minutes. Provisions shall be made for *[residents]* ***clients*** in restraints to be released and afforded the opportunity for motion and exercise for a period of not less than 10 minutes during each *[2 hours]* ***hour*** in which the restraints are employed, except during usual sleeping hours.

2. A record of the physical checks conducted at least every 15 minutes shall be maintained, complete with the name or initial of the staff person checking the device and the times applied and terminated.

(p) The physician shall make a qualifying note when restraints are ordered specifying: the type of restraint ordered, justification, duration and any *[contraindications]* ***precautions*** of which staff need to be aware.

(q) A facility which uses chemical restraint shall ensure that such restraint is administered by means of intramuscular injection by properly licensed personnel.

1. There shall not be standing orders related to the use of chemical restraint.

2. The facility shall ensure that each administration of chemical restraint is specifically ordered by a physician who has personally examined the *[resident]* ***client***.

3. The *[resident]* ***client*** shall be monitored continuously by a person trained and qualified to observe potential adverse side effects.

4. The physician ordering the chemical restraint shall examine the *[resident]* ***client*** within a 48 hour time period.

(r) When a *[resident]* ***client*** requires *[physical]* ***mechanical*** or chemical restraint on more than four occasions during any 30 day period, the facility shall hold an immediate meeting of the members of the team that developed the *[resident's]* ***client's*** Individual Habilitation Plan to discuss the

appropriateness of the *[resident's]* ***client's*** program at the facility.

1. Such meeting shall be held with 24 hours of the fourth incident requiring restraint.

(s) Behavior modification programs involving the use of time-out devices or the use of aversive stimuli shall be reviewed in accordance with *[the current policy of the Division of Mental Retardation]* ***Division Circular 34***.

[1. Written permission from the Director, Division of Mental Retardation, shall be obtained before the implementation of any individual behavior modification program using time-out or aversive stimuli.]

1. Prior to the implementation of any individual program utilizing aversive techniques, a policy and procedures manual shall be submitted to and approved by the director, Division of Developmental Disabilities, in accordance with the provisions of Division Circular 34.

(t) There shall be a written procedure to ensure the investigation of each alleged mistreatment of a client or an unusual incident/accident. The procedure shall contain, but not be limited to, the following information:

1. The name of the client(s), date, and time of the incident;
2. Name of the persons involved, including participants and witnesses;

3. A description of the incident to include any medical treatment;

4. Appropriate sanctions *[that were]* ***to be*** invoked *[when]* ***if*** the allegation *[was]* ***is*** substantiated;

5. Any corrective actions taken to prohibit a reoccurrence;

[6. The incident shall be reported to the licensing agency within 24 hours, and a copy of the written investigation forwarded to the licensing agency within 72 hours;]

***[(u)]*[7.]* In the case of minors, allegations of abuse shall be reported to the local district office of the Division of Youth and Family Services or the Office of Child Abuse Control, 800-792-8610.**

[(v) In the case of clients sixty years of age and over, allegations of abuse shall be reported to the Office of the Ombudsman, 800-792-8820.

[(u)]*[w)* Special reports to the licensing agency ***and inspecting agency shall include but not be limited to:**

1. Report of any fire or major property damage;

2. Any unusual prevalence or outbreak of contagious communicable disease;

3. Quarterly admission and discharge reports;

4. Accident reports, incorporating corrective measures adopted;

5. Changes in key administrative staff, as identified by the licensing agency, including the professional background on new staff.

[(x) The incident shall be reported to the licensing agency and inspecting agency within 24 hours, and a copy of the written report, unless otherwise indicated, forwarded to the inspecting agency within 72 hours.

[(y) The facility shall have a Human Rights Committee.

10:47-3.3 Admission and release

(a) The facility shall have a written description of admission policies and criteria for admission which shall include chronological age, level of mental development, physical condition, and fees for *[admission and]* care.

(b) The written description of admission policies, criteria and fees shall be provided to all placing agencies and shall be available to the parent(s) or guardian of any *[resident]* ***client*** referred for placement.

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(c) The facility may not admit an individual as a *[resident]* *client* unless his needs can be met by the facility's established programs.

(d) The facility shall establish and make available written procedures concerning admission, readmission, and release of a *[resident]* *client*.

(e) The number of *[residents]* *clients* admitted to a facility shall not exceed its licensed capacity nor its provision for adequate programming.

(f) The following written reports shall be available for new admissions:

1. Complete psychological examination conducted not more than *[one year]* ***three years*** prior to *[admission]* ***application of a school age person or five years prior to application of a person over twenty-one years of age***.

2. Complete medical examination conducted within the past 48 hours;

3. Evaluation for an initial living unit and program assignment.

(g) Within a period of 30 days after admission, the facility's interdisciplinary evaluation team shall engage in a systematic and comprehensive evaluation of the *[resident]* *client*. ***Within 30 days an IHP must be developed.***

1. The evaluation shall include consideration of the advisability of continued residence in the facility and/or alternate programs.

(h) Each *[resident]* *client* shall have an annual interdisciplinary review of his status by all relevant personnel, including both professional and direct care staff, to include recommendations for programs to be implemented. From this review, the Individual Habilitation Plan must be developed.

[(i)] Prior to the planned discharge of a resident, the facility, in conjunction with the agency or person(s) responsible for the resident, shall formulate and aftercare plan specifying the supports and resources to be provided to the resident. Aftercare plans are to be kept in the resident's case record.]

*[(j)]**[(i)]* Prior to discharge, and whenever feasible, the interdisciplinary team shall meet with representatives of the agency designated as being responsible for the *[resident's]* *clients* programming after discharge.

*[(k)]**[(j)]* The facility shall ensure that an Individual Habilitation *[Plan]* ***Review*** is prepared for each *[resident]* *client* scheduled for transfer ***or discharge*** at least 30 days prior to the time the actual transfer ***or discharge*** takes place.

*[(l)]**[(k)]* A *[residential]* facility shall have a written policy concerning emergency discharge of *[an individual]* ***a client*** and/or all other discharges not in accordance with a *[resident's]* *client's* habilitation plan.

[1. This policy shall ensure that emergency discharges effected by the facility take place only when the health and safety of a resident or other residents might be endangered by the resident's continued placement at the facility.]

[2. When possible, resident's who request discharge against the advice of the agency shall be referred to an appropriate social service agency.]

1. For clients receiving services from the Division of Developmental Disabilities, the policy shall comply with the requirements of N.J.S.A. 30:4-107.1.

10:47-3.4 Personnel services

[(a)] The hiring, assignment, and promotion of employees shall be based on their qualifications and abilities, without regard to sex, race, color, creed, age, ethnic or national origin.]

*[(k)]**[(a)]* The administrator shall comply with federal, state, and local laws, ordinances, rules and regulations pertaining to employment, including civil rights, social security, wages and hours, workman's compensation, employment of women and minors, and withholding taxes.

(b) A *[residential]* facility shall not hire, or continue to employ, any person whose health, educational achievement, emotional or psychological makeup impairs his or *[her]* ability to properly protect the health, safety or psychological well-being of the residents.

(c) All employees shall be medically determined to be free of communicable and infectious diseases at the time of employment and as necessary thereafter.

(d) A *[residential]* facility shall have written personnel policies and procedures; these shall be provided to all staff members and available to all persons seeking employment.

(e) The residential facility shall have a personnel file for each employee containing:

1. The application for employment and/or resume;

2. Reference letters from former employee(s) and personal references or notation of telephone contracts with such references;

3. Medical examinations, to include a recognized TB screening;

4. Professional credentials/certifications;

5. *[Semi]* Annual performance evaluations and/or personnel actions or other appropriate materials, reports, and notes relating to the individual's employment with the facility;

6. Employee's hiring and termination dates;

7. Documentation of training provided by the facility including restraint application ***if applicable*** and, for those staff having routine, daily *[resident]* *client* contacts, current CPR and standard first-aid certifications.

*[(f)]**[(g)]* A *[residential]* facility shall maintain the personnel file of an employee for that employee's tenure *[or]* ***and*** for a period of five years after termination.

*[(g)]**[(h)]* A *[residential]* facility shall have a comprehensive written plan for staff orientation, on-going training, development, supervision, and evaluation of all employees.

*[(h)]**[(i)]* A *[residential]* facility shall have complete written job descriptions for each job title within the facility. Each employee shall be given his *[her]* job description.

*[(i)]**[(j)]* Inexperienced direct service staff shall be accompanied by experienced workers on initial tours of duty for at least a period of *[one month]* ***two weeks*** or such time as these staff person(s) are able to effectively safeguard the health and safety of residents in care.

[(k)] The administrator shall comply with federal, state, and local laws, ordinances, rules and regulations pertaining to employment, including civil rights, social security, wages and hours, workman's compensation, employment of women and minors, and withholding taxes.]

*[(l)]**[(j)]* A *[residential]* facility shall have adequate staff coverage at all times.

1. The on-duty ratio of direct care personnel for the day shift shall be at least 1 to 10.

i. Facilities sending residents out of the dormitory building most of the day for ongoing active treatment programs need not provide living unit staff for the residents during that period of time.

2. The on-duty ratio of direct-care personnel for the evening shift shall be at least 1 to 10.

3. Direct care staff shall be available on the premises at all times during the night shift.

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i. When the *[resident]* population exceeds 20, the direct care staff ratio shall be at least 1 to 20.

4. Direct care staff coverage shall be increased accordingly in special situations including, but not limited to, residences housing multiple handicapped clients and clients who exhibit behavior problems which present a danger to self or others.

*[(m)]**(k)* A *[residential]* facility shall be responsible to obtain professional services required for the implementation of the Individualized Habilitation Plan of a *[resident]* *client* when these services are not provided by employees of the facility.

*[(n)]**(l)* A *[residential]* facility shall have documentary evidence that all professionals providing services to the facility, by direct employment or on a fee for service basis, whether working directly with *[residents]* *clients* in care or providing consultation to employees of the facility, are appropriately qualified, certified, and/or licensed to provide the service(s) rendered.

*[(o)]**(m)* A *[residential]* facility which has volunteers working directly with clients shall have a written statement on the facility's utilization of volunteers.

1. Volunteers shall supplement but shall not be used in lieu of the services of paid employees.

2. Where volunteers are utilized, the facility shall provide:

i. Medical examinations as required for employee staff;
ii. Direct supervision by an experienced staff member;
iii. Orientation and training in the philosophy and goals of the facility;

iv. Awareness of the needs of the *[resident]* *client* and the methods of meeting those needs.

*[(p)]**(n)* A *[residential]* facility which accepts students for field placements shall have a written policy describing student placement. Copies should be provided to each student and his *[her]* school.

1. A *[residential]* facility shall ensure that students are supervised directly by an appropriate, qualified staff member acting as a liaison between the facility and the school making placements, unless other appropriate arrangements are made.

10:47-3.5 Records and reports

(a) A facility shall maintain a written record for each *[resident]* *client* which shall include administrative, treatment, and educational data from the time of admission until the time the *[resident]* *client* leaves the facility.

1. These records shall be retained for a minimum of 10 years after discharge.

2. All active records shall be maintained on the premises.

3. Individual records shall be conspicuously and appropriately identified and maintained in a central records file.

4. All entries on the complete record shall be current, legible, dated, and authenticated by the signature and identification of the individual making the entry.

(b) The facility shall maintain the confidentiality of all *[residents]* *clients* case records. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the *[resident]* or his *[her]* family, directly or indirectly, to any unauthorized person *client*.

1. Without the voluntary, written consent of the parent(s) or guardian, the facility shall not release any information concerning a *[resident]* *client* except to the *[resident]*, *client* his parent(s) or guardian, their respective legal counsel, the Court, or an authorized public official in the performance of statutorily mandated duties.

(c) Individual records shall include the following pre-admission data:

1. The name, sex, race, religion, birthdate, and birthplace of the *[resident]* *client*;

2. The name, address, telephone number of the parent(s) or guardian of the *[resident]* *client* to include verification of the guardian for an adult.

3. Previous placement history;

4. Documentation of the current custody and legal guardianship;

5. The *[resident's]* *client's* court status, if applicable;

6. A copy of the *[resident's]* *client's* birth certificate or a written statement of the *[resident's]* *client's* birthdate including the source of this information;

7. Consent forms signed by the parent(s) of a minor or court appointed guardian allowing the facility to authorize all necessary medical care, routine tests, immunization, and emergency medical or surgical treatment;

8. Allergies to medication;

9. Immunization history;

10. History of serious illness, serious injury, or major surgery;

11. Developmental history;

12. Current use of prescribed medication;

13. Medication history;

14. Contagion-free certificate.

(d) Individual records shall include the following admission data:

1. Date of admission;

2. Report of general medical examination by a physician within a week after admission;

3. An examination of the *[resident]* *client* for physical injury and disease;

4. Vision and hearing tests;

5. A current assessment of the *[resident's]* *client's* general health;

6. Whenever indicated, referrals to an appropriate medical specialist for further assessment and/or treatment;

7. Report of a general dental examination;

8. *[Initial and subsequent]* *Previous* Individual Habilitation Plans;

9. Reports of initial psychological examination and all follow-up psychological examination;

10. Education records and reports;

11. *[A record covering each period of restraint]* *Indication of previous need for restraint*;

12. Reports of unusual or special incidents and/or accidents;

13. Reports of physical examinations, established diagnosis, and medical care plan;

14. Physician's orders prescribing medication treatment and/or therapy;

15. Physician's periodic progress notes on the physical, *[and/or]* emotional and behavioral status of the *[resident]* *client* and course and results of treatment;

16. Pertinent nurse's or clinical notes;

17. Reports of clinical laboratory, X-ray, operation, *[autopsy]*, and other diagnostic services;

18. Reports of accidents and illnesses;

[19. Admission dental record and record of subsequent dental care provided;]

*[20.]**19.* Progress notes of ancillary services including podiatry, physical therapy, optical, speech and hearing, etc;

*[21.]**20.* Height and weight records, where indicated;

*[22.]**21.* Medication administration record including name and strength of drug, date and time of administration, dosage administered, route of administration and signature of

the person administering the drug. (Initials may be used after the individual's full name signature appears at least once on each page of the document).

[23. Immunization record;]

(e) Individual record shall include the following discharge records;

1. Date of discharge, reason for discharge, and the name, telephone number, and address of the person or agency to whom the *[resident]* *client* was discharged;

2. A summary of services and progress provided during care.

SUBCHAPTER 4. RESIDENT LIVING

10:47-4.1 Living Unit

(a) The resident living unit environment shall be appropriate to the *[resident's]* *client's* mental level, chronological age, physical handicap and behavior of the *[resident]* *client* ranging from open and permissive to maximum protection or custody.

1. A residential living unit shall be structurally designed to accommodate the physical and programmatic needs of the *[residents]* *clients*.

2. *[Residents]* *Clients* of grossly different ages, developmental levels, and social needs shall not be housed in close physical proximity, unless such assignment is planned to promote the growth and development of all those assigned.

(b) *[Residents]* *Clients* shall be assigned responsibilities in the living units commensurate with their interests, abilities, and *[developmental]* *habilitation* plans, in order to enhance feelings of self-respect and to develop skills necessary for independent living.

1. Chore assignments shall not be used as an unpaid substitution for staff.

2. Chore assignments shall not be in conflict with other scheduled habilitative activities.

3. *[Residents]* *Clients* who are capable shall be allowed free use of all living areas within the living unit.

4. There shall be a daily activity schedule in each separate living unit which indicates both programmatic and leisure time activities.

i. The schedule shall reflect periods of free time. Periods of free time shall not exceed three continuous hours.

5. Residents shall be provided a range of indoor and outdoor opportunities daily, on a year-round basis.

i. Such opportunities shall be in accordance with the interests, needs, and abilities of the *[resident]* *client*, and reflected in the *[resident's]* *client's* Individual*[ized]* Habilitation Plan.

6. A *[residential]* facility shall utilize the recreational resources of the community whenever appropriate. The facility shall arrange the transportation and supervision required for maximum usage of community resources.

7. Provisions shall be made for socially acceptable co-educational activities appropriate to the *[resident's]* *client's* ages and developmental levels.

(c) *[Residents]* *Clients* who are determined capable shall be instructed in the free and unsupervised use of communication processes.

1. The facility shall permit a *[resident]* *client* to receive and send mail. Staff shall not read *[residents']* *clients'* mail unless the *[resident]* *client* requests the assistance of the staff.

2. The facility shall be equipped with a sufficient number of telephones (either pay or free) for the *[residents']* *clients'*

clients use and shall have written procedures for the *[residents']* *clients'* use of these telephones for either incoming or outgoing calls.

3. The facility shall provide opportunities for a *[resident]* *client* to visit with parent(s), guardian, family, or significant others, with due regard for personal privacy.

i. A facility shall permit visits in accordance with the *[resident's]* *client's* Individual Habilitation Plan and the facility's published visitation policy.

4. A *[resident's]* *client's* use of communication processes may be restricted only when such restriction forms a necessary component of the *[resident's]* *client's* Individualized Habilitation Plan. Such a restriction must be reviewed at least quarterly.

(d) Procedures shall permit and encourage the possession and use of money by *[residents]* *clients* who are determined capable.

1. Consultation shall be provided on the use of funds in performing cash and check transactions.

2. Money earned, received as a gift, or received as allowance by a *[resident]* *client* shall be deemed to be that *[resident's]* *client's* personal property.

3. Limitations may be placed on the amount of money a *[resident]* *client* may possess when such limitations are duly recorded in the *[resident's]* *client's* Individual*[ized]* Habilitation Plan.

4. The facility shall maintain a separate accounting system for *[residents']* *clients'* money.

(e) The facility shall allow a *[resident]* *client* to have his or her own personal belongings.

1. Provisions shall be made for the protection of *[residents']* *clients'* personal property.

2. An inventory of each *[resident's]* *client's* personal property shall be conducted annually and kept at the facility.

(f) Multiple handicapped and non-ambulatory *[residents]* *clients* housed in other than medical surgical units shall:

1. Spend a major portion of their waking day out of bed;

2. Spend a portion of their waking day out of their bedroom areas;

3. Have planned indoor and outdoor activity and exercise periods;

4. Be rendered mobile by various methods and devices (training, surgery, wheelchair, etc.).

(g) The facility shall have set routines for waking *[residents]* *clients* and putting them to bed in accordance with their age and developmental level.

(h) The facility shall ensure that each *[resident]* *client* has ready access to a responsible, awake staff member throughout the night.

(i) The facility shall provide each *[resident]* *client* with his or her own dresser or other adequate storage space for private use, and a designated space for hanging clothing in proximity to the bedroom occupied by the *[resident]* *client*.

(j) The *[residents]* *clients* shall be allowed to decorate their living areas.

10:47-4.2 Hygiene

(a) *[Residents]* *Clients* shall be trained to exercise maximum independence in hygiene and grooming practices, according to their ability.

1. Baths or showers shall be provided daily.

2. *[Residents]* *Clients* confined to their beds shall be cleansed a minimum of once a day, and as often thereafter as is necessary.

3. Natural and artificial teeth shall be cleaned at least twice daily.

4. There shall be opportunity for shampooing and cutting of toenails and fingernails as necessary.

5. Male ***[residents]* *clients*** shall have the opportunity for daily shaving.

(b) Individual toilet articles such as hairbrush, comb, toothbrush, razor, soap, wash cloth and towel, shall be supplied to each ***[resident]* *client*** and kept in a separate receptacle.

1. Wash cloths and towels shall be replaced at least three times a week ***or*** on an as-needed basis to assure cleanliness and freedom from odors.

2. The use of common wash cloths, towels, and other toilet articles for the ***[residents]* *clients*** is prohibited.

3. Individual toilet articles shall be stored in a sanitary manner.

(c) Female ***[residents]* *clients*** shall be helped to attain maximum independence in caring for menstrual needs.

(d) Every ***[resident]* *client*** who does not eliminate appropriately and independently shall be engaged in a toilet training program, unless medically contraindicated.

1. Dietary adaptations shall be made to promote normal evacuation and urination.

(e) A procedure shall be established ***for observation and treatment*** for the medical referral of ***[residents]* *clients*** who do not maintain normal weights ***[for observation and treatment]***.

10:47-4.3 Meals and food service

(a) A pleasant and home-like environment shall be promoted in the dining room. Dining room accommodations ***within living units*** shall be a separate of ***[each housing]* *that*** unit.

(b) Each ***[resident]* *client*** shall be provided with at least three meals daily.

1. Food shall be wholesome, prepared in the form that meets the medical and dietary needs of each ***[resident]* *client***, and attractively served.

2. Meals shall be served at appropriate times; morning, noon, and evening.

3. Snacks shall be provided for ***[residents]* *clients*** who desire them, unless medically contraindicated.

4. There shall not be more than a 14 hour span between the evening meal and breakfast the following day.

5. ***[Residents]* *Clients*** shall not be routinely served meals in their bedrooms.

6. There shall be a reasonable variety of foods.

7. Foods returned from the ***[residents']* *clients'*** plates should be discarded.

(c) Each facility shall have one person responsible for menu planning and food service.

1. This person shall have a knowledge of food values and food needs for all types of ***[residents]* *clients*** cared for in the facility and shall be familiar with accepted food handling procedures and techniques in procuring, storing, preparing, and serving food in ***[quantity]*** food service operations.

(d) Menus shall be prepared at least one week in advance and copies retained on file for a period of two months.

1. Daily or weekly menus shall be posted in view of employees, ***[residents,]* *clients*** and visitors.

2. Any substitution of food from the menu must be of equal nutritional value and must also be indicated on the menu.

(e) The daily diet for each ***[resident]* *clients*** shall meet the Recommended Dietary Allowances of the National Academy of Sciences. The following are general guidelines.

1. Milk: One pint or its equivalent daily, which may be fresh fluid, whole or skim, evaporated, dry, or buttermilk, and may be used as a beverage or in cooking. A satisfactory substitute in proper quantities is acceptable.

2. Meat, poultry, fish, and eggs: Five ounces or its equivalent daily at two or more servings.

i. Two to three ounces of a lean, edible portion of meat, poultry, or fish served at least once daily;

ii. In addition, two or three ounces of a lean, edible portion of meat, poultry, or fish, or two eggs, or a satisfactory substitute in proper quantities shall be served at the other meals.

3. Vegetables and fruits: Four or more servings daily:

i. One serving of a citrus fruit or juice daily or a satisfactory vitamin C substitute in proper quantities;

ii. Three or more servings in proper quantities of other vegetables and fruits, including potatoes. ***[This shall include some raw fruit and vegetable.]***

iii. A serving of a dark green or deep yellow vegetable or a satisfactory vitamin A substitute in proper quantities shall be served at least every other day.

4. Breads and cereals: Four or more servings daily:

Only whole grain, enriched, fortified, or restored bread and cereal shall be used.

5. Other foods as needed to complete meals and to provide additional food energy and other food values shall be served, including some butter or fortified margarine at each meal.

6. ***[Residents]* *Clients*** unable to swallow solid food shall have nourishing supplementary feedings between meals and at bedtime or more often to meet their nutritional requirements.

(f) No ***[resident]* *client*** shall be denied a meal or snack for any reason except according to a doctor's order or his ***[her]* Individualized* Habilitation Plan**.

(g) Personnel shall be available to assist, encourage, and train ***[residents]* *clients*** in good eating habits.

10:47-4.4 Clothing

(a) ***[Residents]* *Clients*** clothing shall be age appropriate and seasonal.

(b) A ***[resident's]* *client's*** clothing must be individual and not shared in common.

(c) An annual inventory of each ***[resident's]* *client's*** clothing shall be maintained and recorded.

(d) Each ***[resident]* *client*** shall have an adequate supply of properly fitted clothing to allow for laundering.

(e) ***[Residents]* *Clients*** shall be trained and encouraged according to their capabilities to:

1. Select and purchase their own clothing as independently as possible, preferably utilizing community stores;

2. Select their daily clothing;

3. Dress themselves;

4. Change their clothes to suit the activities in which they engage;

5. Maintain (launder, clean, mend) their own clothing as independently as possible.

(f) The facility shall ensure that discharge plans make provisions for clothing needs at the time of discharge. All personal clothing shall accompany a ***[resident]* *client*** upon discharge.

SUBCHAPTER 5. HEALTH SERVICES

10:47-5.1 General medical and health care

(a) Arrangements shall be made with at least one physician, licensed to practice in New Jersey, to assume the overall

responsibility for the direction and provision of quality medical care.

(b) To insure the best possible care and treatment program, ***[a]* *the* physician shall, *in addition to meeting the requirements of 10:47-5.1 for facilities with 16 beds or over*.**

1. Visit the facility at least every four months and whenever necessary;

2. Perform such examinations and administer and/or prescribe treatment as needed for preventive, routine, and emergency care;

3. Assume the responsibility for the maintenance of complete medical records as needed for routine and emergency care;

4. Each ***[resident's]* *client's*** prescribed medical program shall be reviewed and evaluated at least every four months and amended as prescribed by the physician;

5. Medical orders for medication and medical treatment shall be updated as necessary.

(c) There shall be provision for specialists' services in all pertinent fields of medicine. ***[including but not limited to special examination, laboratory, and X-ray work as needed.]***

(d) An accurate and complete individual medical record shall be maintained for each ***[resident]* *client***.

(e) Arrangements shall be made with a community hospital for the acceptance, as an in or out-patient, of any ***[resident]* *client*** requiring hospital ***[based]*** services. Services may be defined as emergency, diagnostic, and/or treatment services.

1. Written approval for such treatment in emergency situations shall be obtained from the facility or guardian at the time of admission.

2. Written approval for other hospital treatment shall be obtained before treatment is rendered.

(f) There shall be an annual physical examination. ***[to include]* The Mantoux Skin Test for tuberculosis *shall be given every three years,* with subsequent follow-up chest X-rays for positive reactors *[and Mantoux Skin Tests for non-reactors]*.**

(g) Dental examinations shall be made upon admission and at least annually or ***[more often]*** as necessary.

(h) Primary immunizations shall be given, as required, on admission and reimmunizations as pre-scheduled on a regular basis for diphtheria, tetanus, pertussis, polio, measles, and other diseases as identified consonant with acceptable medical practices and New Jersey Department of Health Regulations.

(i) Provision shall be made for the isolation of communicable disease and the prevention of its spread.

1. All such diseases shall be reported to State and local health authorities and the ***[Chief, Bureau of Operations, Division of Mental Retardation.]* *inspecting agency*.**

2. Single room accommodations, which will not be included in capacity, shall be provided for observation purposes and for temporary isolation until transfer is made.

(j) There shall be written procedures readily available for staff members to follow in the event of a medical emergency.

(k) First aid material shall be readily available to provide proper first aid treatment.

(l) Other than first aid, no medication or treatment shall be administered by employees of the facility except on written orders of a licensed physician.

(m) The facility shall provide pharmaceutical services, both dispensing and consultant, either directly or through written contractual agreements.

(n) The facility shall have in writing and review annually the policies (including stop order policies), procedures, and

methods for obtaining, dispensing, storing, administering, and usage of medications.

1. Complete compliance with Federal and State regulations governing the order, storage, dispensing, administration, recording and disposition of medication shall be maintained.

2. A unit dose or an individual prescription system of drug distribution shall be used for all medication.

3. All medication shall have the label affixed by the pharmacy.

4. All medications shall be ordered in writing and all orders shall be promptly sent to the dispensing pharmacy. In emergencies, the ***[prescribing practitioner]* *physician*** may order medication by directly telephoning the dispensing pharmacy.

5. Medications prescribed for one resident shall not be administered to anyone else.

6. Preparation of medication for administration shall be done in a well-lighted area away from traffic.

7. All medications shall be kept in a ***[lockable]* *locked*** cabinet, closet or medication cart. The storage area shall be locked at all times except when medications are being prepared for administration or being placed into storage.

8. Poisons and external preparations (including eye and ear medications) shall be stored separately from internal medications.

9. Refrigeration shall be provided for storage of medications requiring cold storage. The refrigerator shall be maintained at a temperature between 36 degree F. ***[44]* *45*** degree F.

10. Medications requiring refrigeration which are stored in a common refrigerator shall be kept in a locked box and properly labeled.

11. Discontinued and outdated medications and containers with worn, illegible, or missing labels shall be returned to the dispensing pharmacy promptly for proper disposition.

12. Each dose of medication administered shall be recorded in the ***[resident's]* *client's*** record.

(o) The application of modern antiseptic techniques shall be maintained in the handling of instruments, surgical supplies, syringes and needles, etc.

1. The supply of syringes and needles used to administer medication, immunizations, diagnostic tuberculin skin testing, laboratory and/or X-ray procedures etc., shall be retained in a locked area, closet, or drawer.

2. To avoid potential reuse, the syringes and needles shall be effectively destroyed after use in compliance with Chapter 113—Public Laws of 1973 (N.J.S.A. 2A-170-25.17).

i. For purposes of this Act the needle shall be broken from the hub or completely mangled and, in the case of the syringe, the nipple of the barrel shall be broken from the barrel or the plunger. ***[and the barrel melted.]***

(p) A residential facility which uses psychotropic medication shall have a written policy governing the use of psychotropic drugs at the facility.

1. A ***[residential]*** facility which uses psychotropic shall ensure that a ***[resident]* *client*** is personally examined by the prescribing physician prior to commencing administration of a psychotropic drug.

2. Psychotropic medication shall not be used unless less restrictive alternatives have failed.

3. A ***[residential]*** facility which uses psychotropic medication shall ensure the use is in accordance with the guidelines of the Department of Human Services. ***[Administrative Orders 2:13 which is adopted by reference.]***

(q) Physical therapy services as prescribed by the physician shall be made available to all *[residents]* *clients* who can benefit therefrom.

1. The provision of braces, walkers, crutches, special chairs and any other physical therapy equipment shall be made available when prescribed.

(r) Optical services shall be made available for *[residents]* *clients* requiring glasses or repair of glasses.

(s) Hearing and speech services shall be provided to include *[specials]* therapy and hearing aids as prescribed.

SUBCHAPTER 6. HABILITATION SERVICES

10:47-6.1 Education, training and therapy services

(a) Education and training opportunities shall be provided to permit the *[individual,]* *clients* regardless of mental and physical handicap, to develop to the fullest extent of his *[her]* potential.

[1. Learning opportunities shall be given even to the least capable resident so that improvement in self-help and increased interest in the use and manipulation of objects in the resident's environment may be achieved.]

(b) A *[residential]* facility shall have a written description of its total curriculum outlining the education program. This information shall be provided to the *[resident]* *client* and his *[her]* parent(s) or guardian prior to the *[resident's]* *client's* admission.

[1. A residential facility shall not place a resident in an on-grounds educational program unless such program is appropriate to the resident's needs.]

(c) The facility shall ensure that vocational *[preparation]* services are available to a *[resident]* *client*. Such training and services shall be appropriate to the age and abilities of the *[resident]* *client*.

(d) Whenever a *[resident]* *client* is capable of being trained for a vocational placement in the community, the appropriate staff of the facility shall plan with the *[sponsor]* *employer* for such a goal and shall provide job training on a level suited to the ability of the individual.

(e) The facility shall ensure that every *[resident]* *client* between the age of *[5]* *3* and 21 attends an appropriate educational program.

1. A facility providing an organized education program shall be evaluated annually by the County Superintendent of Schools.

2. The size of classes shall be as follows:

- i. Educable child: Not to exceed 15;
- ii. Trainable child: Not to exceed 10;
- iii. Day training eligible: Not to exceed 9.

(f) Psychological services shall be provided either by employees of the facility or through formal affiliation.

1. All new admissions shall be given a Psychological Evaluation within 30 days to determine intellectual development and mental and emotional characteristics.

2. *[Residents]* *Clients* identified as needing psychotherapy shall be provided such treatment, utilizing the most appropriate up-to-date techniques available.

10:47-6.2 Individual Habilitation Plan

(a) Within 30 days of admitting a client in care, *[a private Residential]* *the* facility *[serving the developmentally disabled]* is required to develop an Individual Habilitation Plan (IHP) as required by Chapter 82 N.J.S.A. 30:6D-10.

1. The Individual*[ized]* Habilitation Plan is a written statement setting forth clearly defined and measurable goals and behaviorally stated objectives describing an individualized

program of care, training, treatment, education, and therapies designed to attain or maintain the optimal physical, social, educational, and/or vocational functioning of which the individual is presently or potentially capable.

2. The Individual*[ized]* Habilitation Plan shall include each client's development and acquisition of:

- i. Perceptual skills;
- ii. Sensorimotor skills;
- iii. Self-help skills;
- iv. Communication skills;
- v. Social skills;
- vi. Self-direction;
- vii. Emotional stability; and
- viii. Effective use of time (including leisure time).

3. The Individual*[ized]* Habilitation Plan should include the following elements:

- i. Standard cover page;
- ii. Statement of present level of functioning;
- iii. ***Identification of clients' needs;***
- *[iii.]* ***iv.*** Long term goals;
- *[iv.]* ***v.*** Short term goals (obtainable in a year or less);
- *[v.]* ***vi.*** Behaviorally stated objectives;
- *[vi.]* ***vii.*** Method of achieving goals;

viii. Personnel responsible for providing services described in plans;

[viii.] ***ix.*** Specific service with dates of initiation and anticipated duration;

[viii.] ***x.*** Barriers to achieving goals.

(b) Each facility must have a written Evaluation Procedure and an Annual Review Procedure.

(c) A qualified staff member must be identified as the Habilitation Plan Coordinator.

[(d) Each plan shall contain documentation of the participation of each member of an Interdisciplinary Team, professional and non-professional personnel who render on-going service to the client. The client must participate in decisions regarding his or her IHP, if capable.]

***[(d) Each plan shall be developed by an interdisciplinary team consisting of professional and non-professional staff servicing the client. Documentation of participation shall be provided on the standard cover page of the IHP.*]**

[1. If the client prefers not to participate in an IHP that includes active program, for example, a sheltered workshop program, because of advanced age, he will have the right to have an IHP designed to meet only his maintenance and medical needs.]

***[(e) The client shall participate in decisions regarding his or her IHP, if appropriate.*]**

[2.] ***1.*** The client's parent(s) and/or guardian or Guardianship Worker will also participate. Attempts to solicit their input should also be documented, should they fail to be active in their role.

[(e)] ***[(f)]*** Current IHP's should be available for review by parents/guardian or Guardianship Worker upon request.

[(f)] ***[(g)]*** The *[Post Institutional Care]* ***Discharge*** Plan, which details the future placement goal, should be attached to the IHP.

[(g)] ***[(h)]*** The Individual*[ized]* Habilitation Plan must be reviewed and *[rewritten by the Interdisciplinary Team at least annually.]* ***revised as necessary but no less than annually.***

***[(i) Each client's IHP, including evaluation reports, shall be completely rewritten at least every three years.*]**

[(h)] ***[(j)]*** The current IHP shall be filed in the central record of the *[resident.]* *client.*

1. A copy of the current IHP shall be accessible to the direct care personnel working with the *[resident]* ***client***. This copy should contain *[monthly]* progress notes by each discipline providing service to the *[resident]* ***client***.

2. The Habilitation Plan Coordinator shall review ***monthly*** and comment on *[monthly]* progress notes and verify implementation of the program.

(i) ***k)*** An active social recreational program shall be established for the development and training of the *[resident]* ***client***. ***[to better equip him or her for everyday living.]***

[1. Recreational service shall provide prescriptive as well as amusement forms of recreation.]

[2. Prescriptive recreation shall be a goal oriented and structured program to modify, eliminate or reinforce specific physical, emotional, or social behaviors.]

(j) ***l)*** A residential facility which has recreation staff shall ensure that such staff are apprised of and, when appropriate, involved in the development and review of ***[service plans.]* ***IHP's.*****

1. There shall be cooperative recreation activities held with other schools, community programs, and community organizations for all *[residents]* ***clients*** who can ***[possibly profit]* ***benefits***** from them.

2. Recreational activities shall be provided for each *[resident]* ***client*** whether in living or hospital units, consistent with his ***[her]*** interests, abilities and capabilities. ***[Close liaison shall be maintained between therapy, education, training, and programs and the residential units of the facility.]***

(k) ***m)*** Periodic surveys of recreational needs and interests should be conducted by interviewing *[residents]* ***clients*** and unit staff with changes implemented according to the results of these surveys.

(l) ***n)*** Religious services and instruction shall be arranged consistent with the ***[resident's capabilities]* ***client's interests.*****

[1. No resident shall be required to attend religious services or instruction in a faith which conflicts with that of the resident, his or her parents, or guardian.]

(m) ***o)*** The facility shall have available qualified social work staff for *[residents]* ***clients*** and families who require services.

(n) ***p)*** The facility shall have available ***[qualified speech therapists]* ***speech therapy***** for *[residents]* ***clients*** who require such services.

SUBCHAPTER 7. SUPPORT SERVICES

10:47-7.1 Physical plant

(a) The facility shall maintain the grounds of the facility in an acceptable manner free from any hazard to health or safety.

(b) The facility shall ensure that all structures on the grounds of the facility are maintained in good repair and do not present any danger to health or safety.

1. All structures within the facility shall meet the requirements of ***[Group Category I-2 of]*** the New Jersey Uniform Construction Code.

2. Automatic fire suppression systems shall be installed in all buildings, structures or portions thereof of Use Group Category I.

[2.] ***3.*** Walls, ceilings, and floors of all areas accessible to ***[residents]* ***clients***** suitably decorated and satisfactorily furnished or covered for their intended use.

[3.] ***4.*** Safety windows or safety screens shall be installed where needed for the protection of residents.

[4.] ***5.*** Structures shall not have walls or ceilings surfaced with materials containing asbestos.

[5.] ***6.*** The facility shall not use lead base paint for any purpose within the facility, nor shall the facility purchase any equipment, furnishing, or decoration surfaced with lead based paint.

(c) ***[Residents']* ***Clients***** personal preference shall be considered in choosing decorations and furnishings in living areas.

(d) All furniture and furnishings shall be maintained in good repair.

(e) Doors shall be outward opening and equipped with self-closing ***and positive latching*** devices.

1. Doorways shall be placed so that traffic to and from any room shall not be through sleeping rooms, kitchens, bathrooms, or toilet rooms.

2. All closets, bedrooms, and bathrooms ***equipped with locks*** shall be provided with doors that can be readily opened from both sides.

(f) All rooms used by clients shall be provided with proper ventilation without draft, either by means of outside windows that may be easily opened and closed, or by air conditioning.

(g) The facility shall ensure that there are sufficient and appropriate storage facilities.

1. The facility shall have securely locked storage areas for all potentially harmful materials. Keys to such storage areas shall be available only to authorized staff members.

2. Locked closets shall be provided for storage of janitors' supplies and equipment.

(h) All stairways and hallways shall be kept free and clear of obstructions at all times.

1. All stairways shall be adequately illuminated with electric lights controlled by switches at the top and bottom of the stairs.

2. Stairways shall be provided with well secured hand rails on both sides.

3. Stair treads shall have a non-skid surface.

4. All stairways leading from the first floor to floors occupied by ***[residents]* ***clients***** shall be enclosed ***[as approved by the State Fire Marshal.]* ***in accordance with B.O.C.A. National Building Code, Article 8, Section 8/6.92.*****

(i) The facility shall ensure that each bedroom in the facility has a floor area of at least 70 square feet for each occupant.

1. The facility shall not use any room with a ceiling height of less than seven feet six inches as a ***[resident's]* ***client's***** bedroom unless the room has a distinct area allowing a usable space with floor areas as required by 10:47-7.1(i).

2. The facility shall not permit more than four ***[residents]* ***clients***** to occupy a designated bedroom space.

3. The facility shall ensure that no ***[resident]* ***client***** over the age of five years shares a bedroom with a member of the opposite sex. ***[unless they are husband and wife]***

4. The facility shall not use any room as a bedroom space unless it has a direct source of natural light.

(j) ***h)*** Each ***[resident]* ***client***** shall have his/her own bed. This bed shall be solidly constructed, no shorter than the ***[resident's]* ***client's***** height and no less than thirty inches wide. The bed shall have a clean, comfortable, nontoxic fire retardant mattress and a box spring in good repair.

1. Cots or other portable beds are not to be used.

2. The mattress covering shall be moisture proof when the ***[resident's]* ***client's***** condition requires.

[(k)] *(i)* The facility shall ensure that sheets, pillows, pillow cases, and blankets are provided for each *[resident]* *client* in accordance with seasonal needs.

1. Bedding, whenever possible, shall be made of fire-retardant materials.

2. Sheets and pillow cases shall be changed at least weekly but shall be changed more frequently if necessary.

[(l)] *(j)* All *[resident]* *client* bedrooms shall be at ground level or above and shall be conveniently located to bathing and toilet facilities.

1. All rooms used by *[residents]* *clients* shall open to corridors, lobbies, or dayrooms, except where a utility room, toilet room, bathroom, or storage room opens directly off the room when it serves.

[(m)] *(k)* The facility shall provide space for educational programming which is separate from living areas and which is clean, adequately illuminated, appropriately equipped, reasonably free from distractions, appropriately decorated, and properly maintained.

[(n)] *(l)* The laundry room shall be separate from the kitchen and other working areas of the facility.

1. Regular laundering of *[residents']* *clients'* personal clothing shall be provided.

2. Soiled linen shall not be transported through food preparation and storage areas.

3. Soiled linen shall be collected and disposed of in a sanitary manner.

10:47-7.2 Sanitation and safety

(a) A written statement attesting that the buildings and facilities meet local health requirements and the State Sanitary Code shall be acquired at least annually and filed for easy reference.

(b) The heating system shall comply with all local and State codes and regulations.

1. The facility shall take all reasonable precautions to ensure that heating, including hot water pipes, are insulated and installed in a manner that ensures the safety of *[residents]* *clients*.

2. The facility shall heat the spaces used by *[residents]* *clients* to a minimum of 68 degree F.

(c) All rooms including hallways and stairways shall be lighted by natural light or electricity.

1. Night lights shall be provided in bathrooms, hallways, stairways, and other passage ways.

2. An auxiliary generator or battery type lighting shall be available for emergency purposes ***in accordance with B.O.C.A. National Building Code, Article 8 Section 824.0***.

3. The facility shall provide adequate lighting of exterior areas (cottages and grounds) to ensure the safety of *[residents]* *clients*, staff and authorized visitors during the night.

(d) A *[Residential]* facility using water from any source other than a public water supply must ensure that such water is annually tested by the appropriate State or Local authority in accordance with State or Local law.

1. The results of the most recent test report shall be kept on file.

2. Hot water accessible to children in a *[residential]* facility must be regulated to a temperature not in excess of 110 degree F. at the tap.

3. There shall be a sufficient supply of hot and cold water in the *[institution]* *facility* at all times.

(e) Provisions shall be made for the collection, storage, and disposal of garbage, refuse, ashes, and other wastes.

1. Garbage and rubbish which is stored outside shall be stored securely in non-combustible, covered containers and shall be removed on a regular basis, but not less than once every week.

2. All liquid waste shall be discharged into a municipal or public sanitary sewage system when such system is available.

i. If a private sewage system is necessary, the type, size, location, construction, and major repairs or alterations shall be approved by the New Jersey Department of Health.

(f) The facility shall have a minimum of one wash basin with hot and cold water, one flush toilet and one bathtub or shower with hot and cold water for every ten residents.

1. Bathrooms shall be so placed as to allow access without disturbing other *[residents]* *clients* during sleeping hours.

2. Each bathroom shall be properly equipped with toilet paper, disposable towels, soap, and other items required for personal hygiene.

3. The facility shall provide toilets and baths or showers which allow for individual privacy.

4. A bathroom in a *[residential]* facility shall contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the *[resident's]* *clients* basic hygienic needs.

5. Toilets, wash basins, and other plumbing or sanitary facilities in a *[residential]* facility shall be maintained in good operating condition, be free of chips or cracks, and shall be kept free of any materials that might clog or otherwise impair their operation.

(g) Toilet and hand washing facilities shall be provided for employees.

(h) Kitchens used for meal preparation in a facility shall be provided with the necessary equipment for the preparation, storage, serving, and cleanup of all meals of the *[residents]* *clients* and staff regularly served by such kitchen. All equipment shall be maintained in working order.

1. All equipment, countertops, preparation areas, and utensils used for eating, drinking, preparation and serving of food shall be kept clean, in good condition, and free from chips and cracks.

2. All utensils used for eating, drinking, preparation and serving of food or drink shall be washed after each use by any of the following methods:

i. Properly installed and maintained mechanical dishwasher of a type approved by the Department of Health;

ii. A three-compartment sink with a detergent wash, followed by a clean water rinse, and then the prescribed use of a chemical sanitizer; *[or]*

[iii]. A two-compartment sink with a detergent wash, a thorough rinse, followed by immersion in clean water for at least 180 degree F., or in a controlled chemical sanitizing rinse.

3. Serving dishes, glasses, and flatware shall be placed on clean racks to dry if dishwashers are not used and shall not be dried by the use of towels or cloths of any kind.

(i) Equipment for special training and feeding requirements shall be available and used.

(j) All food and drink shall be prepared and served in a sanitary manner.

(k) All employees shall wear clean outer garments, shall be personally neat and clean in their habits, well-groomed, and shall keep their hands meticulously clean when handling food, drink, utensils, or food preparation equipment.

1. Food handlers shall not smoke or chew tobacco in food preparation areas and/or service areas except while seated at dining tables during their mealtimes.

2. Food returned from individual *[resident]* *client* trays or plates shall be considered contaminated and shall not be served again.

3. Pets shall not be permitted in any area where food or drink is handled, stored, prepared and/or served.

(l) Storage and refrigeration of foods shall be in accordance with guidelines supplied by State, County, and local health regulatory agencies.

1. Prepared food stored in a refrigerator or in dry storage area shall be kept covered.

2. All refrigeration units shall be provided with an interior thermometer, and the temperature should not exceed *[42]* *45* degree F. when the unit is in use.

(m) Since kitchens constitute hazardous areas, they shall be isolated, insofar as possible, from other quarters ***by one hour fire resistive rated construction***.

1. Doors leading to adjacent areas shall swing in one direction only, shall be self-closing, tight-fitting, and equipped with positive latch.

2. Such doors shall be constructed ***[according to specifications approved by the State Fire Marshal.]* *in accordance with B.O.C.A. Basic National Building Code, Article 1400, Section 1415 and Table 1415.***

(n) Kitchen exhaust fans, filters, and metal ducts shall be kept free of grease and dirt at all times, and metal ducts from such fans shall extend at least two feet beyond the building.

1. Areas around kitchen ranges shall be kept free of grease at all times.

2. ***[In the event that metal hoods and exhaust ducts are installed directly over kitchen ranges, construction standards of the National Fire Protection Association shall be followed.]* *kitchens containing commercial cooking appliances, deep fryers, grills, etc. shall have approved kitchen exhaust system (rangehood) complete with an automatic fire suppression system in accordance with B.O.C.A. National Building Code, Article 17, Section 1702.20 and B.O.C.A. Basic National Mechanical Code.***

(o) The facility shall ensure that the grounds and buildings of the facility are kept free from insects, rodents, and vermin.

1. All windows and doors, except those fire exit doors not used for ventilation, opening directly to the outside shall be provided with effective screens or insect repelling devices.

2. Safety precautions shall be observed in all rodent and insect control programs.

i. Any application of controlled pesticides shall be conducted by appropriately licensed persons.

(p) Monthly inspections shall be made of all physical facilities, equipment, and machinery to determine whether hazards exist.

1. A written report of such inspection shall be developed and filed for easy reference.

10:47-7.3 Transportation

(a) The facility shall ensure that each *[resident]* *client* is provided with the transportation necessary for implementing the *[resident's Individual Habilitation Plan.]* *client's IHP*.

(b) The facility shall have means for transporting *[residents]* *clients* in cases of emergency.

(c) Any vehicle used in transporting *[residents]* *clients* of a facility, whether such vehicle is operated by a staff member or any other person acting on behalf of the facility, shall be properly licensed, inspected, and insured in accordance with the New Jersey State Motor Vehicle Codes.

(d) Any staff member of a facility or other person acting on behalf of the facility operating a vehicle for the purpose of transporting *[residents]* *clients* shall be properly licensed to operate that class of vehicle according to State law.

(e) The facility shall not allow the number of persons in any vehicle used to transport *[residents]* *clients* to exceed the number of passengers for which the vehicle is certified by the manufacturer.

(f) The facility shall ensure that there is adequate supervision in any vehicle used by the facility to transport *[residents]* *clients*.

(g) The following additional transportation arrangements are required for *[residential]* facilities serving handicapped, non-ambulatory *[residents]* *clients*:

1. A ramp device to permit entry and exit of a *[resident]* *client* from the vehicle must be provided for all vehicles except automobiles used to transport physically handicapped *[children]* *clients*. A hydraulic lift may be utilized provided that a ramp is also available in case of emergency.

2. In all vehicles, wheelchairs shall be securely fastened to the floor.

3. In all vehicles except automobiles, the arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit doors of the vehicle.

10:47-7.4 Fire safety

(a) An annual written statement acquired from the *[State Fire Marshal]* *Appropriate Fire Official* shall be on file stating that the building(s) are satisfactory for occupancy and meet the minimum requirements of the *[National Fire Protection Association's "Life Safety Code"]* *New Jersey Fire Safety Act* or, in his opinion, does not adversely affect the life and safety of the occupants.

1. Deficiencies found during the inspection of the facility by the *[State Fire Marshal]* *appropriate fire official* shall be corrected within time limits established by the Bureau of Fire Safety.

(b) ***[An automatic fire detection system shall be installed in accordance with the requirements set forth by the State Fire Marshal.]***

***"An automatic fire detection and alarm shall be installed in accordance with Article 1716 and 1717 of the B.O.C.A. Basic National Building Code, and the National Fire Protection's Association standard number 71 and 72A through 72E". The automatic fire detection and alarm system shall be comprised of the following:**

1. Smoke detectors:

- i. Each Bedroom
- ii. Living and Dining Rooms
- iii. All Hallways
- iv. Recreation areas
- v. Top of all stairs

2. Thermal detectors:

- i. Kitchen (135° fixed)
- ii. Furnance area (190° fixed)

3. Provide a manual pull station within five (5) feet of the exits.

4. The A.C. power shall be on a dedicated branch circuit. The circuit and connections shall be mechanically protected. The circuit disconnecting means shall be accessible to authorized personnel and shall be clearly marked "fire alarm circuit".

5. Provide signalling devices as needed to be audible in all areas throughout the building.

6. Emergency standby power capable of operating the system for four (4) continuous minutes after 24 hours on emergency power.

(c) Any area used for the storage of combustible supplies and equipment (the contents of which are easily ignited, burn with an intense flame, and result in the production of dense smoke or fumes), shall be separated from other parts of the building by fire resistant construction which is approved by ***[State and local fire authorities]* *the appropriate fire official***.

(d) ***[New carpeting shall not be installed in resident rooms and corridors without prior approval of the State Fire Marshal.]* *Carpeting shall meet with the requirements of the B.O.C.A. national building code table 1421.7.***

(e) The boiler and heating room shall be separated from the rest of the building and enclosed with one hour rated material.

(f) Fuel burning space heaters and/or portable electric space heaters shall not be used in any facility. ***Fire places which are utilized shall be equipped with tempered glass enclosures.***

(g) Non-ambulatory ***[residents]* *clients*** shall not be housed above the first floor of any facility without approval of the Director, Department of Health, irrespective of certificates of local authorities that local requirements have been met.

1. No ***[resident shall be placed]* *client sleeping area shall be*** above the second floor in any building.

(h) The telephone number of the local fire department serving the facility shall be posted at each telephone.

(i) All exit ways leading to fire exits shall be properly illuminated by natural or artificial light 24 hours a day.

1. Signs bearing the word, "EXIT" in plain legible black letters shall be placed at each exit opening.

i. Additional signs shall be placed in corridors, where necessary, to indicate the direction of exit.

ii. Letters shall be no less than six inches in height.

2. Letters of internally illuminated exit signs shall not be less than four and one-half inches in height.

3. All exit and directional signs shall be clearly legible by electric illumination when natural light fails.

(j) ***[Fire escapes shall be necessary whenever two separate stairways leading directly to the exterior of the building from each floor occupied by residents are not provided.]* *Two separate approved stairways leading directly to the exterior of the building of each floor occupied by clients shall be provided.***

1. Traffic areas leading to ***[fire escape]* *stairway*** must be kept free of obstacles at all times.

2. ***[Fire escapes]* *Stairways*** must be kept free of obstructions at all times.

3. Plans for all ***[fire escapes]* *stairways*** and their specifications shall be approved by the ***[State Fire Marshal]* *appropriate fire official*** prior to any actual construction and must show in detail all buildings adjacent to fire escapes.

4. Existing fire escapes shall be examined annually and repairs completed as recommended by the ***[State Fire Marshal]* *appropriate fire official***.

(k) Basements ***[of residential buildings]*** shall be kept in good order and reasonably clear of excess furniture and equipment, and shall never be used for indiscriminate storage. However, ***[heat]* stock*[s]*** in original containers will be permitted in basement storerooms.

1. Doors at the head of basement stairways shall be constructed according to specifications approved by the ***[State Fire Marshal]* *appropriate fire official***.

2. Basement ceilings shall be protected with material approved by the ***[State Fire Marshal]* *appropriate fire official***.

3. Side walls and ceilings enclosing basement stairways shall be protected with material approved by the ***[State Fire Marshal]* *appropriate fire official***.

4. Paint and other highly inflammable material should be stored outside residential buildings, but minimum supplies may be kept in basements if stored in closed metal cabinets or containers.

5. ***[All basement electrical wiring shall be in Rom X cable or equivalent and all outlets shall be of approved type.]* *All electrical wiring shall be in accordance with the national electric code.***

6. Smoke pipes from heaters to chimneys shall not pass within 18 inches of ceilings even though the ceiling may have been protected with metal lath and plaster.

7. Basements may be used for storage, laundry, heating, and water supply equipment and other utilities.

8. Basements may be used as activity rooms so long as they are dry, warm, and adequately illuminated with natural or artificial light and separated from laundry, heating, and other hazardous equipment.

i. Two means of egress must be provided if a basement is used as an activity room.

9. No unnecessary combustible partitions within basements are permitted.

(1) In all new installments of oil furnaces and equipment, tanks should be located outside the building.

1. In cases where oil burning equipment has already been installed in properties, the vent pipe and fill pipe should be located outside the building.

(m) The ***[operator]* *licensee*** shall, on or before January 1 of each year, submit a written statement by a registered electrical inspector that the electrical circuits and wiring are satisfactory.

1. The electrical inspector's report should include the date of inspection and should give assurance that circuits are not overloaded, that all wiring and permanent fixtures are in good condition and that all portable electrical appliances, including lamps, are equipped with heavy duty cord in good condition.

2. There shall be no temporary wiring in the facility except approved appliances equipped with heavy duty cord in good condition.

3. No extension cords or "octopus" outlets may be used.

(n) Proper safeguards shall be taken against fires caused by smoking.

1. Smoking shall not be permitted in ***[residents]* *clients'*** sleeping rooms.

2. Ashtrays of non-combustible material and safe design shall be provided in all areas where smoking is permitted.

3. Smoking shall be prohibited in any room or compartment where inflammable liquids, combustible gases, or oxygen are used or stored and in any other hazardous locations.

i. Such areas shall be posted with "NO SMOKING" signs.

(o) There shall be an adequate number of fire extinguishers in the basement and on each floor of every ***[residential]*** buildings, as determined by the ***[State Fire Marshal]* *appropriate fire official***.

1. All fire extinguishers shall bear the seal of the Underwriter's Laboratories ***or Factory Mutual***.

2. ***[There shall be at least one portable fire extinguisher for each 2500 square feet of floor area in accordance to the recommendations of the National Fire Protection Association.]* *Adequate numbers of fire extinguishers shall be installed on every floor including the basement in accordance with the recommendation of the National Fire Protection Association Standard number 10.***

3. Extinguishers shall be recharged and inspected in accordance with the manufacturer's specifications.

i. Each extinguisher shall be labeled to show the date of such inspection and refilling.

ii. Each extinguisher shall be recharged when: (1) It has been discharged; (2) The gauge indicates it is not in a fully operable condition.

4. One portable fire extinguisher shall be placed next to the fire alarm box or telephone.

i. All other fire extinguishers shall be placed as directed by the *[local or State fire regulatory agency.]* ***appropriate fire official***.

ii. Fire extinguishers shall be placed so as not to be obstructed by an open door.

5. The following types of fire extinguishers shall be provided:

i. In kitchen areas where a domestic range is utilized, a *[minimum five pound BC]* ***fire*** extinguisher with a 20 BC rating shall be provided.

ii. In kitchen areas where a commercial range is utilized, a hood and duct suppression (extinguishing) system shall be provided with both automatic and manual actuation. This system shall be installed in accordance with article 17 of the 1981 Basic Building Code.

iii. In the basement area a *[minimum 10 pound ABC]* ***4A:40 BC fire*** extinguisher with a 40 BC rating shall be provided.

iv. Throughout the building, two and one-half gallon air pressurized water type extinguishers or a 2A ABC dry chemical extinguisher with a 40 BC rating shall be provided.

(p) All personnel and residents shall be instructed in fire prevention.

1. The use of fire protection equipment and devices (including fire extinguishers) shall be taught to all personnel.

2. Personnel and *[residents]* ***clients*** shall be familiar with procedures to be followed in the event of an emergency.

3. Such instruction shall be given to all employees prior to their duty assignment and should be repeated and reviewed at 12 month intervals.

(q) Every *[institution]* ***facility*** shall formulate, in writing, a plan for the evacuation of *[residents]* ***clients*** to areas of refuge completely away from the building, in the event of fire or any other type of disaster.

1. All employees shall be instructed in their duties under this plan.

2. A diagram of each floor indicating corridors, line of travel, exit doors, location of fire extinguishers, and the exit each *[resident]* ***client*** is to use shall be posted on each floor in view of all personnel.

3. Provisions shall be made for an emergency lighting system.

(r) Fire alarm systems shall be checked weekly by an employee designated by the *[administrator]* ***licensee***.

1. A weekly record shall be maintained showing the date checked, the name of the person checking the system, and *[whether]* ***that*** *[or not]* the system is operative.

(s) Every building in which *[residents]* ***clients*** are housed or *[congregate]* ***programmed*** shall have a fire drill at least once a month.

1. The drills shall be unannounced and held at various hours of the day and night.

2. A record shall be maintained of the date of the drill, time required for evacuation, and the number of personnel and *[residents]* ***clients*** participating in the drill.

3. Arrangements shall be made to have a fire drill supervised by the local fire department at least annually and more often, when required.

(t) A formal, monthly fire inspection shall be conducted by an employee who is knowledgeable in the area of fire prevention and safety.

1. A record shall be kept of the date of the inspection and of any hazards or deficiencies noted.

2. This record shall be annotated by the *[administrator]* ***licensee*** to indicate the date on which each hazard or deficiency was corrected.

(u) All facilities shall be inspected annually for fire protection by *[the State Fire Marshal.]* ***appropriate fire official***.

OAL NOTE: Division Circular 20, referenced at N.J.A.C. 10:47-32(k), has been proposed as a rule and published in the New Jersey Register, August 5, 1985 at 17 N.J.R. 1832(a). Division Circular 34, referenced at N.J.A.C. 10:47-3.2(f) is soon to be proposed as a rule. Until such time as these circular are fully promulgated as rules, copies of these policies may be obtained from the Administrative Practice Officer, Division of Developmental Disabilities, Capitol Place 1, 222 S. Warren St., Trenton, N.J. 08625 and there are copies on file at the Office of Administrative Law, Administrative Publications, Quakerbridge Plaza, Bldg. #9, CN-301, Trenton, N.J. 08625.

(a)

DIVISION OF PUBLIC WELFARE

General Assistance Manual

Mental Health Services: Partial Care Program

Adopted Amendment: N.J.A.C. 10:85-5.3

Proposed: August 5, 1985 at 17 N.J.R. 1836(a).

Adopted: October 15, 1985 by Geoffrey S. Perselay,
Acting Commissioner, Department of Human
Services.

Filed: October 15, 1985 as R.1985 d.565, **without change**.

Authority: N.J.S.A. 44:8-111(d).

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): July 25, 1988.

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

Full text of the adoption follows.

10:85-5.3 Other medical payments

(a) (No change.)

(b) Physicians, dentists and other health care providers: The director of welfare shall authorize payment for services provided by licensed physicians (M.D. or D.O.), dentists and other health care providers including podiatrists, optometrists, pharmacists, opticians, prosthetists and orthotists who have not been deleted for cause from the current list of approved Medicaid providers, unless such services are specifically prohibited under (b)2 below. The DPW/BMA will advise all MWDs of deletions from the approved list and of any reinstatements.

1. (No change.)

2. Payments not authorized: Payment to physicians, dentists or other health care providers shall not be authorized for the following services:

i. Inpatient hospital care: Payment shall not be authorized for professional services (for example, physicians, dentists, podiatrists) rendered to persons receiving inpatient hospital care.

ii. Outpatient or clinic care: Payment shall not be authorized for professional services rendered in the outpatient department of a hospital.

iii.-vi. (No change.)

3.-4. (No change.)

(c) Outpatient facility services are as follows:

1.-3. (No change.)

4. Mental health services: For all mental health services, the payment shall be deemed to cover all services of the provider. It does not cover prescription costs. If the MWD has negotiated a rate with the mental health agency or provider which is no higher than the rate which would otherwise be payable and which takes into account any funding by the municipality or county, that rate shall be used for all participants receiving services from that provider. In all other instances, payment to hospital based mental health facilities shall be at the rate regularly charged and payment to all other providers shall be at the Medicaid rate.

i. Partial Care Program (see N.J.A.C. 10:37-5.46 through 5.51): Partial Care is a program serving people who need more than hourly outpatient services and less than inpatient hospitalization. Some clients are served to avoid inpatient hospitalization; for others the program serves as a transition from institutional to community living. Clients usually receive services five days per week. This level of service is reduced as the client becomes more independent. Minimum attendance is one-half day per week. Services offered usually include case management, medication supervision, group therapy, activities of daily living (ADL), socialization, skill development, and prevocational activities. Program participants are divided into two Target Groups:

(1) Target Group I (see N.J.A.C. 10:37-5.2) consists of:

(A) Individuals currently in a State/County/Local psychiatric hospital who could live in the community with appropriate services.

(B) Individuals in the community with a history of psychiatric hospitalization, who are in serious risk of re-hospitalization.

(C) Individuals in the community who are mentally, emotionally, and functionally impaired and in serious risk of psychiatric hospitalization.

(2) Target Group II (see N.J.A.C. 10:37-5.2) consists of individuals in the community who are mentally, emotionally, and functionally impaired and are not in serious risk of psychiatric hospitalization.

(3) Referral procedures: Proper referral is the responsibility of the mental health agency which seeks payment. It is in two parts:

(A) The agency will, within five working days of the acceptance of an individual for partial care, so notify the MWD in writing. Form PA-14, Inter-Agency Referral Form, or any substantially similar document may be used for this purpose.

(B) The agency will, within 30 calendar days of the acceptance of an individual for Partial Care, submit Medicaid Form FD-07 to the MWD. The Target Group classification must appear on the form. The MWD will record receipt of the form and send it promptly to DPW/BMA for approval.

(4) Service periods are as follows:

(A) The MWD will not authorize payment for any services rendered more than five days prior to notice (see (c)4i(3)(A) above) nor more than 30 days prior to submittal of Form FD-07 (see (c)4i(3)(B) above).

(B) For Target Group I clients the expected term of service is two years from the date of acceptance into this program. For Target Group II clients the expected term of service is one year from the date of acceptance into the program. The MWD will authorize no payments beyond these periods without the specific written authorization of DPW/BMA.

ii. Other mental health services are as follows:

(1) Mental health clinics:

(A) For hospital-based mental health clinics, payment shall be authorized as described in (c)4 above.

(B) For all other clinics, payment shall be authorized as described in (c)4 above for an initial period of 30 days or until receipt by the MWD of a completed Medicaid Form FD-07, whichever occurs first. The MWD will record receipt of the form and forward it promptly to the DPW/BMA. The DPW/BMA will return the form indicating any further services which are approved. For services beyond the initial period, payment shall be authorized only for services approved by DPW/BMA.

(2) Private practitioners: If no local clinic offers services which are necessary, the MWD shall authorize payment to a private psychologist or psychiatrist in accordance with the provisions and limitations specified in (c)4ii(1)(B) above for clinics which are not hospital-based.

(3) Payments are not to be authorized for services provided by psychiatric social workers, unlicensed psychologists, or psychiatric assistants in private practice.

(d)-(i) (No change.)

LABOR

THE COMMISSIONER

(a)

1986 Maximum Weekly Benefit Rates for Unemployment Compensation and State Plan Temporary Disability

Adopted Amendment: N.J.A.C. 12:15-1.3

Proposed: September 3, 1985 at 17 N.J.R. 2079(a).

Adopted: October 8, 1985 by Charles Serraino,

Commissioner, Department of Labor.

Filed: October 9, 1985 as R.1985 d.545, **without change.**

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

Effective Date: November 4, 1985.

Operative Date: January 1, 1986.

Expiration Date pursuant to Executive Order
No.66(1978): December 31, 1986.

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

ADOPTIONS

LABOR

Full text of adoption follows.

12:15-1.3 Maximum weekly benefit rates

(a) In accordance with the provisions of the Unemployment Compensation Law, the maximum weekly benefit rate for benefits under the Unemployment Compensation Law is hereby promulgated as being \$214.00 per week.

(b) The maximum weekly benefit rate for State Plan benefits under the Temporary Disability Benefits Law is hereby promulgated as being \$200.00 per week.

(c) These maximum benefits shall be effective for the calendar year 1986 on benefit years and periods of disability commencing on or after January 1, 1986.

(a)

1986 Taxable Wage Base Under the Unemployment Compensation Law

Adopted Amendment: N.J.A.C. 12:15-1.4

Proposed: September 3, 1985 at 17 N.J.R. 2079(b).

Adopted: October 8, 1985 by Charles Serraino,

Commissioner, Department of Labor.

Filed: October 9, 1985 as R.1985 d.546, **without change.**

Authority: N.J.S.A. 34:1-5, 34:1-20 and 43:21-7(b)(3).

Effective Date: November 4, 1985.

Operative Date: January 1, 1986.

Expiration Date pursuant to Executive Order No.

66(1978): December 31, 1986.

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

Full text of the adoption follows.

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

In accordance with the provisions of N.J.S.A. 43:21-7(b)(3), the "wages" of any individual with respect to any one employer for the purpose of contributions under the Unemployment Compensation Law shall include the first \$10,700 during the calendar year 1986.

(b)

Unemployment Compensation Contribution Rates of Governmental Entities for 1986

Adopted Amendment: N.J.A.C. 12:15-1.5

Proposed: September 3, 1985 at 17 N.J.R. 2079(c).

Adopted: October 8, 1985 by Charles Serraino,

Commissioner, Department of Labor.

Filed: October 9, 1985 as R.1985 d.543, **without change.**

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-7.3(e).

Effective Date: November 4, 1985.

Operative Date: January 1, 1986.

Expiration Date pursuant to Executive Order No.

66(1978): December 31, 1986.

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

Full text of the adoption follows.

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

(a) In accordance with the provision of N.J.S.A. 43:21-7.3(e), the contribution rate for all governmental entities and instrumentalities electing to pay contributions under the Unemployment Compensation Law is hereby promulgated as being one and three-tenths percent (1.3 percent) for the entire calendar year.

(b) This contribution rate shall be effective on taxable wages paid in the calendar year 1986.

(c)

Base Week for Unemployment Compensation and State Plan Temporary Disability

Adopted Amendment: N.J.A.C. 12:15-1.6

Proposed: September 3, 1985 at 17 N.J.R. 2080(a).

Adopted: October 8, 1985 by Charles Serraino,

Commissioner, Department of Labor.

Filed: October 9, 1985 as R.1985 d.544, **without change.**

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-19(t), 43:21-27.

Effective Date: November 4, 1985.

Operative Date: January 1, 1986.

Expiration Date pursuant to Executive Order No.

66(1978): December 31, 1986.

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

Full text of the adoption follows.

12:15-1.6 Base week

In accordance with the provisions of N.J.S.A. 43:21-19(t), the base week amount is hereby promulgated as being \$76.00 per week for benefit years and periods of disability commencing on or after January 1, 1986.

(a)**Alternative Earnings Test for Unemployment Compensation and State Plan Temporary Disability****Adopted Amendment: N.J.A.C. 12:15-1.7**

Proposed: September 3, 1985 at 17 N.J.R. 2080(b).

Adopted: October 8, 1985 by Charles Serraino,
Commissioner, Department of Labor.

Filed: October 9, 1985 as R.1985 d.542, **without change**.

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-4(e),
43:21-41.

Effective Date: November 4, 1985.

Operative Date: January 1, 1986.

Expiration Date pursuant to Executive Order No.
66(1978): December 31, 1986.

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

Full text of the adoption follows.

12:15-1.7 Alternative earnings test

In accordance with the provisions of N.J.S.A. 43:21-4(e) and 43:21-41 in those instances in which the individual has not established 20 base weeks, the alternative earnings amount for establishing eligibility is hereby promulgated as being \$4,600 for benefit years and periods of disability commencing on or after January 1, 1986.

(b)**1986 Maximum Weekly Benefit Rate for Workers' Compensation****Adopted Amendment: N.J.A.C. 12:235-1.5**

Proposed: September 3, 1985 at 17 N.J.R. 2090(a).

Adopted: October 8, 1985 by Charles Serraino,
Commissioner, Department of Labor.

Filed: October 9, 1985 as R.1985 d.541, **without change**.

Authority: N.J.S.A. 34:1-5, 34:1-20, 34:15-12.

Effective Date: November 4, 1985.

Operative Date: January 1, 1986.

Expiration Date pursuant to Executive Order No.
66(1978): December 31, 1986.

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

Full text of the adoption follows.

12:235-1.5 Maximum workers' compensation benefit rates

(a) In accordance with the provisions of N.J.S.A. 34:15-12(a), the maximum workers' compensation benefit rate

for temporary disability, permanent total disability, permanent partial disability, and dependency is hereby promulgated as being \$284.00 per week.

(b) This maximum compensation shall be effective as to injuries occurring in the calendar year of 1986.

LAW AND PUBLIC SAFETY**(c)****BOARD OF ARCHITECTS****Certified Landscape Architects Title Blocks****Adopted Amendment: N.J.A.C. 13:27-8.11**

Proposed: August 5, 1985, 17 N.J.R. 1864(a).

Adopted: September 26, 1985 by James Gaspari, R.A.,
President, New Jersey State Board of Architects.

Filed: October 4, 1985 as R.1985 d.538, **without change**.

Authority: N.J.S.A. 45:3A-13.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): April 1, 1990.

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

Full text of the adoption follows.

13:27-8.11 Seal and signature; title block

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

(c) A certified landscape architect shall provide the following information in a title block which shall be placed on all contract drawings prepared under his or her direction. The information shall appear legibly on the drawing and shall be clearly reproducible.

1. The full name of the certified landscape architect as it appears on the certificate issued by the Board;

2. The signature of the certified landscape architect;

3. The license number and title: New Jersey Certified Landscape Architect.

4. The date when signed.

(d) The certified landscape architect shall impress his or her seal on all reproductions filed with any public agency or submitted to a client. Other information may appear with or within the title block provided that the required information is distinct and the name of the certified landscape architect is readily discernible from the other information on the document.

(a)**STATE BOARD OF DENTISTRY****Notification of Change of Address; Service of Process****Use of General Anesthesia****Adopted New Rule: N.J.A.C. 13:30-8.14****Adopted Amendment: N.J.A.C. 13:30-8.3**

Proposed: August 5, 1985 at 17 N.J.R. 1864(b).

Adopted: September 11, 1985 by Arthur L. Yeager, D.D.S., President, New Jersey State Board of Dentistry.

Filed: October 11, 1985 as R.1985 d.548 **without change**.

Authority: N.J.S.A. 45:6-1 et seq., 45:6-3

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): April 15, 1990.

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

Full text of the adoption follows.

13:30-8.3 Use of general anesthesia

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

(e) Prior to the administration of an anesthetic agent for the purpose of controlling pain, a physical evaluation shall be made by the permit holder and a complete medical history which shall include previous medications, allergies and sensitivities shall be obtained. Said history shall be maintained in the files of each dentist for a period of not less than three years succeeding the taking of same. Specific records on use of general anesthesia shall be kept and shall include type of agent, dosage and duration.

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

13:30-8.14 Notification of change of address; service of process

(a) A licensee of the Board of Dentistry 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 certificate. Such notice shall be sent to the Board by certified mail, return receipt requested, not later than 30 days following the change of address.

(b) Failure to notify the Board of any change of address pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h), including, but not limited to, a civil penalty of \$200.

(c) Service of an administrative complaint or other Board-initiated process at a licensee's address currently on file with the Board shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

(b)**BOARD OF MARRIAGE COUNSELOR EXAMINERS****Annual License Fees and Charges****Adopted Amendments: N.J.A.C. 13:34-1.1**

Proposed: June 17, 1985, 17 N.J.R. 1527(a).

Adopted: September 19, 1985 by New Jersey State Board of Marriage Counselor Examiners, Arthur Santucci, Ed.D., President; Edward G. Haldeman, Ed.D., Vice President and Acting President.

Filed: October 11, 1985 as R.1985 d.549, **without change**.

Authority: N.J.S.A. 45:1-3.2.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): November 21, 1988.

Summary of Public Comments and Agency Response:
No comments received.

Full text of the adoption follows.

13:34-1.1 Annual license fees and charges

(a) There shall be paid to the State Board of Marriage Counselor Examiners the following fees:

1. Examination of credentials, which shall not be subject to refund \$ 50.00;
2. Reexamination of credentials, not subject to refund \$ 25.00;
3. Examination fee \$100.00;
4. Verification of licensure \$ 10.00;
5. Temporary permit \$ 50.00;
6. License renewal fee \$ 65.00;
7. Reinstatement fee \$100.00;
- i. Upon verification acceptable to the Board that an individual has not practiced marriage or family counseling in private practice or otherwise practiced in New Jersey or used a previously issued New Jersey license in any manner, the annual license renewal fee during the inactive period will be waived. The fee to be paid, under these conditions, is the annual license renewal fee for the current period, \$65.00, the reinstatement fee, \$100.00, and the late license fee, \$50.00, if appropriate.
- ii. In the absence of the above verification, the annual license renewal fee, \$65.00 for each year since last paid is required in addition to the license reinstatement fee, \$100.00.
- iii. The late renewal penalty or license revival fee shall be \$50.00 in addition to the annual license renewal fee of \$65.00.
8. License revival fee (for late license renewals) \$ 50.00;
9. (No change.)
10. Replacement wall certificate \$ 20.00.

(a)**BOARD OF MEDICAL EXAMINERS**

**Standards for New Jersey Clinical Training
Programs Sponsored by the Medical Schools
Not Eligible for Evaluation and Not Approved
by the L.C.M.E., the A.O.A. or Other
Agency Recognized by the New Jersey State
Board of Medical Examiners
Educational Program**

Adopted Amendment: N.J.A.C. 13:35-1A.4

Proposed: August 19, 1985 at 17 N.J.R. 2010(a).

Adopted: October 9, 1985 by Edward W. Luka,

President, New Jersey Board of Medical Examiners

Filed: October 15, 1985 as R.1985 d.564, **without change**.

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

Effective Date: November 4, 1985.

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

Summary of Public Comments and Agency Responses:

The Board received two comments which simply endorsed and applauded the proposed amendment, one of which congratulated the Board on limiting to two the number of basic science examinations which would be used for the purpose of determining the acceptability of students from foreign medical schools to enter clinical clerkships in New Jersey.

The Board also received two comments which protested the proposed amendment. One was from Dr. Fred Jacobs, a private practitioner in Livingston, New Jersey who objected to the fact that all medical students in New Jersey were not being given the opportunity to take the same required examination. The second comment from St. George's University School of Medicine indicated that since the FMGEMS exam has no long history of usage and since there could be a challenge to the exam making it invalid, the Board should not rely solely on it, but should continue to accept MSKP as an acceptable exam.

The Board responded to the comments in writing indicating to those who wrote in favor of the amendment that the Board thanked them for expressing their support. The Board responded to the comment by Dr. Jacobs by indicating that currently medical students in New Jersey are accepted into clerkships by taking one of several examinations, the amendment merely substitutes one of the exams with another the Board deems to be better suited to screen candidates for their ability to perform in a clerkship capacity adequately. The Board also informed Dr. Jacobs that the National Board has refused to give the National Board Part I to foreign medical student and that it is extremely impractical to follow his suggestion that the Board itself administer one uniform examination since the Board does not possess the resources or staff to select, administer, score and completely handle the process of examination. Examination by a neutral body also ensures objectivity. The Board feels that there has been an adequate demonstration that FMGEMS will test the abilities of students as well as the National Boards Part I for purposes of a clerkship.

The Board responded to St. George's University School of Medicine by stating that it feels FMGEMS has been adequately demonstrated to be an appropriate examination. In fact the ECFMG exam has been administered for many years as an avenue for entry into postgraduate training in the United States. FMGEMS is simply an upgraded version of this exam, and therefore does indeed have a track record. The Board also indicated that in the event that a problem does arise with the exam such as that posed by St. George's, the Board would respond appropriately.

The Board notes that the statement in the Summary of the proposal which stated that the MSKIP is being phased out of existence was incorrect.

Full text of the adoption follows.

13:35-1A.4 Educational program

(a) Student eligibility for participation in the program shall be subject to the following:

1.-2. (No change.)

3. Preparedness of each student applying for the clinical training program shall in addition be demonstrated by achievement of either of the following:

i. A passing grade on Part I of the National Board of Medical Examiners Examination; or

ii. A passing grade on Part I of the Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS).

4. (No change.)

(b) (No change.)

TRANSPORTATION**TRANSPORTATION OPERATIONS****(b)**

**Restricted Parking and Stopping
Routes U.S. 9 and 71 in Monmouth County, 168
in Camden County, and 67 in Bergen County**

**Adopted Amendments: N.J.A.C. 16:28A-1.7,
1.38, 1.51 and 1.71**

Proposed: August 19, 1985 at 17 N.J.R. 2013(a).

Adopted: September 20, 1985 by Jarrett R. Hunt,
Assistant Chief Engineer, Traffic and Local Road
Design.

Filed: October 1, 1985 as R.1985 d.536, **without change**.

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

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): November 7, 1988.

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

Full text of the adoption follows.

16:28A-1.7 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.-4. (No change.)

5. Along the easterly (northbound) side in Marlboro Township, Monmouth County:

i. (No change.)

ii. Near side bus stop: Beginning at the southerly curb line of County Route 520 and extending 225 feet southerly therefrom.

6.-35. (No change.)

16:28A-1.38 Route 71

(a) The certain parts of State highway Route 71 described in this section are designated and established as "no parking" zones where stopping and standing are prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-9. (No change.)

10. No stopping or standing in the City of Asbury Park, Monmouth County:

i. Along the westerly (southbound) side: From the southerly curb line of Lake Avenue to a point 265 feet southerly therefrom.

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

16:28A-1.51 Route 168

(a) (No change.)

(b) The certain parts of State highway Route 168 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.-4. (No change.)

5. Along the northbound (easterly) side in Camden City, Camden County:

i. Midblock bus stop: Beginning 1630 feet north of the northerly curb line of Grant Avenue and extending 135 feet northerly therefrom.

16:28A-1.71 Route 67

(a) The certain parts of State highway Route 67 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provision of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-2. (No change.)

3. Along the easterly (northbound) side in Fort Lee Borough, Bergen County:

i. (No change.)

ii. Midblock bus stop:

(1) Between Bridge Plaza North and Lincoln Avenue—Beginning 460 feet north of the northerly curb line of Bridge Plaza north and extending 168 feet northerly therefrom

(b) (No change.)

(a)

Restricted Parking and Stopping

Routes 27 in Middlesex and Somerset Counties, U.S. 30 in Atlantic County, 70 in Camden County, 73 in Burlington County, U.S. 202, 202-206 and 206 and Somerset County and 124 in Union County

Adopted Amendments: N.J.A.C. 16:28A-1.18, 1.21, 1.37, 1.40, 1.55, 1.56, 1.57 and 1.69

Proposed: August 19, 1985 at 17 N.J.R. 2014(a).

Adopted: September 20, 1985 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.

Filed: October 1, 1985 as R.1985 d.534, **without change**.

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

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

Full text of the adoption follows.

16:28A-1.18 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. 39:4-139.

1.-2. (No change.)

3. No stopping or standing in Franklin Township, Somerset County and South Brunswick Township, Middlesex County:

i. Along both sides:

(1) From the southerly bridge abutment of Mile Run Brook (milepost 15.4) to the northerly bridge abutment of the Millstone River (milepost 3.0) including all ramps and connections under the jurisdiction of the Commissioner of Transportation except at legalized bus stops.

4. No stopping or standing in North Brunswick Township, Middlesex County:

i. Along both sides:

(1) From the southerly bridge abutment of Mile Run Brook (milepost 15.4) to the northerly bridge abutment of the Millstone River (milepost 3.0) including all ramps and connections under the jurisdiction of the Commissioner of Transportation except at legalized bus stops.

5.-13. (No change.)

14. No stopping or standing in the City of New Brunswick, Middlesex County:

i. (No change.)

ii. Along both sides:

(1) From the southerly bridge abutment of Mile Run Brook (milepost 15.4) to the northerly bridge abutment of the Millstone River (milepost 3.0) including all ramps and connections under the jurisdiction of the Commissioner of Transportation except at legalized bus stops.

15.-16. (No change.)

(b)-(d) (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 is granted to erect appropriate signs at the following established bus stops:

1.-13. (No change.)

14. Along the easterly (northbound) side in Hammonton Town, Atlantic County:

i. Far side bus stop:

(1) Beginning at the prolongation of the northerly curb line of Elvins Avenue and extending 120 feet northerly therefrom.

15. Along the westerly (southbound) side in Hammonton Town, Atlantic County:

i. Near side bus stop:

(1) Beginning at the northerly curb line of Elvins Avenue and extending 120 feet northerly therefrom.

16:28A-1.37 Route 70

(a) (No change.)

(b) The certain parts of State highway Route 70 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. (No change.)

2. Along the westbound (northerly) side in Cherry Hill Township, Camden County:

i. Far side bus stop:

(1) Old Orchard Road—Beginning at the westerly curb line extension of Old Orchard Road and extending 174 feet westerly therefrom.

ii. Midblock bus stops:

(1) Main Street—Beginning 385 feet east of the easterly curb line of Main Street and extending 170 feet easterly therefrom.

(2) Harvard Avenue—Beginning 860 feet west of Harvard Avenue and extending 135 feet westerly therefrom.

(3) Springdale Road—Beginning 130 feet west of the westerly curb line of Springdale Road and extending 135 feet westerly therefrom.

(4) Kenwood Avenue—Beginning 178 feet west of the westerly curb line of Kenwood Avenue and extending 135 feet westerly therefrom.

16:28A-1.40 Route 73

(a) The certain parts of State highway Route 73 described in this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-5. (No change.)

6. No stopping or standing in Mount Laurel Township, Burlington County:

i. Along both sides:

(1) Beginning at the Evesham-Mount Laurel Corporate line and extending northerly to Route I-295, including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation.

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

(a) The certain parts of the State highway Route U.S. 202 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-9. (No change.)

10. No stopping or standing in Bedminster Township, Somerset County:

i. Along both sides:

(1) Within the corporate limits of Bedminster Township including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation.

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

16:28A-1.56 Route U.S. 202-206

(a) The certain parts of State highway Route U.S. 202-206 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. (No change.)

2. No stopping or standing in Bedminster Township, Somerset County:

i. Along both sides:

(1) Within the corporate limits of Bedminster Township including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation.

16:28A-1.57 Route U.S. 206

(a) The certain parts of State highway Route U.S. 206 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-16. (No change.)

17. No stopping or standing in Bedminster Township, Somerset County:

i. Along both sides:

(1) Within the corporate limits of Bedminster Township, including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation.

18.-25. (No change.)

(b) (No change.)

16:28A-1.69 Route 124

(a) (No change.)

(b) The certain parts of State highway Route 124 described in this section shall be designated and established as "no parking" zones where stopping and standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Springfield Township, Union County:

i.-iii. (No change.)

iv. Along the southerly (eastbound) side:

(1) In the four lane sections of the route within the corporate limits of Springfield Township except Sundays from 7:00 A.M. to 12 Midnight between Walnut Court and Caldwell Place.

v. (No change.)

2. No stopping or standing between the hours of 4:00 P.M. and 6:30 P.M. daily in Springfield Township, Union County:

i. Along the northerly (westbound) side:

(1) In the four lane sections of the route within the corporate limits of Springfield Township except Sundays between Mountain Avenue and Caldwell Place.

(a)**Restricted Parking and Stopping
Routes 45 in Gloucester County and U.S. 130
in Salem County****Adopted Amendments: N.J.A.C. 16:28A-1.31
and 1.46**

Proposed: August 19, 1985 at 17 N.J.R. 2016(a).

Adopted: September 20, 1985 by Jarrett R. Hunt,
Assistant Chief Engineer, Traffic and Local Road
Design.

Filed: October 1, 1985 as R.1985 d.535, **without change**.

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

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order 66(1978):
November 7, 1988.

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

Full text of the adoption follows.

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 the provisions of N.J.S.A. 39:4-199 permission is hereby granted to erect appropriate signs at the following established bus stops:

1.-5. (No change.)

6. Along the northbound (easterly) side in Mantua Township, Gloucester County:

i. Far side bus stop:

(1) Capital Drive—Beginning at the northerly curb line of Capital Drive and extending 100 feet northerly therefrom.

ii. Near side bus stop:

(1) Chestnut Street—Beginning at the southerly curb line of Chestnut Street and extending 105 feet southerly therefrom.

iii. Midblock bus stop:

(1) Center Street—Beginning 200 feet from the southerly curb line of Center Street and extending 140 feet southerly therefrom.

7. Along the southbound (westerly) side in Mantua Township, Gloucester County

i. Midblock bus stop:

(1) Center Street—Beginning 200 feet from the prolongation of the southerly curb line of Center Street and extending 140 feet southerly therefrom.

16:28A-1.46 Route U.S. 130

(a) The certain parts of State highway Route U.S. 130 in this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. (No change.)

2. No stopping or standing in Carneys Point Township and Penns Grove Borough, Salem County:

i. Along the northbound side:

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

(3) From a point 100 feet south of Laurel Avenue to Market Street

(4) From the northerly curb line of Grant Street to the southerly curb line of Grant Street.

ii. Along the southbound side:

(1)-(4) (No change.)

(5) From the northerly curb line of Regional Drive to the southerly curb line of Grant Street.

3.-7. (No change.)

8. No stopping or standing in East Windsor Township, Mercer County:

i. (No change.)

(b) (No change.)

(b)**AERONAUTICS****Air Safety and Hazardous Zoning
Development Permits; Nonconforming Uses;
Implementation Deadlines****Adopted Amendment: N.J.A.C. 16:62-5.1****Adopted New Rules: N.J.A.C. 16:62-8, 9 and
10**

Proposed: August 5, 1985 at 17 N.J.R. 1869(a).

Adopted: September 6, 1985 by James A. Crawford,
Assistant Commissioner for Transportation Services
& Planning.

Filed: October 1, 1985 as R.1985 d.537, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29, 6:1-32
and "Hazardous Zoning Act of 1983," P.L. 1983 c.
260.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): April 15, 1990.

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

Full text of the adoption follows.

16:62-5.1 Minimum land use standards

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

(c) Municipalities shall, when developing land use ordinances to conform with the provisions of this chapter, adopt general land use provisions within the ordinance to minimize unwarranted concentrations of persons within Airport Hazard Areas, especially along the extended runway centerlines within RUNWAY AND SUBZONES.

**SUBCHAPTER 8. PERMITS FOR DEVELOPMENTS
IMMUNE TO LOCAL ORDINANCE****16:62-8.1 General Provisions**

(a) In the event of a proposed development within an Airport Hazard Area which is immune to local ordinance, the standards of this chapter still apply to such proposed development.

(b) Any persons proposing a development immune to local ordinance within an Airport Hazard Area shall make application to the Department in accordance with N.J.A.C. 16:62-6.1 and 16:62-6.3. The requirement for local approval under N.J.A.C. 16:62-6.2 and 6.3(a)2 is waived, and the permit application fee under N.J.A.C. 16:62-6.3(a)5 is waived.

(c) The Department shall review application for permits for developments immune to local ordinance in a manner with other applicable provisions of this chapter.

SUBCHAPTER 9. EXISTING LAND USES NOT CONFORMING TO THE STANDARDS OF THIS CHAPTER

16:62-9.1 General provisions

(a) No ordinance adopted under this chapter shall require the removal or lowering of, or other change or alteration of any structure or tree not conforming to the rules when this chapter was adopted.

(b) Within the context of an ordinance adopted to conform with the standards of this chapter, a preexisting land use not in conformance with the rules may at the discretion of the municipality, be classified within such an ordinance as either "nonconforming" or "conditional." For such preexisting land uses, a property owner may seek and a municipality may grant on a one time basis, up to ten percent expansion of such a nonconforming or conditional use without having to obtain a permit from the Commissioner under the provisions of this chapter.

(c) The provision in (b) above allowing up to a ten percent one time expansion of preexisting land use not in conformance with the rules of this chapter applies to land use provisions of this chapter only.

Expansion of a vertical development not in conformance with the rule of this chapter may be done only after the granting of a permit from the Commissioner, under the provisions of this chapter.

SUBCHAPTER 10. IMPLEMENTATION DEADLINES

16:62-10.1 General provisions

(a) Municipalities affected by the provisions of this chapter shall adopt ordinances implementing the standards of this chapter within 12 months of the adoption of this chapter.

(b) Upon the adoption of this chapter, no municipal body may grant variances or subdivisions in an Airport Hazard Area under their existing ordinances whose purpose would be contrary to the standards of this chapter.

SUBCHAPTER 11. LIABILITY

(No change in text.)

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Teachers' Pension and Annuity Fund Determination of Last Year's Salary

Adopted Amendments: N.J.A.C. 17:3-6.21

Proposed: September 16, 1985 at 17 N.J.R. 2239(a).

Adopted: October 3, 1985 by Board of Trustees,
Teachers' Pension and Annuity Fund, Anthony
Ferrazza, Secretary.

Filed: October 9, 1985 as R.1985 d.547, 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:66-56.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66
(1978): June 6, 1988.

Summary of Public Comments and Agency Responses:

A comment was received from the New Jersey Principals and Supervisors Association requesting that the last sentence in the rule be deleted. The Division has accepted the comment and has deleted the language in the adopted rule.

Full text of the adoption follows (deletion from proposal shown in brackets with asterisks *[thus]*).

17:3-6.21 Determination of last year's salary; veterans (veteran one-half pay retirement)

For a member reported on a monthly basis under a 10-month contract, use the member's final 10 months of creditable salaries upon which contributions were made for the period immediately preceding retirement; on a 12-month contract basis, his or her final 12 months of service; combination of 10- and 12-month contracts, on a proportional basis. *[The months for which no contributions were made shall be counted as zero.]*

STATE INVESTMENT COUNCIL

(b)

United States Treasury and Government Agency Obligations

Adopted Amendments: N.J.A.C. 17:16-6.1

Proposed: September 3, 1985 at 17 N.J.R. 2093(a).

Adopted: October 10, 1985 by State Investment
Council, Roland M. Machold, Director, Division of
Investment.

Filed: October 15, 1985 as R.1985 d.552, without change.

Authority: N.J.S.A. 52:18A-91.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66
(1978): November 4, 1990.

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

Full text of the adoption follows.

17:16-6.1 Purchases subject to regulations; United States
Treasury and related obligations

(a) Notwithstanding the provisions of any law pertaining to legal investments, the Director shall not make any commitment to purchase securities for any fund unless such securities are of the class of securities in which such fund may be invested pursuant to these regulations; except that the Director may purchase for any pension and annuity, static, trust, demand or temporary reserve fund without regard to any limitation:

1. United States Treasury Obligation;
2. United States Government Agency Obligations from a list approved by the State Investment Council; and
3. Treasury receipts, certificates of accrual, collateralized mortgage obligations or similar securities which evidence ownership of interest and/or principal of securities eligible under 1. and 2. above, provided that the Director and a member of his staff certify that the security being considered for purchase is qualitatively substantially identical to the Government securities which secure or otherwise support it.

(a)

Corporate Obligations

Adopted Amendments and Recodification:

N.J.A.C. 17:16-7.1, 7.2 and 7.4

**Adopted Repeals: N.J.A.C. 17:16-7.3 and
17:16-8**

Proposed: September 3, 1985 at 17 N.J.R. 2093(b).

Adopted: October 10, 1985 by State Investment
Council, Roland M. Machold, Director, Division of
Investment.

Filed: October 15, 1985 as R.1985 d.553, **without change.**

Authority: N.J.S.A. 52:18A-91.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66
(1978): November 4, 1990.

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

Full text of the adoption follows.

SUBCHAPTER 7. CORPORATE OBLIGATIONS

17:16-7.1 Permissible investments

The director may invest and reinvest the moneys of any fund in any corporate obligations, provided the total amount of

debt issues purchased or acquired of any one corporation shall not exceed 25 percent of the outstanding long-term debt of the company, (defined by standard accounting practice) and not more than 25 percent of any one issue may be purchased at the time of issue, except that these requirements may be waived by the State Investment Council.

17:16-7.2 Pension and annuity group; static group; trust group

(a) The Director may invest or reinvest the moneys of any pension and annuity or trust group fund in corporate obligations provided that:

1. The issue has been registered with the Securities and Exchange Commission, except that this requirement may be waived by the State Investment Council;
2. The obligor is incorporated under the laws of the United States or any State thereof or of the District of Columbia;
3. The obligor is not in default as to the payment of principal or interest upon any of its outstanding obligations;
4. The obligor has a stockholders' equity, (consisting of the sum of equity accounts, capital surplus and earned surplus) of at least \$50 million; and furthermore the long term debt ratio (defined as the ratio of long term debt to the sum of stockholders' equity and long term debt) of the obligor shall be less than 50 percent, except that in the case of telephone utilities the debt ratio shall be less than 55 percent;
5. The obligor has a credit rating of Baa/BBB or higher by Moody's Investors Service, Inc. and Standard & Poor's Corporation, except that one rating is sufficient in only one rating is available. If a rating has not been obtained from either service, the issue may be purchased if the publicly issued outstanding debt of the issuer carries a Baa/BBB rating or higher. Subsequent to purchase, if ratings fall below Baa/BBB for such issues, they do not have to be sold, and they may be exchanged with issues of credits rated lower than Baa/BBB if the credits received in exchange are, on balance, similarly rated.

17:16-7.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained, in all cases, a certification signed by a member of the Division's staff and endorsed by the Director stating that, in their opinion, the security under consideration qualifies under the requisites of this subchapter; and

1. With respect to issues registered with the Securities and Exchange Commission:
 - i. On new issues, a prospectus describing the issue;
 - ii. On existing issues, a copy of the description of the issue as contained in Moody's Manuals or in the Standard & Poor's or in any other corporation records publication or service published for the use of and accepted as reliable by investors in such obligations;
2. With respect to issues not registered with the Securities and Exchange Commission:
 - i. On new issues, in the case of private placements:
 - (1) An offering memorandum describing the terms of the issue and the business and operations of the issuer;
 - (2) A written approving opinion from the Attorney General to the effect that the purchase agreement is satisfactory as to form and substance;
 - (3) At the closing for the purchase of the private placement legal opinions of counsel for the purchaser and counsel for the issuer, which opinions shall include a statement to the effect that the bonds are properly authorized and valid obligations of the issuer;

ii. On existing issues, in the case of issues which were originally offered to the public:

(1) A copy of the description of the issue as contained in Moody's Manuals or Standard & Poor's Corporation records or in any other publication or service published for the use of and accepted as reliable by investors in such obligations;

iii. On existing issues, in the case of issues which were originally placed privately:

(1) A copy of the original offering memorandum describing the terms of the issue and the business and operations of the issuer at the time of the original issue;

(2) A copy of the purchase agreement for the issue, together with all amendments thereto;

(3) A copy of the form 10-K of the issuer which was most recently filed with the Securities and Exchange Commission, or if the company does not file for 10-K reports, then the most recent audited financial statement;

(4) Representation, in writing, from the seller to the Division to the effect that there are no restrictions on the sale of the bonds to funds managed by the Division; no registration of the issue with the Securities and Exchange Commission is required if the bonds are sold to funds managed by the Division; and the seller purchased the bonds directly from the issuer when the issue was originally sold. In the event other owners have intervened between the issuer and the seller, the seller must substitute for the last requirement mentioned in the first sentence above, the representation that no such intervening transaction required registration of the securities with the Securities and Exchange Commission. The seller may substitute for these representations a no-action letter of the Securities and Exchange Commission regarding any requirements to register the bonds;

(5) A written approving opinion from the Attorney General that the representations or no-action letter required by (4) above are satisfactory; and

(6) Approval of the State Investment Council.

SUBCHAPTER 8. (RESERVED)

(a)

State of New Jersey Cash Management Fund

Adopted Amendments and Recodification:

N.J.A.C. 17:16-31.3 and 31.11

Adopted Repeal: N.J.A.C. 17:16-31.10

Proposed: September 3, 1985 at 17 N.J.R. 2095(a).

Adopted: October 10, 1985 by State Investment Council, Roland M. Machold, Director, Division of Investment.

Filed: October 15, 1985 as R.1985 d.554, **without change**.

Authority: N.J.S.A. 52:18A-91.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): July 2, 1989.

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

Full text of the adoption follows.

17:16-31.3 Distribution of income

All income, as calculated under N.J.A.C. 17:16-31.9 of the State of New Jersey Cash Management Fund shall be invested in units of participation in accordance with N.J.A.C. 17:16-31.10 and such units may be withdrawn in accordance with N.J.A.C. 17:16-31.11.

17:16-31.10 Reinvestment of daily income per participating unit

The aggregate of daily income per participating unit on total units owned by each participant will be reinvested automatically in additional units at a price of \$1.00 per unit and such new units will be credited to the respective accounts of all of the participants in proportion to their holdings of participating units immediately prior to the determination of net income available for distribution. In the reinvestment of aggregate daily income as described above, fractional units may be issued representing fractions of a dollar, but no units will be issued representing fractions of one cent, nor will cash dividends be transmitted. Participating funds may obtain cash by redemption of units in accordance with N.J.A.C. 17:16-31.11.

17:16-31.11 Admission and withdrawal of participating units (No change in text.)

17:16-31.12 Amendments (No change in text.)

17:16-31.13 Liquidation (No change in text.)

17:16-31.14 Guidelines on error correction (No change in text.)

(b)

Bankers Acceptance

Adopted Amendment: N.J.A.C. 17:16-39.1

Adopted Repeal and New Rule: N.J.A.C. 17:16-39.3

Proposed: September 3, 1985 at 17 N.J.R. 2095(b).

Adopted: October 10, 1985 by State Investment Council, Roland M. Machold, Director, Division of Investment.

Filed: October 15, 1985 as R.1985 d.555, **without change**.

Authority: N.J.S.A. 52:18A-91.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): July 18, 1988.

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

Full text of the adoption follows.

17:16-39.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest moneys of any pension

and annuity, static, demand, temporary reserve or trust group fund in bankers acceptances of banks provided that:

1. The investment in the bankers acceptance is limited to a term of one year or less;
2. The accepting institution is a bank or trust company which:
 - i. Is headquartered in the United States;
 - ii. Is not controlled by a foreign entity; and
 - iii. Is a member of the Federal Reserve System, the Federal Deposit Insurance Corporation of the Federal Savings & Loan Insurance Corporation;
3. The accepting institution, at the date of its last published balance sheet preceding the date of investment, had a primary capital ratio (as defined by the Federal Reserve Board) of at least 5.5 percent.
4. The total investment in the bankers acceptances of any one issuer, combined with the total investment in the certificates of deposit of any one issuer, shall not exceed 10 percent of the issuer's primary capital.

17:16-39.3 Other limitations

- (a) The accepting institution shall deliver the acceptance to a third party bank designated by the Division of Investment.
- (b) The accepting institution shall be capable of providing rate quotes over the telephone upon request, and such quotes shall be good for ten minutes.
- (c) The bankers acceptance is in an amount of at least \$1,000,000.

TREASURY-TAXATION

DIVISION OF TAXATION

(a)

Corporation Business Tax Investment Companies; Indebtedness; Subsidiaries; Filing of Returns

Adopted Amendments: N.J.A.C. 18:7-1.15, 4.5, 4.11 and 11.7

Proposed: June 17, 1985 at 17 N.J.R. 1537(a).

Adopted: October 11, 1985 by John R. Baldwin,
Director, Division of Taxation.

Filed: October 15, 1985 as R.1985 d.561, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 54:10A-27.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): April 2, 1989.

Summary of Public Comments and Agency Responses:

The comments and responses relating to 18:7-4.5 concerned direct indebtedness and indirect indebtedness. Direct indebtedness language did not change what is required; it merely stated it in another way. The responses to the comments on

indirect indebtedness resulted in the Division's deleting the word "affiliates" and substituting the word "creditors." The basic change set up a presumption that taxpayers can rebut requirements set forth in the amended rule. Examples are given to clarify the changes in the adopted rule and are taken from case law. Indirect indebtedness may be taxable even if the creditor acts as a conduit.

The comments on 18:7-11.7 related to the term holiday and resulted in the wording being changed to "state" holiday.

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

18:7-1.15 Investment company; definition

- (a) (No change.)
- (b) For purposes of the Act, "investment company" does not include any corporation which:
 1. Is a merchant or dealer in stocks, bonds and other securities, and which is regularly engaged in buying and selling such securities to customers; or
 2. Had less than 90 percent of its average gross assets in New Jersey, during the period covered by the return, at cost, either invested in stocks, bonds, debentures, mortgages, notes, patents, patent rights or other securities, or consisting of cash on deposit; or
 3. Is a banking corporation or a financial business corporation as defined in the Act and these rules.
- (c) (No change.)

18:7-4.5 Indebtedness owing directly or indirectly

- (a)-(c) (No change.)
- (d) ***[Indebtedness owing directly to a 10 percent shareholder is a part of statutory net worth whether or not the 10 percent shareholder is functioning as a conduit.]***
Direct indebtedness: In the case of a creditor, corporate or otherwise (other than an individual), including an estate, trust or other entity, indebtedness is includible by reason of direct holding of taxpayer's stock by the creditor whether or not the creditor is functioning as a mere conduit of funds from a third party source.
 (e) ***Indirect indebtedness***: Indebtedness must be owing directly or indirectly to a 10 percent shareholder. Indebtedness owing by a taxpayer to a commonly controlled ***[affiliate of a parent]*** ***creditor*** is ***[still]*** presumed to be owing indirectly to the common parent. However, ***[the taxpayer may show that the affiliate is merely a conduit of funds from a non-affiliated source and defeat the presumption.]*** ***[I]*** ***i*** ***ndebtedness between commonly controlled *[affiliates]*** ***debtors and creditors*** may not be attributable as owing indirectly to the common shareholder ***[unless the common shareholder was the source of the funds.]*** ***if it can be shown that the common shareholder was in no way the source of the funds.*** The taxpayer must establish that the common shareholder was not the source of the funds since it has the burden of ***[demonstrating that the indebtedness is owing to third party creditors and not to the common shareholder.]*** ***defeating the presumption. The taxpayer must conclusively establish that:**
 1. The creditor is merely a conduit of funds from an unrelated third party source; or
 2. The indebtedness was from funds generated by the creditor from its own operations and clearly not in any way attributable to or funded by the common shareholder.*

*Example 1: A corporation owns 100 percent of the stock of B Corporation and C Corporation, and these subsidiaries are engaged in their respective businesses. B Corporation has generated unneeded cash from its operations or has sold some of its securities to third persons (other than to the parent corporation) and the proceeds are available for loans. B Corporation then advances some of that money to C Corporation. C Corporation's indebtedness is not indirectly owed to A Corporation.

Example 2. D Corporation owns 100 percent of the stock of E Corporation and F Corporation and these subsidiaries are engaged in their respective businesses. D Corporation sold securities and advanced the proceeds to E Corporation, which in turn made loans to F Corporation. This indebtedness would be indirectly owed to D Corporation.

Example 3. G Corporation owns 100 percent of the stock of H Corporation and K Corporation and these subsidiaries are engaged in their respective businesses. G Corporation made advances to H Corporation that had also obtained funds by borrowings from non-related creditors. K Corporation borrows from H Corporation. It is presumed that K Corporation's indebtedness is indirectly owed to G Corporation. However, the presumption is not conclusive. To the extent that K Corporation can establish that its indebtedness to H Corporation is in no way funded by the advances from G Corporation to H Corporation, that indebtedness would not be owing indirectly to the parent G Corporation.*

(f) For the purpose of determining the degree of stock ownership of a corporate creditor all the shares of the taxpayer's capital stock held by all corporations bearing the relationship of parent, subsidiary or affiliate of the corporate creditor shall be aggregated.

18:7-4.11 Subsidiary corporations; definition

(a) For purposes of the subsidiary reduction from net worth under Section 4(d) of the Act, as well as for purposes of the subsidiary deduction from net worth under Section 9 of the Act, a subsidiary is defined as any corporation in which taxpayer is the owner of:

1. (No change.)

2. At least 80 percent of the total number of shares of all other classes of stock except nonvoting stock which is limited and preferred as to dividends.

3. The investment shall be determined only with reference to investment in capital stock and shall exclude any loans or advances to any such subsidiaries.

(b) An entity organized under the laws of a foreign country shall be considered a subsidiary if the foregoing requisite degree of ownership is met and if the entity is considered a corporation for any purpose under the United States Federal income tax laws, such as (but not by way of sole examples) for the purpose of supplying deemed-paid foreign tax credits or for purpose of status as a controlled foreign corporation.

18:7-11.7 Time for filing of returns

(a) (No change in text.)

(b) A return is timely filed when it is received by the Division of Taxation on or before the due date.

(c) A return is timely filed when it is received by the Division of Taxation on the next business day, if the due date falls on a Saturday, Sunday or *State* holiday.

(a)

Corporation Business Tax Entire Net Income Base

Adopted Amendments: N.J.A.C. 18:7-5.1, 5.2 and 5.4

Proposed: June 17, 1985 at 17 N.J.R. 1538(a).

Adopted: October 11, 1985 by John R. Baldwin,
Director, Division of Taxation.

Filed: October 15, 1985 as R.1985 d.562, with substantive
changes not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 54:10A-1 et seq., specifically
54:10A-27.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): April 2, 1989.

Summary of Public Comments and Agency Responses:

There were four comments submitted. Those that related to N.J.A.C. 18:7-5.2(b)3iii basically indicated that a foreign tax credit should be allowed as a deduction because the credit was permissible under the Federal Internal Revenue Code. The Division replied that the proposal was a clarification of this Division's existing policy, does not constitute a change of policy, and that the Division of Taxation is not bound by the Federal Internal Revenue Code standards, particularly when its standards relate to credits or deductions below line 28 of Federal form 1120.

The Corporation Business Tax Act does not provide for a deduction for foreign taxes paid to jurisdictions outside the United States. The foreign taxes are taken as a credit for Federal tax purposes. The policy of this Division is to allow the credit as a deduction, but only to the extent of the income earned in each country that is included in the taxable income base. To permit a foreign tax deduction in excess of the net income attributable to the operations in the foreign country would be a windfall not clearly intended by the New Jersey Legislature nor equitably warranted under the statute. As to any requirement concerning maintaining additional records, N.J.S.A. 54:10A-14 and N.J.A.C. 18:7-11.17 explicitly authorize the Division to require taxpayers to maintain books necessary for the proper determination of the corporation tax. With respect to the use of the term "affiliate" or "affiliated" the Division is deleting the words "affiliate" and "affiliated" from N.J.A.C. 18:7-5.2(a)7ii and iii. The Division is restoring to N.J.A.C. 18:7-5.2(a)6 the sentence that was proposed for deletion and added a clause regarding the net operating loss deduction carryover.

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

18:7-5.1 Entire net income; definition

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

(c) Consistent with N.J.A.C. 18:7-11.15, entire net income shall be determined on a separate entity basis as if the contemporaneous Federal return had not been a consolidated return.

(d) Entire net income shall be determined as if no election had been made under 26 U.S.C. 1371 (Subchapter S of the Federal Internal Revenue Code).

(e) Entire net income shall be determined as if no election had been made under 26 U.S.C. 992(b) to be treated as a DISC or as if it were not a "Former DISC" under 26 U.S.C. 992(a)(3).

18:7-5.2 Entire net income; how computed

(No change.)

(a) Add to Federal taxable income:

1.-5. (No change.)

6. ***[(Reserved)]* *Net operating losses sustained during any year or period other than that covered by the return, which were deducted in computing Federal taxable income, but a net operating loss deduction shall be allowed to the extent provided by N.J.A.C. 18:7-5.12 through 5.16.***

7. The amount deducted, in computing Federal taxable income, for interest on indebtedness (whether or not evidenced by a written instrument) directly or indirectly owed to an individual stockholder or members of his immediate family who, in the aggregate, own beneficially ten percent or more of the taxpayer's outstanding shares of capital stock or to a corporate stockholder, including its subsidiaries, which owns beneficially, directly or indirectly, ten percent or more of the taxpayer's outstanding shares of capital stock minus ten percent of the amount so deducted or \$1,000.00, whichever is larger. Thus, if the amount of such interest is \$1,000.00 or less, then none of said amount need be added back.

However, there shall be allowed as a deduction:

i. Any part of a deduction for interest on written evidence of indebtedness issued, with stock, pursuant to a bona fide plan of reorganization to persons who is prior to such reorganization were bona fide creditors of the taxpayer or any predecessor corporation, but were not stockholders thereof; and

ii. Any part of a deduction for interest that relates to financing of motor vehicle inventory held for sale to customers, provided that the underlying indebtedness is owing to a taxpayer customarily and routinely providing this type of financing. The portion of such interest which may be deducted is limited to interest on indebtedness relating to floor-planning of motor vehicles evidenced by a trust receipt or similar document and is also limited to interest on unsold inventory items. The interest must be paid or accrued directly to a creditor which is a taxpayer under the act and not indirectly to any related ***[or affiliated]*** entity. ***[The]* *That*** taxpayer, or a corporation which is a parent or subsidiary of that taxpayer must be the manufacturer or the motor vehicles financed; and

iii. Any part of a deduction for interest that related to debt of a banking corporation owing directly to a bank holding company as defined in 12 U.S.C. 1841 of which the banking corporation is a subsidiary. The allowable deduction for interest is limited to interest paid or accrued directly by the subsidiary to its bank holding company parent notwithstanding that related indebtedness may be excluded from net worth where it is ***indirectly*** owing to ***[an affiliate of]*** such bank holding company.

8.-11. (No change.)

i. Where the "user/lessee" of qualified lease property which is precluded from claiming a deduction for rent under this rule would have been entitled to cost recovery on property which is subject to such "safe harbor lease" election in the absence of that election, it may claim depreciation on that property under the provisions of (b)4 and 5 below. See (b)6 below for

the treatment to be accorded related income on such "safe harbor lease" transactions.

12. (No change.)

(b) Deduct from Federal taxable income:

1. 100 percent of all dividends included in Federal taxable income which were received from subsidiaries meeting the definition of a subsidiary under Section 4.11 (Subsidiary corporations; definition) of this Chapter and 100 percent of all dividends from those subsidiaries which were added to Federal taxable income in accordance with subsection (a) of this Section;

2. (No change.)

3. Income, war-profits, and excess profits taxes imposed by foreign countries or possessions of the United States, allocable to income included in Federal taxable income subject to the following limitations:

i. To the extent that these income, war-profits and excess profits taxes were allowed as a credit against the Federal income tax under the applicable provisions of the Internal Revenue Code;

ii. Provided, that such taxes were not reflected in deductions made in computing Federal taxable income or taken under paragraph 9 of subsection (a) of this Section; and

iii. Also provided that the amount of the deductible income, war-profits and excess profits taxes paid to each foreign country or possession of the United States shall not exceed the net income earned by the taxpayer in such foreign country or possession.

4.-7. (No change.)

18:7-5.4 Factors not adjustable to Federal taxable income

(a) No adjustment to Federal taxable income is permitted under this rule for:

1. Gains or losses not recognized for Federal income tax purposes under Sections 332, 333, 336, 337, 351 or similar sections of the Internal Revenue Code but only to the extent that recapture or other provisions of the Code are not paramount to these sections.

Renumber 3. and 4. as 2. and 3. (No change in text.)

(a)

Local Property Tax Assessor Qualification Law Assessor Duties

Adopted New Rule: N.J.A.C. 18:17-4.1

Proposed: August 5, 1985 at 17 N.J.R. 1870(a).

Adopted: October 11, 1985 by John R. Baldwin,

Director, Division of Taxation.

Filed: October 15, 1985 as R.1985 d.563, **without change.**

Authority: N.J.S.A. 54:1-35.25, et seq., specifically 54:1-35.34.

Effective Date: November 4, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): August 12, 1988.

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

Full text of the adoption follows.

SUBCHAPTER 4. ASSESSOR DUTIES

18:17-4.1 Administrative and enforcement duties and procedures

Not later than five business days following a written request from the municipal search official for the same, the assessor

shall, on a form prescribed by the Director, notify the said municipal tax search official of his intention to place, or the existence of, an added, omitted, rollback or other assessment respecting subject property, setting forth the nature of the assessment and the exact lot and block designations of the property to be affected by such additional assessment.

EMERGENCY ADOPTION

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Turns

Route 35 in Old Bridge and Aberdeen Townships and Keyport Borough, Monmouth County

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 16:31-1.4
Emergency Amendment Adopted: October 3, 1985 by Roger A. Bodman, Commissioner, Department of Transportation.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): October 17, 1985.

Emergency Amendment Filed: October 21, 1985 as R.1985 d.578.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-123 and 39:4-183.6.

Emergency Amendment Effective Date: October 21, 1985.

Emergency Amendment Expiration Date: December 20, 1985.

Concurrent Proposal Number: PRN 1985-629.

Submit comments by December 4, 1985 to:

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

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment is being proposed for readoption in compliance with the normal rule making requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

The agency emergency adoption and concurrent proposal follows:

Summary

The Department's Bureau of Traffic Engineering and Safety

Programs, in compliance with requests from the local officials of Old Bridge and Aberdeen Townships and Keyport Borough, Monmouth County conducted traffic investigations establishing requirements for "no left turn" along Route 35 the entire length for both directions of traffic. This was accomplished with the intent of enhancing public safety and the safe and efficient flow of traffic along Route 35 in Monmouth County.

Enforcement of the "no left turn" must also be on a high level, because without a highly visible and active police effort, the violations of the regulation would be at an unacceptable high level. This is critical to preserve the integrity and continuity of efficient traffic flow.

Continuity of "no left turn" enforcement is critical to the successful and efficient operation along the highway. A break or interruption in this continuity of operation could imperil police enforcement and contribute to the destroying of the public perception of the traffic regulations along Route 35.

Therefore, to meet the emergent demands created by traffic along Route 35 in Monmouth County and to maintain the integrity and efficient operation of traffic, this amendment has been adopted on an emergency basis. Public harm would result from the delay caused by promulgating in the normal rulemaking process.

Social Impact

The amendment will establish "no left turn" along Route 35 in Old Bridge and Aberdeen Townships and Keyport Borough, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. Appropriate signs will be installed to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for their work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

Full text of the emergency adoption and concurrent proposal follows (additions shown in boldface **thus**).

16:31-1.4 Route 35

(a) Turning movements of traffic on certain parts of State highway Route 35 described below are regulated as follows:

1. (No change.)

2. No left turn in Old Bridge and Aberdeen Townships and Keyport Borough, Monmouth County:

i. For the entire length for both directions of traffic in the undivided sections between mileposts 43.9 to 44.7 and mileposts 45.0 to 47.0.

ADDITIONAL PROPOSAL

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CIVIL RIGHTS

Rules of Practice and Procedure

Proposed Amendments: N.J.A.C. 13:4-1.1 through 13:4-15.4

Authorized By: Pamela S. Poff, Director, Division on Civil Rights.

Authority: N.J.S.A. 10:5-8(g) and 10:5-18.

Proposal Number: PRN 1985-607.

Submit comments by December 4, 1985 to:

Pamela S. Poff, Director
Division on Civil Rights
Room 400
1100 Raymond Boulevard
Newark, New Jersey 07102

The agency proposal follows:

Summary

Through these amendments, the Division on Civil Rights is revising and updating its rules of practice and procedure. The revised rules contain numerous references to the Office of Administrative Law and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 et seq. These references are intended to clarify the differences between the procedures to be used when a case is under investigation and the procedures which are appropriate after a matter has been declared a contested case and transmitted to OAL.

Summaries of other revisions are as follows:

N.J.A.C. 13:4-3.4 has been revised to require that complaints be filed only on the Division's own forms. The Division believes that this change is necessary due to the increased numbers of private attorneys who are submitting verified complaints to the Division. Frequently, the complaints drafted by an attorney are in a form which might be appropriate for a complaint filed in Superior Court but they do not contain essential information for the Division's investigation purposes.

N.J.A.C. 13:4-3.5(a)6 has been revised to include a requirement that the complainant notify the Division of the filing of any complaints with other agencies concerning the grievance which was the subject of the verified complaint. This paragraph is intended to allow early identification of cases which may raise consolidation or predominant interest issues.

N.J.A.C. 13:4-4.3(d) gives the Director discretion to settle claims on behalf of unnamed class members. This subsection is intended to deal with situations in which the Director files a complaint in her own name on behalf of a class of discrimination victims. This subsection establishes that the Director has discretion to make a reasonable settlement of such claims without obtaining the approval of every member of the class.

N.J.A.C. 13:4-8.2 has been revised to simplify the process for requesting discovery of the Division's files. At present, the rules require that parties seeking discovery make a motion for discovery. The proposed new rule would allow the submission of a written request in letter form. This section also has been expanded to allow discovery of the Division's files whenever the case has been either closed or transmitted to the Office of Administrative Law, pursuant to N.J.S.A. 10:5-13, as well as after a finding of probable cause. This in fact is the Division's present policy. This section also clarifies that work product of Division employees is undiscoverable. This section also explicitly provides for the issuance of protective orders, a procedure which the Division occasionally uses in situations where it is requiring a party to turn over documents of a sensitive nature such as psychological evaluations of employees. This section also sets a specific fee for the copying of documents. There is an exception for requests made pursuant to the Right to Know Law, since that statute has its own schedule for copying fees.

N.J.A.C. 13:4-8.3 has been amended to change the stage at which an interrogatory default will become final. The old rule was created during the era when the Division held its own hearings through hearing examiners. Under the rules as they presently exist a respondent who refuses to answer interrogatories is subject to any entry of default, but the default may be vacated at any time prior to hearing. This procedure is now quite impractical, since by the time a hearing is imminent, the case has already been sent to OAL. As revised, the rule provides that the date of transmittal to OAL would be the cut-off point beyond which the default cannot be vacated. Pursuant to *General Motors Corp. v. Blair*, 129 N.J. Super. 412 (App. Div. 1974), a respondent will still have the right to appeal the entry of a default once the Director has issued a final order after the default hearing.

N.J.A.C. 13:4-9.1(e) has been changed to add a "notice in lieu of subpoena" procedure. This procedure is intended to address the problem that Division investigators sometimes face when they need to obtain documents from corporations but cannot succeed in serving a subpoena on the appropriate officer or employee.

N.J.A.C. 13:4-9.2(b) has been changed to eliminate a subpoena fee where a subpoena only requires a respondent to mail copies of documents to the Division. The rule only eliminates a fee where copies of documents are sought. If the subpoena seeks production of original documents, a party might reasonably demand to personally appear with the originals rather than trust them to the mails, and therefore a fee should be tendered.

N.J.A.C. 13:4-10.1 has been revised to apply to severance as well as consolidation of cases.

N.J.A.C. 13:4-12.1 has been amended to clarify the role of the Division's attorney when a complainant has requested that his or her case be transmitted to OAL pursuant to N.J.S.A. 10:5-13.

N.J.A.C. 13:4-12.3 has been amended to specifically provide that a complainant who is pursuing a complaint through private counsel, as permitted by N.J.S.A. 10:5-13, may apply to the Superior Court for a temporary restraining order. Although the LAD, N.J.S.A. 10:5-14.1, only specifically allows the Division to seek TRO's, a Superior Court judge

recently ruled that a complainant represented by a private attorney could also apply for a TRO. *Becken v. Laurel Springs Bd. of Ed.*, Docket No. C-3680-84 (Chancery Div. 1984).

N.J.A.C. 13:4-13.1 has been eliminated as being unnecessary in light of the OAL rules. This section has been replaced by a revised N.J.A.C. 13:4-12.4 which states that the OAL rules apply to hearings before the Division.

N.J.A.C. 13:4-15.2(b) has been revised to clarify that the purpose of the rule is to permit the Director to prevent reprisals while a case is pending. Reprisals would include efforts by any person to intimidate a complainant or a witness while a case was in progress. The rule permits the Director to enter interim orders, which would include sanctions or protective orders, in order to prevent any person from interfering with the orderly conducting of a hearing or investigation.

Social Impact

The rule amendments are expected to have a positive social impact in making it easier for attorneys and pro se parties to understand the Division's procedures. The amendments are also expected to increase the efficiency with which the Division can process cases.

Economic Impact

The amendments are expected to increase to a minor extent the cost of obtaining discovery of the Division's files, by raising the cost of copying documents from \$.15 to \$.25 per page. The rule contains a provision allowing the Director discretion to modify or waive the fee for indigent parties or in other extraordinary circumstances.

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

CHAPTER 4

RULES OF PRACTICE AND PROCEDURE

SUBCHAPTER 1. GENERAL PROVISIONS

13:4-1.1 Scope of rules

The following provisions shall constitute the practice and procedure and shall govern all proceedings in the Division on Civil Rights. **When a case is transmitted to the Office of Administrative Law, or the Director elects to hear the contested case, the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1, et seq., shall govern proceedings in that case. Whenever these rules refer to procedures to be followed after transmittal to the Office of Administrative Law, such references shall also be deemed to apply to instances where the Director elects to hear a contested case pursuant to N.J.S.A. 52:14F-8.**

13:4-1.3 Practice where rules do not govern

(a) The Director may rescind, amend or expand these rules from time to time as necessary to comply with N.J.S.A. 10:5-1, et seq., and such new rules shall be filed with the [Secretary of State] **Office of Administrative Law**.

(b) In any matter that arises not governed by these rules, the Director shall exercise his **or her** discretion.

13:4-1.4 Definitions

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

"Administrative law judge" means any person appointed pursuant to N.J.S.A. 52:14F-5(1).

["The Bureau Chiefs of the Bureaus of Housing, Employment and Public Accommodations, Education and Affirmative Action" means executive employees of the Division on Civil Rights who shall exercise such powers of the Division as the Director may from time to time delegate to them.]

"Bureau Chief" means an executive employee of the Division on Civil Rights who shall exercise such powers of the Division as the Director may from time to time delegate to him or her.

"Director" means the Director of the Division on Civil Rights who shall act for the Attorney General of New Jersey as chief executive officer of the Division in his **or her** place and with his **or her** powers.

["Field representative"] **"Field investigator"** means any employee of the Division designated under Civil Service as "Field [Representative] Investigator, Division on Civil Rights."

["Hearing examiner" means any person appointed under N.J.S.A. 10:5-8(1) to conduct any hearing.]

"Office of Administrative Law" or "OAL" refers to the agency created by N.J.S.A. 52:14F-1, et seq.

"Office of the Division" means the office located at 1100 Raymond Boulevard, Newark, New Jersey, and the offices located at [195] 369 Broadway, Paterson, New Jersey; [436 East] 35 West State Street, Trenton, New Jersey; [530 Cooper Street] 130 Broadway, Camden, New Jersey; Arcade Building, 1325 Boardwalk, Atlantic City, New Jersey; and any additional offices which may from time to time be established.

SUBCHAPTER 2. INVESTIGATIONS

13:4-2.1 Director's investigations

(a) The Director, pursuant to N.J.S.A. 10:5-6.1; 10:5-8(c), g, h, i, j; 10:5-9.1, may, on his **or her** own motion or on the motion of any person entitled to be a complainant under [Section 3.3 (Manner of filing complaints) of this Chapter,] **N.J.A.C. 13:4-3.3**, conduct investigations to determine the extent to which industries, groups of industries, [businessmen] **business persons**, or groups of [businessmen] **business persons**, or other persons or groups of persons are complying with the Law Against Discrimination.

(b) (No change.)

(c) In connection with an investigation of the operation of any real property, as defined by N.J.S.A. 10:5-5n, the director may require the submission of information concerning the race, **creed**, color, national origin, ancestry, **handicap**, [age,] marital status, sex, or [military status] **nationality** of the occupants of such real property, the terms and conditions on which the sale or lease of said real property is to be made to the general public, the vacancy rate of such real property subject to rent, the plans for advertising or notifying the public of the availability of said real property for rental or sale, the standard form documents used in the rental or sale of such real property, and such other information as may be reasonably necessary to carry out the provisions of the Law Against Discrimination.

(d) In connection with an investigation of any employer as defined by N.J.S.A. 10:5-5(e), the Director may require the submission of information concerning;

1. The race, **creed**, color, national origin, **handicap**, ancestry, age, marital status, sex, **nationality** or military status of employees.

2.-6. (No change.)

(e) An investigation by the Division may be conducted either prior to or subsequent to the filing of a complaint.

SUBCHAPTER 3. COMMENCEMENT OF ACTION

13:4-3.1 Manner actions commenced

Any action may be commenced by the filing of a verified complaint at the offices or with any official or field [representative] **investigator** of the Division.

13:4-3.2 [Number of complaints filed] **Preparing complaints**

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

13:4-3.3 [Manner of filing complaints] **Filing complaints and other pleadings**

(a) A complaint shall be deemed filed on the date it is received in any office of the Division, [as defined in Section 1.4 (Definitions) of this Chapter,) or on the date it is received by any official or field [representative] **investigator** of the Division.

(b) (No change.)

(c) The filing of a complaint or any other pleading shall be proven by the official stamp of the Division or by the signature of any official, employee or field [representative] **investigator** and his or her written notation indicating the date of receipt.

(d) (No change.)

13:4-3.4 Form of complaints

(a) A complaint shall be filed upon a printed form approved by the Director [or upon legal-size paper, and shall be type-written or printed].

(b) The complaint shall be entitled in the Department of Law and Public Safety, Division on Civil Rights, [and the county in which the alleged discrimination took place] and shall set forth in the **caption** the names of the complainants and respondents.

13:4-3.5 Contents of complaint

(a) The complaint shall set forth in separate numbered paragraphs the following:

1.-2. (No change.)

3. A statement of whether the race, creed, color, national origin, **nationality**, **handicap** ancestry, marital status, sex, military status or age of the complainant gave rise to the alleged discrimination;

4.-5. (No change.)

6. A statement giving all pertinent facts as to whether any other action, either criminal or civil, has been instituted in the matter. **Complainant shall notify the Division if at any time during the pendency of the complaint, he or she files a complaint with any other agency or court concerning the matter which is the subject of the Verified Complaint;**

7. (No change.)

8. **The county in which the alleged discrimination took place.**

SUBCHAPTER 4. PARTIES

13:4-4.1 Aggrieved persons

(a) Any individual, or group of individuals, partnership, educational institution, association, labor organization, corporation, legal representative, trustee, trustee in bankruptcy, receiver or fiduciary may [by himself] **file** or through [his] **an**

attorney at law, file a **verified** complaint for any practice violative of the Law Against Discrimination which affects the complainant, the complainant's family or any person whom the complaint represents.

(b) The enumeration in [subsection (a) of this Section] (a) **above** of parties who may file a complaint includes, but is not limited to, groups and associations dedicated to the elimination of discrimination in the sale and rental of real property, in the hiring and promotional practices of employers and unions, and in the operation of public accommodations.

13:4-4.2 State officials who may file

(a) The Attorney General, the Director, the Commissioner of Labor [and Industry], or the Commissioner of Education may also file a complaint alleging unlawful discrimination.

(b) The Director on his or her own behalf may file a complaint, **intervene**, or join as a complainant in [all] **any** complaints filed by parties enumerated in [Section 4.1 (Aggrieved persons) of this Chapter] **N.J.A.C. 13:4-4.1 (Aggrieved persons)** and by parties [other than the Director] enumerated in this Section.

13:4-4.3 Rights of parties; notification of settlement

(a) Any aggrieved person enumerated in [Sections 4.1] **N.J.A.C. 13:4-4.1 (Aggrieved persons)** and [4.2] **N.J.A.C. 13:4-4.2 (State officials)** [of this Chapter] **who files a complaint** shall be considered a party to any proceeding in the Division resulting from the filing of [a] **such** complaint [by such aggrieved persons] **and** shall have [all] the rights of [parties] **a party** [as] enumerated by these rules and by the Law Against Discrimination.

(b) If any complainant enumerated in [Sections 4.1] **N.J.A.C. 13:4-4.1 (Aggrieved persons)** and [4.2] **N.J.A.C. 13:4-4.2 (State officials who may file)** [of this Chapter] files a complaint with the Division, **on behalf of any individual or individuals**, the proceeding initiated by such complaint shall, if the Director finds the continuation of the proceeding is in the public interest, proceed to conclusion, including the issuance of any lawful order by the Director, even if the grievances of any individual person represented by the above aggrieved persons have been satisfactorily ameliorated.

(c) (No change.)

(d) [The Director shall continue the proceeding on his own motion if he deems such action to be in the public interest.]

Where the Director has filed a complaint which seeks relief for one or more unnamed members of a protected class, the Director shall have the discretion to settle such complaint on such terms as the Director deems appropriate.

SUBCHAPTER 6. OTHER PLEADINGS

13:4-6.1 Findings of probable cause

(a) After the filing of the complaint, the Director may cause an investigation to be made by a field [representative] **investigator** of the Division as to the allegations of the complaint. **The investigation may include a fact-finding conference pursuant to N.J.A.C. 13:4-2.3, document and information requests, and any other investigative methods authorized by N.J.S.A. 10:5-8(i).**

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

(d) If a finding of no probable cause is made, whether before or after investigation of a complainant's allegations, all complainants **and respondents** shall be notified of such a finding.

13:4-6.2 Motions

(a) The procedure governing all motions **made prior to transmittal of a case to the Office of Administrative Law** shall be in accordance with [part IV of] the rules governing the New Jersey courts, except where otherwise provided under these rules. **After transmittal, the procedure shall be in accordance with N.J.A.C. 1:1-1.1, et seq.**

(b) (No change.)

13:4-6.3 Amended pleadings

(a) **Prior to transmittal of a case to the Office of Administrative Law**, the complainant with the approval of the Director may file an amended complaint [at any time prior to the notice of public hearing] **with the Division.**

(b) [A complaint may be amended after the notice of public hearing, if at the time the amended complaint is served, the minimum time provisions in Section 12.2 (Notice of order for bearing; scheduling) of this Chapter are complied with.]

Following transmittal of a case to the Office of Administrative Law, any motion to amend a complaint shall be initially presented to the administrative law judge hearing the matter.

(c) Using the standards set forth in N.J.A.C. 1:1-6.3, any pleading may be amended during or after hearing with leave of the [hearing examiner] **administrative law judge** to conform to the evidence presented.

13:4-6.4 Orders of Director

(a) The Director shall issue such orders as may be necessary to effectuate the processing and determination of a case and may enter an order of dismissal at any time. **Cases pending before the OAL shall be subject to the procedures set forth at N.J.A.C. 1:1-1.1, et seq.**

(b) (No change.)

13:4-6.5 Motion to intervene

(a) **Prior to transmittal** any person interested in or associated with the matters alleged in a complaint may file [with the Director] an original and two copies of a motion to intervene and shall serve an additional copy on each respondent and complainant by registered or certified mail, return receipt requested [and the Director shall rule on the motion].

(b) (No change.)

(c) **Following transmittal** [such] motions to intervene shall be made [prior to the time of public hearing.] **pursuant to N.J.A.C. 1:1-12.1 et seq.**

SUBCHAPTER 7. SERVICE OF OTHER PLEADINGS

13:4-7.1 Method of service

(a) **Prior to transmittal to OAL**, unless otherwise instructed by the Director, every order and subsequent pleading to the original complaint, every motion and every written notice, brief or memorandum of law shall be served by [filing an original and two copies with the Division and] mailing copies to all parties, by registered or certified mail, return receipt requested, within three days of said filing.

(b) (No change.)

(c) **When any party has appeared through or is represented by an attorney, service upon such attorney shall be deemed valid service upon the party in all cases unless timely written notice of withdrawal or substitution of such attorney is served upon the Director and all other parties.**

13:4-7.2 [Service upon attorneys] (Reserved)

[When any party has appeared through or is represented by an attorney, service upon such attorney shall be deemed valid service upon the party in all cases unless timely written

notice of withdrawal or substitution of such attorney is served upon the Director and all other parties.]

SUBCHAPTER 8. INVESTIGATORY DEPOSITIONS AND INTERROGATORIES

13:4-8.1 Investigation by Division on Civil Rights

(a) (No change.)

(b) The Director may issue such subpoenas as he or she deems necessary to aid the [discovery] **investigatory** process.

13:4-8.2 Discovery [by parties other than Division] of the Division files

(a) After a Finding of Probable Cause has been issued by the Director, **after transmittal to OAL pursuant to N.J.S.A. 10:5-13, after any final determination has been issued, or after any other agency closure**, a party may, upon written [motion] **request and notice to all other parties**, receive discovery of the following information in the Division's file:

1. Statements made by any person [other than the investigative field representative] during the course of the **Division's investigation, other than work product of Division employees, intra-agency communications and attorney-client communications.**

2. All factual written reports of the [investigating field representatives] **field investigator.**

3. (No change.)

(b) If it appears that a party's purpose in seeking discovery is to oppress any party or to delay the [commencement of the hearing] **resolution of the case**, the Director may refuse, terminate, or limit discovery as the circumstances warrant, **including issuance of protective orders. When the case is pending before the OAL, any objections relating to discovery of the Division's files shall be made to the OAL with notice provided the Director of the Division.**

(c) **The Division's fee for copying documents requested pursuant to this section shall be \$.25 per page. The Director may waive or modify this fee in the case of an indigent party or in other extraordinary situations for good cause. The Division's fee scale shall not apply to requests granted pursuant to N.J.S.A. 47:1A-2.**

13:4-8.3 Interrogatory default procedure

(a) If a respondent has been served with a verified complaint and the Director has issued interrogatories pursuant to N.J.S.A. 10:5-8(i), and notice of the consequences of the failure to answer interrogatories has been given to respondent, and respondent fails either to answer the interrogatories or to file a motion to strike interrogatories within the time specified therein, the Director [shall] **may:**

1.-2. (No change.)

NOTICE (No change.)

(b) In the event the respondent files a motion to strike interrogatories within the time set to answer interrogatories, said motion shall be supported by affidavit and/or brief and shall be ruled upon by the Director on the motion papers without oral argument; if said motion is granted the interrogatories shall be stricken and if said motion is denied the Director shall then follow the procedure set forth in [subsection (a) of this Section] **(a) above** or enter any other appropriate order.

(c) (No change.)

(d) Any order for entry of default must be supported by an affidavit of a field [representative] **investigator or other** Division employee authorized by the Director. The affidavit shall recite:

1.-4. (No change.)

5. That the complainant had filed his allegation of [discriminatory discharge] **discrimination** within the time prescribed by law.

(e) **Within ten days** after the entry of default, the Director shall [assign the case to a hearing examiner for the purpose of hearing the complainant's proofs of the allegation of discrimination on a default basis.] **serve notice of the entry of default and supporting affidavit upon the respondent. The notice shall inform respondent that the case will be transmitted to the OAL for hearing on a default basis and that transmittal will occur twenty days after receipt by respondent of the notice of entry of default. The notice shall also inform respondent of the opportunity provided by (g) below for petitioning the Director to vacate the entry of default.**

(f) **Twenty days after respondent receives notice of the entry of default the Director shall transmit the case to OAL for the purpose of a hearing on the complainant's proofs of the allegation of discrimination on a default basis.**

[(f)](g) At any time after entry of default and before [the default hearing] **transmittal** the respondent may petition the Director who may vacate the entry of default and reopen the case for good cause shown. The respondent's assertion of good cause shall be in affidavit form and shall include the full and complete answers to all interrogatories.

[(g)](h) [A notice of entry of default and supporting affidavit and a notice of the time, date and place of the default hearing shall be served on respondent at least ten days prior to the date scheduled for default hearing.] If the Director vacates the entry of default at any time prior to the date of [the default hearing] **transmittal**, then said [default hearing] **transmittal** shall be cancelled by the Director, and the complaint shall instead proceed to any investigation finding as to probable cause, conciliation or public hearing as provided by these rules.

[(h)](i) At a default hearing [the hearing examiner shall receive] **the proofs shall consist of** the order of entry of default, the supporting affidavit and any other evidence proffered by the complainant, [and shall determine if] **and the only cognizable issues shall be whether** the facts established by the complainant and admitted by respondent constitute an act of discrimination, and if so, the amount of damages or other recommended relief. No evidence proffered by the respondent shall be admitted at a default hearing.

[(i)](j) After [recommendation of the hearing examiner] receiving **the recommendation of the ALJ**, the Director shall enter a final order pursuant to N.J.S.A. 10:5-17.

[(j)](k) If discrimination is found by the Director, [his] **the** final order shall require the respondent to take any affirmative action which in the judgement of the Director is necessary to both eliminate any discrimination and make the complainant whole.

[(k)](l) This order shall be the only final order provided for by this rule; all other orders provided by this rule shall be interlocutory in nature.

13:4-8.4 Depositions by Division and parties

(a) On written motion of any party or the Division, **prior to transmittal of a case to OAL**, the Director may order that the testimony of any material witness residing within or without the State be taken by deposition in the manner prescribed by law for depositions in civil actions. Such motion may be granted only if it sets forth:

1.-3. (No change.)

(b) No depositions shall be taken for any reasons or by any manner other than that contained in [subsection (a) of this section,] (a) **above**, except in exceptional circumstances, **prior to transmittal of a case to OAL.**

SUBCHAPTER 9. SUBPOENAS

13:4-9.1 Issuance of **investigatory** subpoenas by Director

(a) The Director shall issue subpoenas in the name of the Division, and the subpoenas shall direct the person designated to attend personally and, if necessary, to attend with any books, records, documents and any other evidence which relates to any matter under investigation [or which may be in question at a public hearing].

(b) (No change.)

(c) The subpoena shall direct the person designated to answer to the subpoena at a time and place which shall be determined by the Director in his or her discretion.

(d) (No change.)

(e) **Where a respondent is a corporation and is represented by an attorney, the Director may issue a notice in lieu of subpoena requiring respondent to produce documents or to produce its employees to attend any investigatory proceeding. Said notice in lieu of subpoena shall be served upon respondent's attorney in the manner set forth in N.J.A.C. 13:4-9.2.**

(f) **Following transmittal of a case to OAL for hearing, the procedures set forth at N.J.A.C. 1:1-1.1, et seq., shall govern the issuance of subpoenas.**

13:4-9.2 Service of subpoenas

(a) (No change.)

(b) Accompanying all subpoenas shall be a check in an amount sufficient to cover the costs for one day's attendance and such mileage as may be allowed by law in civil matters in the courts of the State of New Jersey; **but no fee shall be allowed where a subpoena requires only the production of documents which may be produced by mailing copies of said documents to the Division.**

13:4-9.3 Enforcement of depositions, interrogatories, subpoenas, other investigatory orders

(a) If any person shall fail to appear at the time designated in a subpoena, or shall fail to comply with an order of the Director for the taking of depositions, [and] interrogatories, **or other investigatory procedures**, or shall fail to provide information as requested pursuant to a lawful investigation, he **or she** shall be subject to the appropriate enforcement provisions of N.J.S.A. 10:5-8i, 10:5-19 and 10:5-26, as well as the provisions of [Section 8.3] **N.J.A.C. 13:4-8.3** (Interrogatory default procedure) [of this Chapter].

(b) If the subpoena or order has been issued at the instance of the Director or Division, the application to the court required by said Statute shall be in the name of the Division, and if it shall be at the instance of any party, he shall likewise apply **to the Court to enforce the subpoena**, as relator in the name of the Division.

SUBCHAPTER 10. CONSOLIDATION

13:4-10.1 Consolidation **or severance** of complaints

(a) Whenever the Director deems it necessary, he **or she** may order that any complaint filed with the Division and any proceedings which may have been initiated with respect thereto be consolidated with or severed from any other complaint which may have been instituted with the Division.

(b) Following transmittal of a case to the Office of Administrative Law, all motions to sever or consolidate shall be initially presented to the OAL, pursuant to N.J.A.C. 1:1-1.1, et seq. Subject to the requirements of N.J.S.A. 10:5-13, requests for consolidation of cases pending before the Division with cases pending before OAL but involving the jurisdiction of other agencies shall be handled in accordance with N.J.A.C. 1:1-1.1, et seq.

SUBCHAPTER 11. CONCILIATION

13:4-11.1 Conciliation conference; notice; failure to attend

(a) After a finding of probable cause, the Director or his or her representative shall schedule a conciliation conference in accordance with N.J.S.A. 10:5-14.

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

(e) Failure to attend the conciliation conference [shall] may be deemed to be an unsuccessful attempt at conciliation.

SUBCHAPTER 12. HEARINGS

13:4-12.1 When hearings ordered

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

(f) When a complainant files a request with the Division pursuant to subsection (c) above, complainant thereby waives any right to have an attorney for the Division prosecute the complaint. The parties shall, however, send copies of all pleadings, briefs and memoranda to the Division's attorney at the same time as filing such papers with OAL. The Division's attorney may attend preliminary proceedings such as prehearing conferences in order to determine the appropriateness of intervention, and may intervene on behalf of the Division in any case pursuant to N.J.S.A. 10:5-13.

13:4-12.3 Temporary injunction

If the Director determines that the interests of the complainant may be irreparably damaged by the lapse of time before a hearing could be scheduled or between the scheduling of a hearing and the ultimate disposition of the matter in the Division, he/she shall instruct the attorney for the Division to seek such temporary injunctive relief in the Superior Court of New Jersey, pursuant to N.J.S.A. 10:5-14.1, as may be appropriate to preserve the rights of the complainant. **Where a complainant is proceeding pro se or through a private attorney, pursuant to N.J.S.A. 10:5-13, the complainant may apply to the Court for temporary injunctive relief.**

13:4-12.4 Conduct of hearings

The procedure for conducting hearings, issuing initial decisions and issuing final orders shall be governed by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1, et seq.

SUBCHAPTER 13. [PROPOSED FINDINGS AND FINAL ORDER] (RESERVED)

13:4-13.1 [Proposed findings and final order; Director's review] (Reserved)

[(a) After a party or the attorney for the Division receives

the proposed findings of fact and conclusions of law recommended by the hearing examiner, he may within ten days thereafter or within such time fixed by the Director present objections in writing thereto to the Director.

(b) The Director shall then review the record, findings, conclusions, and objections thereto, and in his discretion shall issue a final order determining the controversy.

(c) The Director may make such corrections, amendments or changes in the findings of fact and conclusions of law based upon the record of proceedings as he deems necessary.

(d) The Director may issue such opinion and order as he deems necessary.

(e) A copy of such final order shall be served upon all parties and the attorney for the Division.]

SUBCHAPTER 14. REOPENED PROCEEDINGS

13:4-14.1 Reopened proceedings for cause

The Director may upon his or her own motion, or upon motion of any party or of the attorney for the Division, reopen the proceedings, but such action shall not be a matter of right and shall only be for good cause shown.

SUBCHAPTER 15. ORDERS OF DIRECTOR

13:4-15.1 Orders of Director

At any time during the course of the proceedings, the Director may enter such orders as he or she may deem appropriate to further the intent and purposes of the Law Against Discrimination, N.J.S.A. 10:5-1, et seq. **When a case is within the jurisdiction of the OAL, the procedures set forth at N.J.A.C. 1:1-1.1, et seq., shall apply.**

13:4-15.2 Protection of witnesses; preventing reprisals [preliminary relief];

(a) No person who has been, is or will be a respondent in a proceeding before the Division on Civil Rights shall discharge, evict, expel or otherwise discriminate or take any other reprisal against any person because he or she has opposed any practices or acts forbidden under the Law Against Discrimination or because he or she has filed a complaint, testified or assisted in any proceeding under the Law Against Discrimination.

(b) For the purposes of this section, all persons who have been, are or will be respondents in proceedings before said Division shall be considered to be within the continuing jurisdiction of the Division and shall be subject to appropriate order of the Director of the Division as in the case of an unlawful [discrimination] **reprisal**, including such [preliminary relief] **interim orders** as may be deemed necessary to preserve the status quo and to protect the best interests of the parties.

13:4-15.3 No probable cause as final order

The following shall also be considered a final order: a finding of no probable cause pursuant to [Section 6.1] N.J.A.C. 13:4-6.1 (Findings of Probable Cause) [of this Chapter].

MISCELLANEOUS NOTICES

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code

Notice of Action Regarding Petition for a Rule: N.J.A.C. 5:23-4.21

Petitioner: Middle Department Inspection Agency, Inc.

A Notice of Petition for a Rule to amend N.J.A.C. 5:23-4.21 so as to limit the requirement for private inspection agencies which enforce the State Uniform Construction Code to pay a reauthorization fee including five percent of gross revenue to that revenue which is earned and collected pursuant to contracts based upon the uniform fee schedule adopted by the Department was published in the June 3, 1985 New Jersey Register at 17 N.J.R. 1443(a).

The Department has reviewed the petition and has concluded that the present regulation is reasonable and does not need to be amended inasmuch as it promotes the statutory goal of providing a fund for the monitoring of private inspection agencies by the Department which will be adequate for the purpose. If the fee were to be collected solely on revenue from contracts based on the uniform fee schedule, there would be insufficient funds to support the monitoring effort since many municipalities continue to operate under prior fee schedules until present contracts expire.

N.J.A.C. 5:23-4.21 was amended after much research into the problems of private inspection agencies. Serious problems in the operations of the agencies were found and, consequently, the Department decided to monitor them more closely than had previously been possible in order to prevent recurrence of these problems. The five percent fee was determined to be the most equitable way of funding the increased monitoring effort. Only by collecting this fee on the basis of revenue from all contracts can the Department be assured that sufficient funds will be available for the purpose.

(WQM) Plan. This amendment would expand the sewer service area of the East Windsor Township Municipal Utilities Authority within East Windsor Township to enable sewer service to be provided to (a) the portion of East Windsor Township, west of the New Jersey Turnpike to the vicinity of Route 33 and south of Airport Road which would include approximately 280 acres, consisting of approximately 70.3 acres zoned R-3 Multifamily, approximately 47.2 acres zoned R-1, approximately 62.1 acres zoned R-2, and approximately 100 acres zoned I-O (Industrial/Office) and (b) the existing Small Lot District, approximately 75 acres in area, located on the north side of Airport Road in the vicinity of the intersection of Route 33 and Airport Road. This area is delineated on maps on file with the Mercer County Planning Division.

This notice is being given to inform the public that a plan amendment has been proposed for the Mercer County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the Mercer County Planning Division, Room 420, 640 South Broad Street, P.O. Box 8068, Trenton, N.J. 08650; and the NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CM-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M. Monday through Friday.

The Mercer County Planning Board will hold a **public hearing** on the proposed WQM Plan amendment. The public hearing will be held on Wednesday, November 13, 1985 at 8:30 A.M. in Room 211 of the Mercer County Administration Building.

Interested persons may submit written comments on the amendment until 15 days following the public hearing to the Secretary, Mercer County Planning Board, at the Mercer County address cited above; and to George Horzempa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the Planning Board and County Executive with respect to the amendment request. In addition, if the amendment is adopted by Mercer County, the NJDEP must review the amendment prior to final adoption. The comments received in reply to this notice and to the public hearing will also be considered by the NJDEP during its review. Mercer County and the NJDEP thereafter may approve and adopt this amendment without further notice.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF WATER RESOURCES

Amendment to The Mercer County Water Quality Management Plan

Public Notice

Centex Homes of New Jersey, Inc. has requested an amendment to the Mercer County Water Quality Management

(c)

Amendment to The Mercer County Water Quality Management Plan

Public Notice

Sarinvest N.V., the owner of property in Washington Township, Mercer County, has requested an amendment to the Mercer County Water Quality Management (WQM) Plan. This amendment provides for changes in the boundaries of the sewer service area of the Hamilton Township Water Pollution Control Board within Washington Township to include within the sewer service area additional lands consisting of an irregularly-shaped tract of approximately 153 acres generally

located at the southwest intersection of the New Jersey Turnpike and Interstate Highway 195.

The notice is being given to inform the public that a plan amendment has been proposed for the Mercer County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the Mercer County Planning Division, Room 420, 640 South Broad Street, P.O. Box 8068, Trenton, N.J. 08650; and the NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M. Monday through Friday.

The Mercer County Planning Board will hold a **public hearing** on the proposed WQM Plan amendment on Wednesday, November 13, 1985 at 8:30 A.M. in Room 211 of the Mercer County Administration Building.

Interested persons may submit written comments on the amendment until 15 days following the public hearing to the Secretary, Mercer County Planning Board, at the Mercer County address cited above; and to George Horzempa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the Planning Board and County Executive with respect to the amendment request. In addition, if the amendment is adopted by Mercer County, the NJDEP must review the amendment prior to final adoption. The comments received in reply to this notice and to the public hearing will also be considered by the NJDEP during its review. Mercer County and the NJDEP thereafter may approve and adopt this amendment without further notice.

(a)

Amendment to The Mercer County Water Quality Management Plan

Public Notice

The Township of West Windsor (Mercer County) has requested an amendment to the Mercer County Water Quality Management (WQM) Plan. This amendment would expand the sewer service area of the Stoney Brook Regional Sewerage Authority within West Windsor Township to enable sewer service to be provided to a 165-acre development tract adjacent to the existing designated sewer service area proposed by the Township for rezoning to accommodate medium-high density housing.

This notice is being given to inform the public that a plan amendment has been proposed for the Mercer County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the Mercer County Planning Division, Room 420, 640 South Broad Street, P.O. Box 8068, Trenton, N.J. 08650; and the NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M. Monday through Friday.

The Mercer County Planning Board will hold a **public hearing** on the proposed WQM Plan amendment. The public hearing will be held on Wednesday, November 13, 1985 at 8:30 A.M. in Room 211 of the Mercer County Administration Building.

Interested persons may submit written comments on the amendment until 15 days following the public hearing to the Secretary, Mercer County Planning Board, at the Mercer County address cited above; and to George Horzempa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the Planning Board and County Executive with respect to the amendment request. In addition, if the amendment is adopted by Mercer County, the NJDEP must review the amendment prior to final adoption. The comments received in reply to this notice and to the public hearing will also be considered by the NJDEP during its review. Mercer County and the NJDEP thereafter may approve and adopt this amendment without further notice.

(b)

Amendment to The Mercer County Water Quality Management Plan

Public Notice

The Township of Washington (Mercer County) has requested an amendment to the Mercer County Water Quality Management (WQM) Plan. This amendment provides for substantial changes in the boundaries of the sewer service area of the Hamilton Township Water Pollution Control Board within Washington Township to (1) include additional lands within the sewer service area; and (2) exclude certain lands currently within the sewer service area from future sewer service.

This notice is being given to inform the public that a plan amendment has been developed for the Mercer County WQM Plan. The amendment has been adopted by Mercer County, and the NJDEP must review the amendment prior to final adoption. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the Mercer County Planning Division, Room 420, 640 South Broad Street, P.O. Box 8068, Trenton, N.J. 08650; and the NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M. Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzempa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the NJDEP during its review.

Any **interested person** may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. 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. Horzempa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to 15 days following the public hearing.

(a)

Amendments to The Monmouth County Water Quality Management Plan

Public Notice

Take notice that on September 16, 1985 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Monmouth County Water Quality Management Plan to designate the City of Asbury Park as the Wastewater Facilities Planning agency so that they may conduct wastewater facilities planning pursuant to Section 201 of the Clean Water Act (33 U.S.C. 1251 et seq.), was adopted by the Department.

(b)

Amendments to The Northeast Water Quality Management Plan

Public Notice

Take notice that on September 16, 1985 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Northeast Water Quality Management Plan for the elimination of Totowa Borough's West End Sewage Treatment Plant (STP), converting it to a pumping station, and the expansion of Wayne Township sewer service area to include that which was previously serviced by the West End STP, was adopted by the Department.

(c)

Amendments to The Tri-County Water Quality Management Plan

Public Notice

Take notice that on August 30, 1985 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), the amendments to the Tri-County Water Quality Management Plan (1) to provide sewer service to the Eastampton Farms subdivision, Eastampton Township, Burlington County and (2) to provide for sewer service to the Cedarwood development in Harrison Township, Gloucester County, were adopted by the Department.

(d)

Amendments to The Tri-County Water Quality Management Plan

Public Notice

Take notice that on September 16, 1985 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Tri-County Water Quality Management Plan for the expansion of Evesham Municipal Utility Authority's Elmwood Sewage Treatment Plant from a design capacity of 1.5 million gallons per day (mgd) to 2.3 mgd, was adopted by the Department.

(e)

Amendment to The Tri-County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. The amendment provides for the Evesham Municipal Utilities Authority to accept and treat sewage from the proposed New Jersey Business Park in Evesham Township, Burlington County. The New Jersey Business Park is bounded by Route 73, Evesham Road, and Glenview Court. The amendment has been recommended for approval by the Delaware Valley Regional Planning Commission, the designated areawide WQM planning agency. The amendment will show the area as a proposed sewer service area on Map 4-3 of the Tri-County WQM Plan.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to 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 request.

Any **interested persons** may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within thirty 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.

HEALTH

(a)

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

Intermediate Psychiatric Bed Standards

Public Notice

Take notice that the Department of Health has proposed the development of planning regulations to govern the establishment of Intermediate Adult and Special Psychiatric Inpatient beds by health care facilities under Certificate of Need authority. This action is being taken to provide reviewing authorities with appropriate standards and criteria for the evaluation of Certificate of Need applications to establish a category of inpatient psychiatric care that is not adequately addressed within current departmental rules.

The Department proposes the following definition of "Intermediate Adult Psychiatric Beds:"

"Licensed psychiatric beds in a separate and designated space in New Jersey Hospital for the purpose of providing intensive psychiatric evaluation and treatment services as part of a comprehensive psychiatric and psychosocial rehabilitation program. Intermediate Adult Psychiatric services are appropriate for individuals aged 18 and above who are experiencing an acute episode of a psychiatric disorder and who require a comprehensive and specialized treatment program that cannot be fully provided within a short-term acute psychiatric setting. All facilities providing Intermediate Adult Psychiatric Services must be designated as Mental Hospital under provisions of N.J.S.A. 30 and accept patients under involuntary commitment order. Admissions to the Intermediate Psychiatric unit or facility have an average length of stay which is generally less than 45 days and greater than the average length of stay for Adult Open Acute Psychiatric Units in New Jersey."

The definition of Adult Open Acute Psychiatric Units may be found at N.J.A.C. 8:43E-2.2. A definition of Special Psychiatric Beds will be proposed as follows:

"Special Psychiatric Beds shall mean licensed psychiatric beds within any separate unit or section of a licensed New Jersey Hospital which are utilized for the treatment of an identified target population demonstrated to require a specialized program of treatment for acute psychiatric disorders. This shall at a minimum include units designated to provide services to persons with eating disorders and with dual psychiatric/substance abuse diagnoses. All facilities providing Special Psychiatric Services must be designated as Mental Hospital under provisions of N.J.S.A. 30 and accept patients under involuntary commitment order. Admissions to the Intermediate Psychiatric unit or facility have an average length of stay which is generally less than 45 days and greater than the average length of stay for Adult Open Acute Psychiatric Units in New Jersey."

The Department of Health is currently in the process of developing the Standards and Criteria for this service as proposed new rules N.J.A.C. 8:43E-5. Once the proposed criteria have completed the regulatory process with their final adoption and publication in the New Jersey Register, copies may be obtained from:

Robert J. Fogg
Health Systems Review Specialist
Health Systems Review Program
New Jersey State Department of Health
CN 360, Room 604
Trenton, New Jersey 08625

Applications for Certificate of Need for Intermediate Adult and Special Psychiatric beds are presently expected to be accepted for processing on March 1, 1986 for the April 15, 1986 batching cycle. Forms will be available from:

Susan M. Hendrickson, Esq., Chief
Certificate of Need Program
New Jersey Department of Health
CN 360, Room 604
Trenton, New Jersey 08625

Until such time that the proposed rules become effective, the Department will not accept Certificate of Need applications proposing Intermediate Adult or Special Psychiatric Bed services for processing.

HUMAN SERVICES

(b)

DIVISION OF PUBLIC WELFARE

Assistance Standards Handbook Determining Amount of Support

Notice of Correction: N.J.A.C. 10:82-3.11

Take Notice that an error appears in the New Jersey Administrative Code at N.J.A.C. 10:82-3.11(a)3 concerning determining amount of support. In the proposal notice in the April 16, 1984 issue of the New Jersey Register at 16 N.J.R. 831, N.J.A.C. 10:82-3.11(a)3 was proposed for deletion. The adoption notice adopting the deletion was published in the June 18, 1984 issue of the New Jersey Register at 16 N.J.R. 1607(a). Therefore, the text of N.J.A.C. 10:82-3.11(a)3 should not have appeared in the New Jersey Administrative Code.

(c)

DIVISION OF MEDICAL SERVICES AND HEALTH SERVICES

Medical Supplier Manual Recycling of Durable Medical Equipment

Notice of Correction: N.J.A.C. 10:59-1.12

Take notice that an error appears in the text of N.J.A.C. 10:59-1.12 concerning Recycling policy which appeared in the

adoption notice in the August 5, 1985 issue of the New Jersey Register at 17 N.J.R. 1894(a). The adopted text is that version which added subsection (e) upon adoption. See Summary of Changes Between Proposal and Adoption for explanation of the reasons for the change. The second version of N.J.A.C. 10:59-1.12 which also appeared in the adoption notice was not adopted and should not have been published.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Bulk Commodities Application

Public Notice

Take notice that Robert S. Kline, Acting Director, Division of Motor Vehicles pursuant to the authority of N.J.S.A. 39:5E.11 hereby list the name and address of an applicant who has filed an application for a Contract Carrier Permit.

CONTRACT CARRIER
(NON-GRANDFATHER)
North Carolina Central Transport, Inc.
P.O. Box 7007 (Uwharrie Road)
High Point, NC 27264

Protest in writing and verified under oath may be presented by interested parties to the Director of Motor Vehicles within 20 days following the publication date of an application.

TRANSPORTATION

(b)

THE COMMISSIONER

Office of Regulatory Affairs

Zone of Rate Freedom: N.J.A.C. 16:53D

Public Hearing

Take notice that the public hearing concerning N.J.A.C. 16:53D, Zone of Rate Freedom, which was to be held on November 8, 1985 at 1:30 P.M. at the Office of Administrative Law in Newark, New Jersey, has been postponed until further notice.

A notice of public hearing will be published in the New Jersey Register once a new date is scheduled.

TREASURY-GENERAL

(c)

Charitable Organization

Application for Public Employees Charitable Fund-Raising Campaign and Campaign Steering Committee

Public Notice

Take notice that Michael M. Horn, Treasurer, State of New Jersey, pursuant to the Public Employee Charitable Fund-Raising Act, P.L. 1985, c. 140 (N.J.A.C. 17:28-3.2(b)1), announces that the Department of the Treasury will be accepting applications until December 5, 1985 from charitable fund-raising organizations wishing to participate in the State Employees' Charitable Fund-Raising Campaign for 1986-87 and the Campaign Steering Committee.

For the purposes of this notice, "Charitable Fund-Raising Organization" shall mean a voluntary not-for-profit organization which receives and distributes voluntary charitable contributions. A charitable fund-raising organization shall be eligible to participate on the Steering Committee and in the 1986-87 Campaign if it meets the following requirements:

- a. the organization is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code;
- b. the organization qualifies for tax deductible contributions under Section 170(b)(1)(A)(vi) or (viii) of the Internal Revenue Code;
- c. the organization is not a private foundation as described in Section 509 of the Internal Revenue Code;
- d. the organization is incorporated under or subject to the provisions of Title 15 or the Revised Statutes or Title 15A of the New Jersey Statutes and the "Charitable Fund-Raising Act of 1971," P.L. 1971, c.469 (C. 45:17A-1 et seq.);
- e. the organization demonstrates to the satisfaction of the State Treasurer that a significant portion of funds raised in each of its two fiscal years preceding its application to participate in a campaign consist of individual contributions from citizens of the State;
- f. the organization shall have raised at least \$60,000 and distributed that sum among at least 15 charitable agencies in each of its two fiscal years preceding its application to participate in a State campaign.

Copies of the following application may be received from the Department of the Treasury, or the information requested therein may be submitted along with a cover letter. Completed applications or requests for application forms should be addressed to:

Michael M. Horn
State Treasurer
Department of Treasury
State House—CN002
Trenton, New Jersey 08625

Applications can also be requested by calling (609) 292-8950.

The application form follows:

APPLICATION*

1. Name of organization and name under which it intends to conduct charitable fund-raising campaigns among public employees.
2. Address for organization and addresses of any organization offices within state.
3. Names and addresses of officers, directors, trustees and executive personnel of organization.
4. Place and date organization was formed.
5. Has organization received tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code? Yes_____ No_____

Please attach a copy of your IRS letter of determination.
6. Is organization a private foundation as defined in Section 509(a) of the Internal Revenue Code? Yes_____ No_____
7. Date on which fiscal year of organization ends.
8. Has organization registered as a charitable fund-raising organization pursuant to N.J.S.A. 45:17A-1 et seq.? Yes_____ No_____ If no, is organization exempt from registration requirements? Yes_____ No_____

Explanation:

9. Does the organization qualify for tax deductible contributions pursuant to Section 170(b)(1)(A)(vi) or (viii) of the Internal Revenue Code? Yes_____ No_____ Section qualified under

Please attach a copy of your IRS letter of determination.
10. Provide the names and addresses of charitable agencies affiliated with your organization for the purpose of directly sharing in funds raised by the organization from charitable fund-raising campaigns among public employees.
11. Please attach a copy of the organization's charter and all amendments thereto.
12. Please submit and certify the following financial data for each of the two fiscal years preceding this application:
 - a. amount of funds raised;
 - b. what percentage of those funds consisted of individual contributions from citizens of New Jersey;
 - c. names and addresses of charitable agencies to which those funds were distributed and how much to each.

*Please note: charitable fund-raising organizations which were found eligible by the State Treasurer to participate on the Campaign Steering Committee for the 1985-86 Campaign, shall be required only to submit to the State Treasurer their most recent financial information specified in question 12 above. (N.J.A.C. 17:28-2.8e).

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the July 1, 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.1985 d.300 means the three hundredth rule adopted in 1985.

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 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. 2865 and 3066	November 5, 1984	17 N.J.R. 1159 and 1358	May 20, 1985
16 N.J.R. 3067 and 3240	November 19, 1984	17 N.J.R. 1359 and 1460	June 3, 1985
16 N.J.R. 3241 and 3336	December 3, 1984	17 N.J.R. 1461 and 1608	June 17, 1985
16 N.J.R. 3337 and 3518	December 17, 1984	17 N.J.R. 1609 and 1700	July 1, 1985
17 N.J.R. 1 and 140	January 7, 1985	17 N.J.R. 1701 and 1818	July 15, 1985
17 N.J.R. 141 and 236	January 21, 1985	17 N.J.R. 1819 and 1954	August 5, 1985
17 N.J.R. 237 and 338	February 4, 1985	17 N.J.R. 1955 and 2070	August 19, 1985
17 N.J.R. 339 and 502	February 19, 1985	17 N.J.R. 2071 and 2170	September 3, 1985
17 N.J.R. 503 and 634	March 4, 1985	17 N.J.R. 2171 and 2318	September 16, 1985
17 N.J.R. 635 and 762	March 18, 1985	17 N.J.R. 2319 and 2484	October 7, 1985
17 N.J.R. 763 and 858	April 1, 1985	17 N.J.R. 2485 and 2584	October 21, 1985
17 N.J.R. 859 and 1006	April 15, 1985	17 N.J.R. 2585 and 2710	November 4, 1985
17 N.J.R. 1007 and 1158	May 6, 1985		

N.J.A.C. CITATION

PROPOSAL NOTICE (N.J.R. CITATION)

DOCUMENT NUMBER

ADOPTION NOTICE (N.J.R. CITATION)

ADMINISTRATIVE LAW—TITLE 1

1:1-3.7	Appearances by out-of-state attorneys	17 N.J.R. 1820(a)	R.1985 d.508	17 N.J.R. 2457(b)
1:1-11.2, 11.3	Discovery and countervailing factors	17 N.J.R. 1008(a)	R.1985 d.368	17 N.J.R. 1754(a)
1:1-13.4, 15.7	Correction to Administrative Code			17 N.J.R. 1795(a)
1:2-2.1	Civil Service cases: pre-proposal concerning conference hearings	17 N.J.R. 2072(a)		
1:6A-3.1	Correction to Administrative Code			17 N.J.R. 1795(b)
1:6A-3.2	Adjournment and Department of Education settlement conferences	17 N.J.R. 2073(a)	R.1985 d.539	17 N.J.R. 2606(a)
1:7	Emergency Water Supply Allocation Plan cases	17 N.J.R. 1674(a)	R.1985 d.446	17 N.J.R. 2099 (a)
1:10A	Inmate discipline cases	17 N.J.R. 1610(a)	R.1985 d.489	17 N.J.R. 2288(b)
1:21	Trade secret claims	17 N.J.R. 1009(a)	R.1985 d.367	17 N.J.R. 1754(b)

(TRANSMITTAL 12, dated June 17, 1985)

AGRICULTURE—TITLE 2

2:1-2.3, 3.1, 3.2, 3.4, 3.7, 3.8	Department organization	17 N.J.R. 1614(a)	R.1985 d.447	17 N.J.R. 2100(a)
2:6-1	Control of veterinary biologicals	17 N.J.R. 1617(a)	R.1985 d.448	17 N.J.R. 2102(a)
2:24-1.6	Honeybee tracheal mite quarantine	17 N.J.R. 1589(a)	R.1985 d.437	17 N.J.R. 2019(a)
2:32-2.7	Sire Stakes Program	17 N.J.R. 1956(a)	R.1985 d.521	17 N.J.R. 2535(a)
2:32-2.36, 3	Sire Stakes Program: appeals	17 N.J.R. 2320(a)		
2:48-5	Use of coupons in milk promotions	17 N.J.R. 2486(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)
2:90-1	State Soil Conservation Committee: readopt General Provisions	17 N.J.R. 1160(a)	R.1985 d.370	17 N.J.R. 1756(a)
2:90-1.5, 1.14	Soil conservation plan certifications; minor subdivisions	17 N.J.R. 2172(a)		
2:90-1.13	Soil conservation: extraction activity	17 N.J.R. 1957(a)		

(TRANSMITTAL 31, dated June 17, 1985)

BANKING—TITLE 3

3:1-2.24	Modification of Commissioner's Order restricting stock transfers	17 N.J.R. 2487(a)		
3:1-11.1	Savings banks and loans to affiliated persons	17 N.J.R. 2073(b)	R.1985 d.556	17 N.J.R. 2606(b)
3:1-12	Multiple-party deposit accounts	17 N.J.R. 2488(a)		

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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
3:6-15	Savings banks and loans to affiliated persons	17 N.J.R. 2073(b)	R.1985 d.556	17 N.J.R. 2606(b)
3:7-3.3, 3.6, 3.7	Confirmation of loans and deposits	17 N.J.R. 1702(a)	R.1985 d.485	17 N.J.R. 2247(a)
3:17-7.1, 7.3	Small loan licensees: mortgage bankers and brokers business	17 N.J.R. 1703(a)	R.1985 d.486	17 N.J.R. 2247(b)
3:27-4.5, 4.6	Savings and loan associations: asset limitation; service corporations	17 N.J.R. 1619(a)	R.1985 d.484	17 N.J.R. 2248(a)
3:38-5.2	Return of borrower's commitment fee	17 N.J.R. 2488(b)		
3:41	Readoption of Cemetery Board rules	17 N.J.R. 1704(a)		

(TRANSMITTAL 27, dated April 15, 1985)

CIVIL SERVICE—TITLE 4

4:1-5.1, 8.26, 8.27	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)		
4:1-6.8	Nondiscriminatory titles	17 N.J.R. 1012(b)	R.1985 d.416	17 N.J.R. 2019(b)
4:1-12.12	Restorations to promotional lists	17 N.J.R. 645(a)		
4:1-16.7	Suspension, fine and demotion for disciplinary purposes	17 N.J.R. 1360(a)	R.1985 d.456	17 N.J.R. 2103(a)
4:1-21.3	Prohibition against political activity	17 N.J.R. 1013(a)	R.1985 d.417	17 N.J.R. 2019(c)
4:2-6.1, 6.2	Nondiscriminatory titles	17 N.J.R. 1012(b)	R.1985 d.416	17 N.J.R. 2019(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)
4:2-12.1, 12.2	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)		
4:3-6.2, 6.3	Nondiscriminatory titles	17 N.J.R. 1012(b)	R.1985 d.416	17 N.J.R. 2019(b)
4:3-12.1, 12.2	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)		
4:3-14.1	Seasonal positions	17 N.J.R. 1015(a)	R.1985 d.418	17 N.J.R. 2020(a)

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COMMUNITY AFFAIRS—TITLE 5

5:11-6.1	Prior filing of Workable Relocation Assistance Plans	17 N.J.R. 2321(a)		
5:14	Neighborhood Preservation Balanced Housing Program	17 N.J.R. 2489(a)		
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)	R.1985 d.351	17 N.J.R. 1756(b)
5:23-2.14, 4.18, 4.20	UCC: annual construction permits	17 N.J.R. 2490(a)		
5:23-2.15	Uniform Construction Code: contractor seals	17 N.J.R. 1462(a)	R.1985 d.479	17 N.J.R. 2248(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)	R.1985 d.352	17 N.J.R. 1758(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)
5:23-4.21, 5.4	UCC: private enforcing agency fees; trainees	17 N.J.R. 1032(a)	R.1985 d.353	17 N.J.R. 1758(b)
5:23-5.4, 5.5	UCC inspectors: experience requirements	17 N.J.R. 1821(a)		
5:23-5.7, 5.11	UCC: license suspensions and revocations	17 N.J.R. 1705(a)	R.1985 d.528	17 N.J.R. 2535(b)
5:23-8	Asbestos Hazard Abatement Subcode	17 N.J.R. 1782(a)	R.1985 d.472	17 N.J.R. 2249(a)
5:24	Condominium and cooperative conversion: readopt rules	17 N.J.R. 1706(a)	R.1985 d.529	17 N.J.R. 2536(a)
5:27	Readopt rules on Rooming and Boarding Homes	17 N.J.R. 341(b)	R.1985 d.350	17 N.J.R. 1759(a)
5:28	Readopt State Housing Code	17 N.J.R. 1174(a)		
5:31-2.1—2.5, 4.1, 4.2, 7.1—7.7	Local authorities: accounting principles, auditing and budgeting	17 N.J.R. 1823(a)	R.1985 d.511	17 N.J.R. 2537(a)

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
5:37	Municipal, County and Authority Employees Deferred Compensation Programs	17 N.J.R. 1960(a)	
5:51-1.4, 1.5	Local provision of recreational services for handicapped persons	17 N.J.R. 1463(a) R.1985 d.444	17 N.J.R. 2105(a)
5:80-4	Housing and Mortgage Finance	17 N.J.R. 1174(b)	
5:80-8	Housing and Mortgage Finance Agency: housing project occupancy requirements	17 N.J.R. 1620(a)	
5:80-17, 18	Housing and Mortgage Finance: prevailing wages; debarment from contracting	17 N.J.R. 1174(b) R.1985 d.559	17 N.J.R. 2607(a)
5:80-20	HMFA housing projects: applicant and tenant income certification	17 N.J.R. 2321(b)	

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DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

EDUCATION—TITLE 6

6:3-1.10	Standards for determining seniority	17 N.J.R. 1033(b) R.1985 d.397	17 N.J.R. 1874(a)
6:3-1.17, 1.23	School facility planning services	17 N.J.R. 650(a) R.1985 d.527	17 N.J.R. 2540(a)
6:11-3	Teacher education: Basic Certification Requirements	17 N.J.R. 2181(a)	
6:11-7	Standards for State approval of teacher preparation	17 N.J.R. 1708(a)	
6:20-2	Readopt Local Bookkeeping and Accounting rules	17 N.J.R. 1361(a) R.1985 d.452	17 N.J.R. 2105(b)
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) R.1985 d.451	17 N.J.R. 2107(a)
6:21-5	Standards for school buses	17 N.J.R. 1035(a) R.1985 d.396	17 N.J.R. 1875(a)
6:22	School facility planning services	17 N.J.R. 650(a)	
6:27-3	Correction to Administrative Code: Approved Secondary School Summer Sessions	_____	17 N.J.R. 2463(a)
6:28-3.5	Invalidation of "pre-school handicapped" definition and termination of special services rule	_____	17 N.J.R. 2463(b)
6:30-1.4	Fees for GED test	17 N.J.R. 1367(a) R.1985 d.450	17 N.J.R. 2108(a)

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ENVIRONMENTAL PROTECTION—TITLE 7

7:1-4	Fee schedule for Environmental Cleanup Responsibility Act	17 N.J.R. 1622(a) R.1985 d.487	17 N.J.R. 2260(a)
7:1-7	Hazardous substance discharges: reports and notices	17 N.J.R. 1826(a)	
7:1E	Readopt rules on Discharges of Petroleum and Other Hazardous Substances	17 N.J.R. 865(a) R.1985 d.377	17 N.J.R. 1759(b)
7:1E-3.2	Information filing address for Division of Waste Management	_____	17 N.J.R. 2463(c)
7:1F	Industrial Survey Project rules: waiver of Executive Order No. 66	17 N.J.R. 866(a)	
7:1H	Readopt County Environmental Health administrative rules	17 N.J.R. 1463(b) R.1985 d.420	17 N.J.R. 2020(b)
7:2-2.14, 3.4, 3.5	Use of State Park lands	17 N.J.R. 778(a) R.1985 d.421	17 N.J.R. 2020(c)
7:2-12	Open lands management	17 N.J.R. 866(b)	
7:4-2	Register of Historic Places: continuation of selection criteria	_____	17 N.J.R. 1795(d)
7:6-1.37	Waiver of maximum tow line length for parasailing exhibitions	_____	17 N.J.R. 1801(a)
7:7-2.2	Wetlands maps in Ocean County	17 N.J.R. 1710(a)	
7:7E	Readopt Coastal Resource and Development Policies	17 N.J.R. 1465(a) R.1985 d.422	17 N.J.R. 2021(a)
7:7E	Revisions to Coastal Resources and Development rules	17 N.J.R. 1466(a)	
7:7E	Coastal Resource and Development revisions: extension of comment period	17 N.J.R. 1797(b)	
7:7E	Coastal Resource and Development Policies: correction to Code and proposed revisions	17 N.J.R. 1797(c)	

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
7:9-4, Index D	Surface water classifications: Hackensack and Hudson rivers	17 N.J.R. 1625(a)	R.1985 d.466	17 N.J.R. 2109(a)
7:9-5.4	Correction: Policy concerning disinfection of wastewater	16 N.J.R. 3080(a)	R.1985 d.249	17 N.J.R. 1759(c)
7:9-15	Restoration of publicly-owned freshwater lakes	17 N.J.R. 2182(a)		
7:11-2.3, 2.5, 2.8—2.12	Delaware and Raritan Canal water supply system	17 N.J.R. 11(a)	R.1985 d.402	17 N.J.R. 1879(a)
7:12-2.7	Hard clam relay program	17 N.J.R. 2185(a)		
7:13-7.1	Flood hazard area along Long Brook and Manasquan River	17 N.J.R. 2324(a)		
7:13-7.1(c)29	Floodway delineations within Maurice River Basin	17 N.J.R. 2186(a)		
7:13-7.1	Paulins Kill floodway delineation: public hearing	16 N.J.R. 2885(a)		
7:13-7.1(d)14	Flood hazard along Lamington River in Morris County	17 N.J.R. 2324(a)		
7:13-7.1(d)47	Redelineation of Pine Brook in Bergen County	17 N.J.R. 2074(a)		
7:13-7.1(d)49	Floodway delineations in Union County	17 N.J.R. 1965(a)		
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(d)53	Floodway delineations in Raritan Basin (Project H)	17 N.J.R. 2492(a)		
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	Correction: NJPDES fee schedule	17 N.J.R. 13(a)	R.1985 d.315	17 N.J.R. 1882(a)
7:19-6.10	Water supply management in critical areas	17 N.J.R. 1966(a)		
7:19A-1.4	Emergency water supply: residential and nonresidential users defined	17 N.J.R. 1967(a)		
7:19B-1.3	Emergency water supply: residential and nonresidential users defined	17 N.J.R. 1967(a)		
7:25-19	Atlantic Coast harvest season	17 N.J.R. 2494(a)		
7:25-2.20	Higbee Beach Wildlife Management Area	Emergency	R.1985 d.514	17 N.J.R. 2459(a)
7:25-5	1985-86 Game Code	17 N.J.R. 1177(a)	R.1985 d.419	17 N.J.R. 2021(b)
7:25-6	1986-87 Fish Code	17 N.J.R. 2187(a)		
7:25-7.10, 7.11	Taking of oysters and mussels	16 N.J.R. 3385(a)	R.1985 d.401	17 N.J.R. 1883(a)
7:25-14	Readopt rules on Crab Pots	17 N.J.R. 1830(a)	R.1985 d.560	17 N.J.R. 2608(a)
7:25-15.1	Hard clam relay program	17 N.J.R. 2191(a)		
7:25-16.1	Defining freshwater fishing lines	17 N.J.R. 2193(a)		
7:25-18	Readopt Marine Fisheries rules	17 N.J.R. 1188(a)	R.1985 d.386	17 N.J.R. 1883(b)
7:25A-1.9	Closure of certain Delaware Bay oyster beds			17 N.J.R. 1795(c)
7:26-1.4, 1.6, 9.1, 12.1	Tolling agreements and reclamation of hazardous waste	17 N.J.R. 1968(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)	R.1985 d.558	17 N.J.R. 2609(a)
7:26-6.5	Solid waste flow: Hunterdon County	17 N.J.R. 517(a)	R.1985 d.503	17 N.J.R. 2388(a)
7:26-7.4, 8.3, 8.15, 9.2, 10.6, 10.	Restriction of land disposal of hazardous waste	17 N.J.R. 779(a)		
7:26-8.15	Hazardous waste management: warfarin and zinc phosphide	17 N.J.R. 356(a)	R.1985 d.375	17 N.J.R. 1760(a)
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)		
7:27-14.3	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		
7:27-16	Air pollution by volatile organic substances	17 N.J.R. 1969(a)		
7:27B-3	Determination of volatile organic substances from source operations	17 N.J.R. 2194(a)		
7:27B-4.6	Lead test paper procedure	17 N.J.R. 781(a)		

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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)
7:28-1.4, 17	Industrial and nonmedical radiology	17 N.J.R. 1626(a)	R.1985 d.502	17 N.J.R. 2389(a)
7:28-12	Transportation of radioactive material	17 N.J.R. 1369(a)	R.1985 d.387	17 N.J.R. 1884(a)
7:28-19.2, 19.3, 19.4, 19.6, 19.9, 19.10	Podiatric x-ray technology	17 N.J.R. 1632(a)	R.1985 d.501	17 N.J.R. 2393(a)
7:30	Pesticide Control Code	17 N.J.R. 242(b)	R.1985 d.557	17 N.J.R. 2609(b)
7:36	Green Acres Program	16 N.J.R. 2405(b)	R.1985 d.400	17 N.J.R. 1885(a)
7:38	Wild and scenic rivers system	17 N.J.R. 1986(a)	R.1985 d.510	17 N.J.R. 2553(a)
7:45	Delaware Raritan Canal State Park: Review Zone rules	17 N.J.R. 1711(a)		
7:50-2.11, 4.12-4.92	Pinelands comprehensive management	17 N.J.R. 1918(a)	R.1985 d.494	17 N.J.R. 2394(a)

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HEALTH—TITLE 8

8:7-1	Licensure of persons for public health positions	17 N.J.R. 1926(a)	R.1985 d.476	17 N.J.R. 2265(a)
8:9-1.11	State Sanitary Code: disposal of unclaimed cremains	17 N.J.R. 2325(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)	R.1985 d.380	17 N.J.R. 1892(a)
8:21-7	Frozen dessert products	17 N.J.R. 1986(b)		
8:31-26.3, 26.4	Health care facilities: employee physicals; child abuse	16 N.J.R. 3249(a)	R.1985 d.440	17 N.J.R. 2100(a)
8:31-26.5	Health care facilities: licensure fees	17 N.J.R. 664(a)	R.1985 d.372	17 N.J.R. 1760(b)
8:31-26.5	Health care facilities licensure fee	17 N.J.R. 664(a)	R.1985 d.414	17 N.J.R. 2032(a)
8:31-26.5	Family planning facilities: licensure fee	17 N.J.R. 1999(a)		
8:31A-9.1, 9.2	SHARE economic factor	17 N.J.R. 2495(a)		
8:31B-3	Hospital reimbursement: procedure and methodology	17 N.J.R. 2000(a)	R.1985 d.551	17 N.J.R. 2633(a)
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	17 N.J.R. 2464(a)		
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)	R.1985 d.359	17 N.J.R. 1761(a)
8:31B-4	Hospital reimbursement: financial elements and reporting	17 N.J.R. 2004(a)	R.1985 d.550	17 N.J.R. 2637(a)
8:33	Certificate of Need application and review process	17 N.J.R. 1190(a)	R.1985 d.498	17 N.J.R. 2403(a)
8:33A-1.1	New and expanded surgical services: deferral of need applications	16 N.J.R. 2734(a)	Expired	
8:33A-2.6	Surgical facilities: criteria for review and approval	17 N.J.R. 2497(a)		
8:33B	Extracorporeal Shock Wave Lithotripsy (ESWL)	17 N.J.R. 1728(a)	R.1985 d.497	17 N.J.R. 2431(a)
8:33F-1.4	Renal disease services: acute hemodialysis standards	17 N.J.R. 874(a)	R.1985 d.360	17 N.J.R. 1762(a)
8:33G-1	Computerized tomography services	17 N.J.R. 1214(a)	R.1985 d.411	17 N.J.R. 2033(a)
8:33H	Long-Term Care Facilities and Services: readopt Certificate of Need rules	17 N.J.R. 1216(a)	R.1985 d.413	17 N.J.R. 2034(a)
8:34-1.31	Licensing of nursing home administrators	17 N.J.R. 2212(a)		
8:43-1	Residential health care facilities	17 N.J.R. 2498(a)		
8:43-3.22	Fire safety in residential health care facilities	17 N.J.R. 1731(a)	R.1985 d.513	17 N.J.R. 2553(b)
8:43-4	Residential Health Care Facilities: readopt Administration rules	17 N.J.R. 1231(a)	R.1985 d.412	17 N.J.R. 2042(a)
8:43-4.13	Residential health care: personal needs allowance	17 N.J.R. 1731(b)	R.1985 d.512	17 N.J.R. 2554(a)
8:43A	Licensure of ambulatory care facilities	16 N.J.R. 3254(a)	R.1985 d.438	17 N.J.R. 2110(b)
8:43B-1.14	Hospital facilities: psychiatric patient rights	17 N.J.R. 665(a)		
8:43B-5	Licensure of hospital facilities: personnel	17 N.J.R. 2501(b)		
8:43B-5, 15, 16	Standards for licensure of Hospital Facilities: waiver of sunset provision	17 N.J.R. 2501(a)		
8:43B-8.16	Obstetric and newborn services: use of oxytocic agents	17 N.J.R. 2213(a)		
8:43B-8.33—8.44	Newborn care services: physical plant standards	17 N.J.R. 519(a)		
8:43B-15	Hospital facilities: renal dialysis services	17 N.J.R. 2503(a)		
8:43B-16	Hospital facilities: nurse-midwifery services	17 N.J.R. 2512(a)		

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8:43E-1	Hospital Policy Manual: Certificate of Need rules	17 N.J.R. 1220(a)		
8:44-2.10	Reportable occupational and environmental diseases and poisons	17 N.J.R. 1831(a)		
8:51-1-6	Local boards: recognized public health activities and minimum standards	17 N.J.R. 1633(a)	R.1985 d.477	17 N.J.R. 2270(a)
8:57-1	Readopt Reportable Disease rules	17 N.J.R. 784(a)	R.1985 d.363	17 N.J.R. 1764(a)
8:57-1.13	Reportable occupational and environmental diseases and poisons	17 N.J.R. 1831(a)	R.1985 d.518	17 N.J.R. 2554(b)
8:60	Asbestos licenses and permits	17 N.J.R. 1676(a)	R.1985 d.468	17 N.J.R. 2275(a)
8:65-1	Controlled Dangerous Substances: readopt Registration rules	17 N.J.R. 1508(a)	R.1985 d.459	17 N.J.R. 2132(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)	R.1985 d.457	17 N.J.R. 2135(a)
8:65-7.3	Controlled dangerous substances: issuing of prescriptions	17 N.J.R. 876(a)	R.1985 d.461	17 N.J.R. 2138(a)
8:65-10.1	Add 3-Methylfentanyl to Schedule I	17 N.J.R. 1511(a)	R.1985 d.458	17 N.J.R. 2138(b)
8:65-10.1	Controlled dangerous substances: 3, 4-methylenedioxymethamphetamine	17 N.J.R. 2214(a)		
8:65-10.5	Reschedule Buphenorphine to Schedule V	17 N.J.R. 1234(a)	R.1985 d.460	17 N.J.R. 2138(c)
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	R.1985 d.297	17 N.J.R. 1562(b)
8:71	Additions to generic drug list (see 17 N.J.R. 1295(a), 1562(a), 2043(a))	17 N.J.R. 158(a)	R.1985 d.516	17 N.J.R. 2556(a)
8:71	Generic drug list additions (see 17 N.J.R. 2042(b))	17 N.J.R. 1043(a)	R.1985 d.517	17 N.J.R. 2556(b)
8:71	Genric drug list additions	17 N.J.R. 1733(a)	R.1985 d.519	17 N.J.R. 2557(a)

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HIGHER EDUCATION—TITLE 9

9:2-1	Minority Faculty Advancement Loan Program	17 N.J.R. 1512(a)	R.1985 d.567	17 N.J.R. 2640(a)
9:2-4.1	Eligibility for Alternate Benefit Program	17 N.J.R. 1635(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)		
9:5-1, 2	Tuition policies at public institutions	17 N.J.R. 2326(a)		
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)
9:7-3.1	Tuition Aid Grants: 1985-86 Award Table	17 N.J.R. 2050(a)	R.1985 d.572	17 N.J.R. 2643(a)
9:7-3.3, 5.9, 6.8	Student assistance program revisions	17 N.J.R. 1734(a)	R.1985 d.571	17 N.J.R. 2644(a)
9:7-4.1	Garden State Scholars: eligibility	17 N.J.R. 2007(a)	R.1985 d.570	17 N.J.R. 2644(b)
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)
9:7-8	Vietnam Veterans Tuition Aid Program	17 N.J.R. 1735(a)	R.1985 d.569	17 N.J.R. 2645(a)
9:8	Jobs, Science and Technology Bond Act: policies and procedures	17 N.J.R. 1516(a)	R.1985 d.566	17 N.J.R. 2646(a)
9:9-1.2	Guaranteed Student Loan Program: second borrowing	17 N.J.R. 1518(a)	R.1985 d.568	17 N.J.R. 2648(a)
9:11, 12	Educational Opportunity Fund Program rules	17 N.J.R. 2214(b)		

(TRANSMITTAL 27, dated June 17, 1985)

HUMAN SERVICES—TITLE 10

10:30	Organization of Division of Mental Health and Hospitals	Organizational	R.1985 d.515	17 N.J.R. 2558(a)
10:37	Community Mental Health Services	17 N.J.R. 2222(a)		
10:42	Developmental Disabilities: Emergency Mechanical Restraint	17 N.J.R. 1832(a)		
10:47	Private Licensed Facilities for Developmentally Disabled	16 N.J.R. 2902(a)	R.1985 d.540	17 N.J.R. 2648(b)
10:48	Division of Mental Retardation: appeal procedures	17 N.J.R. 876(b)		
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)	R.1985 d.463	17 N.J.R. 2139(a)
10:50	Transportation Services: HCFA Common Procedure Coding System	17 N.J.R. 1519(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
10:50-1.2, 1.5, 1.6	Invalid coach services: oxygen equipment: carrier charges	17 N.J.R. 1373(a)	R.1985 d.427	17 N.J.R. 2044(a)
10:50-1.5, 1.6	Reimbursement for ambulance and invalid coach services	17 N.J.R. 1637(a)	R.1985 d.473	17 N.J.R. 2271(a)
10:51-1, 2	Pharmacy Manual: pharmaceutical services and billing procedures	17 N.J.R. 2223(a)		
10:51-1.13, 1.14, 3.12, App. A	Pharmaceutical services: "vaccine" reimbursement	17 N.J.R. 1237(a)	R.1985 d.533	17 N.J.R. 2559(a)
10:51-1.17, 3.15	Pharmaceutical services: dispensing fee and capitation rates	17 N.J.R. 1044(a)	R.1985 d.369	17 N.J.R. 1766(a)
10:51-5.1, 5.16	PAAD: diabetic testing material	17 N.J.R. 1521(a)	R.1985 d.462	17 N.J.R. 2139(b)
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)		
10:52-1.17	Out-of-state inpatient hospital services	17 N.J.R. 2225(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)		
10:54	Physician 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: fees for laboratory services	17 N.J.R. 1376(a)	R.1985 d.531	17 N.J.R. 2560(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)	R.1985 d.429	17 N.J.R. 2045(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)	R.1985 d.376	17 N.J.R. 1894(a)
10:59-1.7, 1.13, 1.14, 3.2	Fee increases for shoe appliances	17 N.J.R. 1522 (a)	R.1985 d.429	17 N.J.R. 2045(a)
10:59-1.11	Medical Supplier Manual: repair of durable medical equipment	17 N.J.R. 2516(a)		
10:59-2.1—2.11	Medical Supplier Manual: billing procedures	17 N.J.R. 2326(b)		
10:60	Readopt Home Care Services Manual	17 N.J.R. 28(a)	R.1985 d.488	17 N.J.R. 2433(a)
10:60-1.1, 1.2, 2.2, 2.3, 3.1	Personal care assistant services: hours per week and rate of reimbursement	17 N.J.R. 2327(a)		
10:60-2.2, 3.1	Personal care assistant services: procedure codes	17 N.J.R. 2330(a)		
10:61	Independent Laboratory Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:62	Vision Care: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:63-1.5, 1.6, 1.8, 1.13, 2.5, 2.7	Long term care facilities: certification and plan of care	17 N.J.R. 2075(a)		
10:63-1.6	Changes in level of long-term care	16 N.J.R. 2049(a)	R.1985 d.384	17 N.J.R. 1895(a)
10:63-3.2, 3.5, 3.10, 3.19	Reimbursement to long-term care facilities	17 N.J.R. 2331(a)		
10:63-3.17	Long Term Care Services: adjustments to base period data	17 N.J.R. 1736 (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)	R.1985 d.428	17 N.J.R. 2046(a)
10:66-1.6	Termination of pregnancy	17 N.J.R. 1375(a)		
10:66-1.6, 3.3	Personal care assistant services: hours per week and rate of reimbursement	17 N.J.R. 2327(a)		
10:66-3.3	Personal care assistant services: procedure codes	17 N.J.R. 2330(a)		

N.J.A.C. CITATION	You're viewing an archived copy from the New Jersey State Library. PROPOSED NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
10:67	Psychological Services: Common Procedure Coding System	17 N.J.R. 1519(b)	
10:69A-1.1, 1.2, 2.1, 4.1, 4.4, 5.3, 6.2, 6.4, 6.10	PAAD: eligibility standards	17 N.J.R. 2332(a)	
10:81-2.7, 3.18	PAM: continued absence; WIN registration	17 N.J.R. 2333(a)	
10:81-2.16, 3.18	PAM: photo IDs; ex-WIN children	17 N.J.R. 2335(a)	
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)
10:81-10.7	PAM: eligibility for refugee and entrant programs	17 N.J.R. 2227(a)	
10:81-11.3, 11.9	PAM: Social Security numbers; restriction of information	17 N.J.R. 2516(b)	
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	AFDC payment levels: comments	17 N.J.R. 880(a)	R.1985 d.341 17 N.J.R. 2272(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)
10:82-1.10, 1.11	ASH: retrospective budgeting and monthly reporting	17 N.J.R. 2518(a)	
10:82-3.2	ASH: exempt resources	17 N.J.R. 2518(b)	
10:82-3.13	ASH: eligibility of sponsored alien and sponsor's income	17 N.J.R. 1523(a)	R.1985 d.491 17 N.J.R. 2440(a)
10:82-4.11, 4.12	ASH: income from apartments, rooms, or housekeeping units	17 N.J.R. 1045(a)	R.1985 d.385 17 N.J.R. 1895(b)
10:82-5.3	ASH: correction to Administrative Code		17 N.J.R. 1801(c)
10:82-5.3	ASH: child care	17 N.J.R. 1835(a)	
10:82-5.10	ASH: emergency assistance	17 N.J.R. 2336(a)	
10:82-5.10	ASH: emergency assistance	17 N.J.R. 2337(a)	
10:82-5.10	Correction to Administrative Code: Assistance Standards Handbook		17 N.J.R. 2464(b)
10:85-3.2	GAM: determination of unemployability	17 N.J.R. 547(a)	
10:85-3.2	GAM: nursing home patients from out-of-state	17 N.J.R. 2338(a)	
10:85-3.2, 10.6	GAM: willingness to work and penalty period	16 N.J.R. 2741(a)	Expired
10:85-3.3	GAM: monthly assistance payment for residential health care	16 N.J.R. 2742(a)	Expired
10:85-3.3, 5.2	GAM: hospital notices and billings	17 N.J.R. 2519(a)	
10:85-3.4	GAM: disposal of resources	17 N.J.R. 2339(a)	
10:85-3.4	GAM: eligibility in other programs	17 N.J.R. 2520(a)	
10:85-4.1	General Assistance payment levels: comments	17 N.J.R. 882(a)	R.1985 d.342 17 N.J.R. 2272(a)
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)
10:85-4.6	GAM: correction to Administrative Code		17 N.J.R. 1802(a)
10:85-5.2, 11.2	GAM: inpatient hospital care	17 N.J.R. 2521(a)	
10:85-5.3	GAM: outpatient mental health care	17 N.J.R. 1836(a)	R.1985 d.565 17 N.J.R. 2665(a)
10:85-5.3	GAM: correction to Administrative Code		17 N.J.R. 2051(b)
10:85-6.4	GAM: final reporting requirements	17 N.J.R. 1837(a)	
10:85-10.8	GAM: work registration violations and Food Stamp recipients	17 N.J.R. 1838(a)	
10:86	Repeal obsolete AFDC Work Incentive Program rules	17 N.J.R. 1838(b)	
10:87-1.14	Food Stamp Program: disclosure of information	17 N.J.R. 1377(b)	R.1985 d.475 17 N.J.R. 2273(a)
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)
10:87-2.38, 5.9	Food Stamp Program: elderly or disabled defined; JTPA income exclusion	17 N.J.R. 2521(b)	
10:87-12.1	Food Stamp Program: income deductions, maximum coupon allotments	Emergency	R.1985 d.526 17 N.J.R. 2564(a)
10:87-12.3, 12.4, 12.7	Food Stamp Program: maximum allowable income	17 N.J.R. 1793(a)	R.1985 d.480 17 N.J.R. 2273(b)
10:89	Home Energy Assistance Handbook	17 N.J.R. 1737(a)	R.1985 d.492 17 N.J.R. 2441(a)

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10:90-2.2, 2.3, 2.4, 2.6, 3.3, 4.1—4.10, 5.1, 5.2, 5.6, 6.1, 6.2, 6.3	Monthly Reporting Policy Handbook	17 N.J.R. 1839(a)		
10:94-1.6, 3.14	Medicaid Only: ineligible individuals	17 N.J.R. 2522(a)		
10:94-3.6	Medicaid Only: change of county of residence	17 N.J.R. 2523(a)		
10:94-4.1	Medicaid Only: resource eligibility	17 N.J.R. 2524(a)		
10:94-4.5, 4.6, 4.7	Medicaid Only: resource eligibility and limits	17 N.J.R. 1525(a)	R.1985 d.474	17 N.J.R. 2274(a)
10:94-7, 8, 9	Medicaid Only program for aged, blind and disabled	17 N.J.R. 2340(a)		
10:123-3	Residential health care and boarding homes: readopt Personal Needs Allowance rules	17 N.J.R. 1526(b)	R.1985 d.426	17 N.J.R. 2046(b)
10:129-2	Confidentiality of child abuse records	17 N.J.R. 885(a)	R.1985 d.373	17 N.J.R. 1766(b)

(TRANSMITTAL 30, dated June 17, 1985)

CORRECTIONS—TITLE 10A

10A:31-3.7, 3.12	Adult county facilities: new inmate processing	17 N.J.R. 2229(a)		
10A:31-3.12, 3.15	Adult county facilities: medical screening of new inmates	17 N.J.R. 2343(a)		
10A:34	County correctional facilities	17 N.J.R. 2525(a)		

(TRANSMITTAL 11, dated May 20, 1985)

INSURANCE—TITLE 11

11:1-2.5-2.8	Property-liability: rate counsel participation	16 N.J.R. 2918(a)		
11:1-5	Administrative Orders and Declarations: correction of sunset date	16 N.J.R. 2677(a)	R.1984 d.426	17 N.J.R. 2566(a)
11:1-5.2	Fire and casualty coverage: cancellation notice requirement	_____	_____	17 N.J.R. 1939(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)		
11:1-20	Property and casualty/liability coverage: cancellations, nonrenewals and mid-term premium increases	Emergency	R.1985 d.507	17 N.J.R. 2460(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)		
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 887(a)		
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 2344(a)		
11:4-9	Annuity and deposit fund disclosure	16 N.J.R. 2939(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)
11:4-24	Smoker and nonsmoker mortality tables	17 N.J.R. 2348(a)		
11:4-25	Social security disability offset	16 N.J.R. 3287(a)		
11:4-26	Annuity mortality tables	17 N.J.R. 2349(a)		
11:5-1.3	Licensing of real estate brokers and salespeople	17 N.J.R. 2350(a)		
11:5-1.15	Real estate advertising	17 N.J.R. 2351(a)		
11:5-1.15, 1.25	Advertising of real estate: sale of interstate property	17 N.J.R. 666(a)		
11:5-1.20	Payment of fees prescribed by Real Estate License Act	17 N.J.R. 2353(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
11:5-1.28	Approved real estate schools: requirements	17 N.J.R. 376(a)		
11:5-1.29	Real estate license applicants: record checks	17 N.J.R. 2230(a)		
11:10-1	Dental plan organizations	16 N.J.R. 2230(a)	R.1985 d.374	17 N.J.R. 1768(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 29, dated May 20, 1985)

LABOR—TITLE 12

12:15-1.1, 1.2	Unemployment and Temporary Disability Benefits programs: purpose and scope	17 N.J.R. 1378(a)	R.1985 d.423	17 N.J.R. 2046(c)
12:15-1.3	Maximum weekly benefit rates for Unemployment Compensation and State Plan Disability	17 N.J.R. 2079(a)	R.1985 d.545	17 N.J.R. 2666(a)
12:15-1.4	Taxable wage base subject to Unemployment Compensation contributions	17 N.J.R. 2079(b)	R.1985 d.546	17 N.J.R. 2667(a)
12:15-1.5	Unemployment Compensation contribution rate for government units	17 N.J.R. 2079(c)	R.1985 d.543	17 N.J.R. 2667(b)
12:15-1.6	Base week for unemployment compensation and temporary disability	17 N.J.R. 2007(b)	R.1985 d.525	17 N.J.R. 2461(a)
12:15-1.6	Base week for Unemployment Compensation and State Plan Disability claims	17 N.J.R. 2080(a)	R.1985 d.544	17 N.J.R. 2667(c)
12:15-1.7	Alternate earnings test for benefits eligibility	17 N.J.R. 2080(b)	R.1985 d.542	17 N.J.R. 2668(a)
12:17-10	Refund for unemployment benefits	17 N.J.R. 2525(b)		
12:35	Workfare rules	17 N.J.R. 1048(a)	R.1985 d.404	17 N.J.R. 1896(a)
12:56	Readopt Wage and Hour rules	17 N.J.R. 2008(a)	R.1985 d.524	17 N.J.R. 2461(b)
12:57	Readopt Wage Orders for Minors	17 N.J.R. 2009(a)	R.1985 d.523	16 N.J.R. 2461(c)
12:58	Readopt Child Labor rules	17 N.J.R. 2009(b)	R.1985 d.522	17 N.J.R. 2461(d)
12:70	Field sanitation for seasonal farm workers	17 N.J.R. 1860(a)		
12:105	Board of Mediation: arbitration	17 N.J.R. 2526(a)		
12:120	Asbestos licenses and permits	17 N.J.R. 1676(a)	R.1985 d.468	17 N.J.R. 2275(a)
12:200	Liquefield Petroleum Gas rules	17 N.J.R. 1379(a)	R.1985 d.403	17 N.J.R. 1899(a)
12:235	Practice and procedure before Division of Workers' Compensation	17 N.J.R. 2081(a)		
12:235-1.5	Maximum weekly benefit rate for Workers' Compensation	17 N.J.R. 2090(a)	R.1985 d.541	17 N.J.R. 2668(b)

(TRANSMITTAL 22, dated June 17, 1985)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

12A	Departmental rules; small business set-aside contracts	16 N.J.R. 1955(a)	R.1985 d.421	17 N.J.R. 2683(a)
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LAW AND PUBLIC SAFETY—TITLE 13

13:1-5.1, 6.1, 8.1	Police officer training and certification	17 N.J.R. 1239(a)	R.1985 d.405	17 N.J.R. 1899(b)
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)
13:23.16, -24, -35	ABC preproposal: industry marketing and sales practices	17 N.J.R. 3292(a)		
13:2-40	ABC: readopt rules on Issuances of IDs by County Clerks	17 N.J.R. 1380(a)	R.1985 d.395	17 N.J.R. 1900(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)
13:13-1.3, 2.2, 2.3	Correction: Discrimination against handicapped persons	17 N.J.R. 671(a)	R.1985 d.305	17 N.J.R. 1773(a)
13:19-10.1	Motor vehicle driver violations: point assessment	17 N.J.R. 2231(a)		
13:19-13.1, 13.2, 13.3	Motor vehicle insurance surcharges	17 N.J.R. 893(a)	R.1985 d.482	17 N.J.R. 2281(a)
13:20-28	Readopt rules on Inspection of New Motor Vehicles	17 N.J.R. 1059(a)	R.1985 d.379	17 N.J.R. 1901(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)		
13:21-2	Motor Vehicle Licensing Service: Statutory Language Interpretation	17 N.J.R. 2090(b)		
13:21-11.13	Temporary initial registration of motor vehicles	17 N.J.R. 1863(a)	R.1985 d.520	17 N.J.R. 2562(a)
13:21-15.6	Auto dealers: acceptance of altered title documents	17 N.J.R. 169(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
13:21-20	Motor home title certificates	17 N.J.R. 2353(b)		
13:27-8.11	Certified landscape architects: title block contents	17 N.J.R. 1864(a)	R.1985 d.538	17 N.J.R. 2668(c)
13:28-4.1	Board of Beauty Culture Control fee schedule	17 N.J.R. 1638(a)	R.1985 d.464	17 N.J.R. 2139(c)
13:29-1.4	Change of address by licensed accountants	17 N.J.R. 1639(a)		
13:29-1.11	Fee for CPA certificate	17 N.J.R. 2092(a)		
13:29-2.1	Applicants for registered municipal accountant's test	17 N.J.R. 2092(b)		
13:30-8.1	Board of Dentistry: fee schedule	17 N.J.R. 378(a)		
13:30-8.3	Board of Dentistry licensee requirements	17 N.J.R. 1864(b)	R.1985 d.548	17 N.J.R. 2669(a)
13:30-8.4, 8.6	Correction: Specialties in dentistry	17 N.J.R. 378(a)	R.1985 d.253	17 N.J.R. 1665(a)
13:34-1.1	Marriage counseling: annual license fees and charges	17 N.J.R. 1527(a)	R.1985 d.549	17 N.J.R. 2669(b)
13:35-1A.4	Clinical clerkships for foreign medical graduates	17 N.J.R. 2010(a)	R.1985 d.564	17 N.J.R. 2670(a)
13:35-2.4	Approval of colleges of chiropractic	17 N.J.R. 2231(b)		
13:35-2.15	Physician-nurse anesthetist standards	17 N.J.R. 796(a)		
13:35-4.2	Termination of pregnancy	17 N.J.R. 1865(a)	R.1985 d.530	17 N.J.R. 2562(b)
13:35-6.4	Pre-proposal: professional conduct of Medical Board licensees	17 N.J.R. 894(b)		
13:35-6.6	Directly dispensed medication by physicians and podiatrists	17 N.J.R. 1866(a)	R.1985 d.505	17 N.J.R. 2442(a)
13:37-1.2, 1.21, 1.23-1.25	Programs in nursing education	17 N.J.R. 1528(a)	R.1985 d.483	17 N.J.R. 2282(a)
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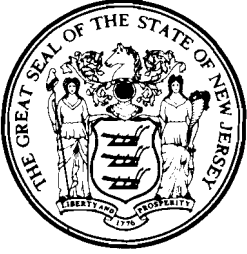
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