

# NEW JERSEY

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# REGISTER

## REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS\*, PAGE 2919.

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# RULE PROPOSALS

**Interested persons** may submit, in writing, information or arguments concerning any of the following proposals until **January 2, 1986**. 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.

## COMMUNITY AFFAIRS

The agency proposal follows:

(a)

### Summary

The New Home Warranty Builders Registration Program has been in operation for five years and two months, it has registered over 10,000 building entities, warranted over 40,000 homes, settled over 1,800 claims, and has not had a major review and update of the registrations. The proposed re-adoption and amendments represent the product of the experience of the last five years and for the most part is a redefinition of the existing regulations with the objective to make them clearer for the use of builders, homeowners, staff arbitrators, private plans, and Administrative Law Judges.

Pursuant to Executive Order No. 66(1978), these rules expire on January 1, 1986. The Division has reviewed the regulations as required by the Executive Order and proposes amendments to the current text.

Changes which would have the effect of decreasing coverage or increasing costs are as follows:

1. The builder and warrantor would only be responsible for sewer or water lines to the limit of the property line.
2. Standing water on porches or stoops will no longer be covered under the warranty.
3. Standing water on the property and not in the proximate area to affect the dwelling is no longer covered by the warranty.
4. A fee of \$200.00 will be required to request a hearing before the Office of Administrative Law regarding an appeal of a Bureau Decision. The fee or a portion of the fee is refunded if the hearing is found in the appealing parties favor.
5. The fee to file for an application for approval to operate a private warranty plan has been increased from \$1,000 to \$5,000 in order to more accurately reflect the cost of review. The reapproval fee has remained at \$1,000.

## DIVISION OF HOUSING AND DEVELOPMENT

### New Home Warranties and Builders' Registration

#### Proposed Readoption with Amendments: N.J.A.C. 5:25

Authorized By: John P. Renna, Commissioner,  
Department of Community Affairs.  
Authority: N.J.S.A. 46:3B-10.  
Proposal Number: PRN 1985-645.

A **public hearing** concerning this proposal will be held on:  
December 19, 1985 at 10:00 A.M.  
Bureau of Construction Code Enforcement  
Conference Room  
1333 Brunswick Avenue  
Trenton, New Jersey

Submit comments by January 2, 1986 to:  
Michael L. Ticktin, Esq.  
Administrative Practice Officer  
Division of Housing and Development  
CN 804  
Trenton, NJ 08625

## NEW JERSEY REGISTER

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

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6. The time to claim broken items has been decreased from 120 days to 30 days, those items include broken glass, ceramic tile, bathroom fixtures, laminated countertops.

The areas of increased coverage or expanded application of the regulations are as follows:

1. Wall coverings will be covered by the warranty when installed by the builder.
2. Condominium or cooperative unit owners will now be able to apply directly to the Bureau with a claim if the builder still controls the Association. Also, if a defect in a common element could only be detected by a unit owner, the defect could be claimed even if, under the warranty, it is out of time.
3. A homeowner could, under certain circumstances, apply to the Bureau for a warranty and pay double fee to have a warranty.

Other changes proposed are as follows:

1. Conciliator-Arbitrators will now be required over the next two years to take and pass the One and Two Family Dwelling Code course. This course would be required of both the state and private plan neutrals, and is seen as a benefit for both homeowners and builders involved in binding arbitration by increasing the knowledge of the arbitrator.
2. The section covering the application for private plan approval has been rewritten to include the complete instructions covering the requirements and the method of presentation.
3. There is established a method of calculating the cost of land into the sale price for the calculation of the warranty premium.

**Social Impact**

The regulations governing new home warranties and builder registration proposed for re adoption have prescribed the form and coverage of the minimum warranties established by N.J.S.A. 46:3B-1 et seq. The rules have provided new home owners and builders necessary procedures for implementing and processing claims exercised under the warranty provisions. The rules have established requirements for registration as a builder and procedures which govern the denial, revocation and suspension of builders' registration. The rules have provided a useful mechanism to ameliorate the disputes which often arise between new home owners and builders.

With the proposed amendments, the program is expected to be more, workable and to provide better protection, particularly to condominium and cooperative unit owners and to those who purchase additional warranty protection.

**Economic Impact**

The State Warranty Program has directly issued over 40,000 warranties which represent an estimated value of 3.6 billion dollars of risk. The risk is backed by a Warranty Trust Fund valued at approximately 15 million dollars which is used to support the program and to pay claims resulting from builder default or for major structural defects.

The State and private warranty programs have afforded homeowners the opportunity to make claims for repairs of defects which previously would have been satisfied by entering into protracted legal disputes or by repair costs borne by the homeowner. In the State program the average claim paid from the Warranty Trust Fund is approximately \$2,000, yet, countless other defects are repaired directly by the builder as a result of the Dispute Settlement Process.

The builder has benefited from the program in that the Dispute Settlement Process defines the extent of liability and

a level of performance required under a set of quality standards. The results are fewer lawsuits and more efficient repair reports.

The Major Structural Defect portion of the warranty covers this type of defect for up to ten years. The State and private warranty programs are responsible after the first two years of the warranty, for the costs of the repair. Prior to the establishment of the program, repair costs for such defects were mainly paid by the homeowner. Builders benefit from this portion of the warranty since they are not held responsible for major structural defects and would in some cases be held responsible if a lawsuit were to be filed.

The amendments increase private plan application fees and establish a hearing fee. Changes in coverage will increase costs to builders in some cases and reduce them in others. A new method of calculating the value of a property for warranty purposes is intended to eliminate the extra burden that has been created where land cost is disproportionate to building costs.

Full text of the proposed re adoption appears in the New Jersey Administrative Code at N.J.A.C. 5:25.

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

CHAPTER 25  
[NEW HOME WARRANTY AND BUILDERS'  
REGISTRATION ACT]  
REGULATIONS GOVERNING NEW HOME  
WARRANTIES AND BUILDERS' REGISTRATION

5:25-1.3 Definitions

...

"Appliances, fixtures, and equipment" shall mean and include, but not be limited to: furnaces, **boilers, heat pumps**, humidifiers, air purifiers, air handling equipment, ventilating fans, air conditioning [condensors and compressors] **equipment**, water heater, pumps, stoves, ranges, ovens, refrigerators, garbage disposals, **food waste disposers**, compactors, dish-washers, automatic garage door openers, washers, and dryers, [bathtubs, sinks, commodes] **plumbing fixtures and trim**, faucets, [and] fittings, motors, water treating equipment, ejectors, stats and controls, including any fittings attachments; **electric receptacles, switches, lighting fixtures, and circuit breakers**;

"Builder designee" means the partner, officer, or director [or employee] designated as such in the builder's application for registration and is the individual responsible for on-site building activity.

...

"Common elements" shall mean those elements listed in the master deed on file for each such development or unit as required under law for common ownership.

"Major [construction] structural defect" means any actual damage to the load-bearing portion of the home including **consequential damages**, damage due to subsidence, expansion or lateral movement of the soil (excluding movement caused by flood or earthquake) which affects its load-bearing function and which vitally affects or is imminently likely to vitally affect use of the home for residential purposes;

"Mechanical and electrical systems" [exclusive of appliances, fixtures and equipment] shall mean and include the following:

[1. Plumbing system: All pipes and their fittings, individual on-site sewage disposal system—all pipes and their pipe field and well water potability;]

**1. Plumbing system: Gas supply lines and fittings, and water supply, waste and vent pipes and their fittings; septic tanks and their drains; water, gas, and sewer service piping, and their extension to the property line which tie-in to a public utility connection or on-site well and/or sewage disposal system; and water potability.**

[2. Electric system: All wiring and connections including electrical panel boxes and service entrance;]

**2. Electrical system: All wiring, electrical boxes, and connections up to the public utility meter connection, excluding appliances, fixtures and equipment.**

[3. Heating and cooling systems means all ductwork, steam and water pipes, refrigerant lines, registers, convectors, radiant devices and dampers.]

**3. Heating, ventilating, cooling and mechanical systems: All ductwork, steam, water and refrigerant lines, registers, convectors, radiation elements and dampers.**

...

"Warrantor" means the builder who constructed or transferred title to the owner.

...

"Warranty date" means the first occupation or settlement date or the date on which a certificate of occupancy issued pursuant to N.J.S.A. 52:27D-119 et seq. is given over to the owner, whichever is sooner.

...

#### 5:25-1.4 Administration and enforcement

(a) (No change.)

(b) Within the Division of Housing and Development, responsibility for the administration and enforcement of these regulations shall be vested in the Bureau of Construction Code Enforcement. All powers and responsibilities delegated by the Director, Division of Housing and Development by this chapter shall be executed by the Chief, Bureau of Construction Code Enforcement except the power to make final determinations resulting from any of the hearings required or permitted to be held pursuant to the Act, this chapter or the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) which power shall be vested in the [Director] Commissioner.

#### 5:25-2.1 Registration required

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

(c) For the purpose of these regulations the term "engaging in the business of construction of new homes" shall mean and include constructing any new home for sale, acting as prime contractor to construct any new home on behalf of oneself or another person or advertising or holding oneself out as constructing or being available to construct a new home or homes. The term shall also mean and include the sale or transfer of title to a parcel of land to any person and the subsequent participation in the construction of a new home or any part of a new home by the seller or transferer. **The term shall also include a person who contracts with a general contractor or with sub-contractors for the construction of a new home for the purpose of sale to a purchaser.**

(d) Nothing herein shall be interpreted as requiring that a person who constructs a new home for his own personal use and occupancy or who contracts with a licensed architect, professional engineer or attorney to provide customary professional services in connection with said new home, be registered as a builder; nor shall a person acting as a licensed architect, professional engineer or attorney for said owner to provide customary professional services in connection with said new home, be registered as a builder. If such new homes are subsequently sold to purchaser who is not the original builder/owner, notification that the home carries no warranty shall be made at the time of title transfer and/or closing. No person shall be permitted to construct a new home for his own use and occupancy more often than once each five years without being registered as a builder, **and complying with these regulations.**

(e) (No change.)

#### 5:25-2.2 Registration; new home builder

(a) Rules concerning application are as follows:

1. (No change.)

2. Each application for registration as a new home builder shall include full name and address of the business. In the case of a corporation the name entered on the application shall be that registered with the Secretary of State. In all cases the address entered on the application shall be the street number, street name, and municipality at which the primary office of the applicant's business organization is located. In no case shall the address be a post office box or the address of an agent. It shall, in all cases, be the address at which the proprietor, or a listed builder designee who is a partner, officer, [employee] director or stockholder of the organization can usually be found. The address shall be that of a business office unless there is none in which case it may be a residence address. The application shall appoint an agent for the service of process and shall provide his address. The agent may be any person who is a resident of this State. The application shall also include the builder's business [or] and home telephone number [and], his Federal Employer Identification number **and the names, and addresses and home phone numbers of all persons having a minimum of ten percent interest in the new home builder.** In addition, the application shall include historical information concerning the experience of the builder in the State of New Jersey including the number of years in the new home construction business, and the municipalities in which the business has been practiced during the three years immediately previous to the date of application. **The application shall also include any criminal charges brought against any person having an interest in the new home builder and the disposition thereof;**

3. (No change.)

#### 5:25-2.3 Certificate of registration

Upon receipt of a completed application, a certificate of registration will be issued as a registered builder **unless denied in accordance with N.J.A.C. 5:25-2.5.** The certificate of registration shall remain valid, **unless suspended or revoked in accordance with N.J.A.C. 5:25-2.5,** until the expiration date indicated thereon except in the case of a builder whose relationship with the [employee], partner, director, officer, or stockholder who shall have been the registered designee is ended. In such a case the certificate of registration shall expire and become invalid unless another designee is substituted. The certificate of registration shall also become invalid if a builder shall fail to continue or let lapse his participation in either the State Plan or a private plan.

## 5:25-2.4 Registration renewal

A certificate of registration [once issued shall be valid for a period of two years from the date of issue. It] may be renewed for additional two year periods. Applications for renewal shall be made upon the forms provided by the Commissioner and shall be accompanied by a fee of \$200.00 **and shall be subject to the same conditions as an original application.**

## 5:25-2.5 Denial, suspension or revocation of registration

(a) A certificate of registration may be denied, suspended, or revoked if the registrant or applicant **or an officer, partner, director or stockholder of the registrant or applicant** has at any time:

1.-8. (No change.)

9. Has as an officer, **partner**, director or stockholder, any person who was serving as an officer, **partner**, director or stockholder for a builder whose certificate of registration has been **suspended or** revoked for cause pursuant to this subchapter at the time the incidents or practices leading to revocation occurred;

10. Has incurred or been responsible for incurring [excessive awards] **an award** against the New Home Warranty Security Fund; [as provided in 6 d. of the New Home Warranty and Builder's Registration Act;]

11. (No change.)

**12. Fails to participate in the dispute settlement process;**

**13. Has violated any Order issued by the Commissioner.**

(b) [Rules concerning procedure—denials, revocation, suspension.] Whenever the Department shall find cause to deny an application for a certificate of registration or to suspend or revoke same, it shall notify the registrant or applicant of the reasons therefore, in writing and provide opportunity for a hearing in accordance with the Administrative Procedure Act[.] **when an appeal is filed within 15 days from the date of notice.** The appointed hearing officer shall issue a recommended report and decision to the [director] **Commissioner.** The applicant will be afforded 15 days from the date of the recommended decision in which to file exceptions, objections and replies thereto. Within 45 days thereafter the [Director] **Commissioner** shall issue a decision which adopts or rejects the recommended decision, the decision of the [Director] **Commissioner** shall be final.

(c) (No change.)

## 5:25-3.1 Warranty applicability

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

(c) **The following rules concern applicability to condominiums and cooperatives:**

1. In addition to the individual dwelling units, the common elements serving condominiums or cooperatives are covered by this warranty[.], **subject to the exclusions as defined under N.J.A.C. 5:25-3.4.** [Common elements means any structural portion of a cooperative condominium or structure including but not limited to any passageways, rooms, or other spaces which are provided for common use of the residents of the structure. Common elements shall also include part of a mechanical, electrical, heating, cooling, or plumbing system serving two or more units and out buildings containing any part of such a system.] **The warranty date on common elements shall be the date on which that common element is first put to use. In the event one unit in a single condominium or cooperative structure is sold all remaining units in that structure shall be warranted whether sold or used for rental purposes.**

2. **Where the warranty date on common elements has expired, a unit owner who has taken first occupancy after that period may file a notice of defect on a common element directly with**

**the builder and when it is established that such defect could not have been determined prior to occupying the unit, the defect shall be made a part of the unit owner's claim.**

(d)-(f) (No change.)

(g) **Where an owner has contracted with someone other than the builder for either the mechanical, electrical, foundation or framing, other than piling foundation, a warranty is not applicable.**

## 5:25-3.2 Warranty coverage

(a) The warranty made applicable by these regulations shall be as follows:

1. One Year Warranty: For a period of one year from the warranty date each new home shall be free from:

i. [Quality] **Performance** standard defects (see N.J.A.C. 5:25-3.5)

ii. Appliance fixture and equipment defects (see N.J.A.C. 5:25-1.3).

iii. **Mechanical and electrical** systems defects (see N.J.A.C. 5:25-1.3 and 5:25-3.5[k] **k and l**)

iv. Major [construction] **structural** defects (see N.J.A.C. 5:25-1.3 and 5:25-3.[6]7)

2. Two Year Warranty: For a period of two years from the warranty date each new home shall be free from:

i. Appliance, fixture and equipment defects only if such defects are covered under a manufacturer's warranty (see N.J.A.C. 5:25-1.3)

(1) NOTE: No warranty for appliances, fixtures or equipment shall [after the end of one year from the warranty date,] exceed the length and scope of the warranty offered by the manufacturer.

ii. **Mechanical and electrical** system defects (see N.J.A.C. 5:25-3.[5]6)

iii. Major [construction] **structural** defects (see N.J.A.C. 5:25-1.3 and 5:25-3.[6]7)

3. Ten Year Warranty: For a period of 10 years from the warranty date on each new home shall be free from:

i. Major [construction] **structural** defects (see N.J.A.C. 5:25-1.3).

## 5:25-3.3 Builder responsibilities

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

[(d) The following are not included in the warranty required by this section:

1. Any portion of a covered home which is not completed by the warranty date; except that, after completion, such portions will be covered until the end of the warranty period specified for that portion, pursuant to N.J.A.C. 5:25-3.2. Builder failure to complete construction of such portions may constitute the basis for denial, supervision, or revocation of registration pursuant to N.J.A.C. 5:25-2.5. Any item for the completion of which funds are being held in escrow shall be deemed to be an incompleteness rather than a defect. If such item exhibits a defect after the release of the escrowed funds, then it shall be included in the warranty. In all cases, the warranty period shall be deemed to have commenced on the warranty date.

2. Defects in outbuilding (except that outbuildings which contain the plumbing, electrical, heating, or cooling systems serving the home are covered), swimming pools and other recreational facilities, driveways, walkways, unattached patios, boundary walls, retaining walls which are not necessary for the home's structural stability, fences, landscaping (including sodding, seeding, shrubs, trees and plantings), offsite improvements, or any other improvements not a part of the home itself.

3. Bodily injury, damage to personal property, or damage to real property which is not part of the home.

4. Any damage to the extent it is caused or made worse by:

i. Negligent or improper maintenance or improper operation by anyone other than the builder or his employees, agents or subcontractors; or

ii. Failure to anyone other than the builder or his employees, agents or subcontractors to comply with the warranty requirements of manufacturers of appliances, equipment or fixtures; or

iii. Failure to give notice to the builder of any defect within a reasonable time; or

iv. Changes of the grading of the ground by anyone other than the builder, or his employees, agents or subcontractors.

5. Any defect in, or caused by, materials or work supplied by anyone other than the builder, or his employees, agents or subcontractors. The builder shall, however, be responsible for any defects in or damage to any materials or work not installed by the builder when the defect or damage is the direct consequence of defects in materials or work installed by the builder which is not in accordance with acceptable industry standards;

6. Normal wear and tear or normal deterioration in accordance with normal industry standards;

7. Accidental loss or damage from acts of nature such as, but not limited to; fire, explosion, smoke, water escape, changes which are not reasonably foreseeable in the level of the underground water table, glass breakage, windstorm, hail, lightning, falling trees, aircraft, vehicles, flood and earthquake. However, soil movement (from causes other than flood and earthquake) is not excluded;

8. Insect damage;

9. Any loss or damage which arises while the home is being used primarily for non-residential purposes.]

[(e)](d) (No change.)

#### 5:25-3.4 Warranty exclusions

(a) The following are not included in the warranty required by this subchapter:

1. Any portion of a covered home which is not completed by the warranty date; except that, after completion, such portions will be covered until the end of the warranty period specified for that portion, pursuant to N.J.A.C. 5:25-3.2. Builder failure to completion construction of such portions may constitute the basis for denial, supervision, or revocation of registration pursuant to N.J.A.C. 5:25-2.5. Any item for the completion of which funds are being held in escrow shall be deemed to be an incompleteness rather than a defect. If such item exhibits a defect after the release of the escrowed funds, then it shall be included in the warranty. In all cases, the warranty period shall be deemed to have commenced on the warranty date.

2. Defects in outbuilding (except that outbuildings which contain the plumbing, electrical, heating, or cooling systems serving the home are covered), swimming pools and other recreational facilities, driveways, walkways, unattached patios, boundary walls, retaining walls which are not necessary for the home's structural stability, fences, landscaping (including sodding, seeding, shrubs, trees and plantings, offsite improvements, or any other improvements not a part of the home itself.

3. Bodily injury, damage to personal property, or damage to real property which is not part of the home.

4. Any damage to the extent it is caused or made worse by:

i. Negligent or improper maintenance or improper operation by anyone other than the builder or his employees, agents or subcontractors; or

ii. Failure to anyone other than the builder or his employees, agents or subcontractors to comply with the warranty requirements of manufacturers of appliances, equipment or fixtures; or

iii. Failure to give notice to the builder or this program of any defect within the time frame established under N.J.A.C. 5:25-3.3(e) and 5:25-5.5(b); or

iv. Changes of the grading of the ground by anyone other than the builder, or his employees, agents or subcontractors; or

v. Failure to take time action in emergent cases to minimize any loss or damage.

5. Any defect in, or caused by, materials or work supplied by anyone other than the builder, or his employees, agents or subcontractors. The builder shall, however, be responsible for any defects in or damage to any materials or work not installed by the builder when the defect or damage is the direct consequence of defects in materials or work installed by the builder which is not in accordance with acceptable industry standards;

6. Normal wear and tear or normal deterioration in accordance with normal industry standards;

7. Accidental loss or damage from acts of nature such as, but not limited to; fire, explosion, smoke, water escape, changes which are not reasonably foreseeable in the level of the underground water table, glass breakage, windstorm, hail, lightning, falling trees, aircraft, vehicles, flood and earthquake. However, soil movement (from causes other than flood and earthquake) is not excluded;

8. Insect damage;

9. Any loss or damage which arises while the home is being used primarily for non-residential purposes.

10. Changes, alterations, or additions made to the home by anyone after initial occupancy, except those performed by the builder as his obligation under this program;

11. Any defect caused to a finished surface material or any work supplied by anyone other than the Builder/Warrantor, or his employees, agents, or sub-contractors in that, it is determined the installer has accepted the Builder/Warrantor's surface to apply the finish material;

12. Any materials and/or workmanship furnished and installed by the Builder/Warrantor that does not comply with the specifications in a sales agreement or contract which is not defective;

13. Consequential damages to personal property are excluded; consequential damages to real property as a result of a defect or repair of a defect are covered.

(b) Other exclusions are included in N.J.A.C. 5:25-3.5, Performance standards, in order to better define those standards and are identified by the word "Exclusion."

#### 5:25-3.4]5 [Quality] Performance standards

(a) [The Quality Standards herein enumerated are intended to specify the minimum performance standards for construction of new homes and to set forth the basis for defective materials and workmanship during the first year of warranty coverage.] The following performance standards set minimum standards which prescribe the level for quality of materials and performance in workmanship for the construction of new homes.

1. To the extent that detailed minimum performance standards for construction have not been enumerated in these [Quality] performance standards, builders shall construct homes in accordance with good industry practice which assures quality of materials and workmanship. Likewise, the validity of any home buyer's [complaints] claims for defects

for which a standard has not been enumerated [therein] here shall be determined on the basis of good industry practice which assures quality of materials and workmanship, and any conciliation or arbitration of such [complaints] claims shall be conducted accordingly.

[2. The format used is as follows: Quality Standards are expressed in terms of performance standards. Non-compliance with the performance standard calls for corrective action by the builder. First listed is the Possible Deficiency, which is a brief statement in simple terms of the problems to be considered. Then the Performance Standard relating to a specific deficiency is listed. Finally, the Builder's Responsibility is listed stating the nature of corrective action required of the builder to repair the deficiency or any other damage resulting from making the required repair.]

**2. The Performance Standards list specific items (defects) within each separate area of coverage.**

OFFICE OF ADMINISTRATIVE LAW NOTE: The "Quality Standards" starting with N.J.A.C. 5:25-3.4(b) and ending with N.J.A.C. 5:25-3.4(k) are being deleted. See current text in the New Jersey Administrative Code. The following are the new "Performance Standards," N.J.A.C. 5:25-3.5(b) through 5:25-3.5(k).

(b) Rules concerning site work are as follows:

**1. Grading:**

i. Defect: Settling of ground around foundation, utility trenches or other areas on the property where excavation and back fill have taken place.

(1) Performance standard: Settling of ground around foundation walls, utility trenches or other filled areas which exceeds a maximum of six inches from finished grade established by the Builder/Warrantor is a defect.

(2) Builder/Warrantor responsibility: If Builder/Warrantor has provided final grade, Builder shall fill settled areas affecting proper drainage, one time only, during the first year Warranty period. Builder/Warrantor is then responsible for removal and replacement of shrubs and other landscaping affected by placement of the fill.

**2. Drainage:**

i. Defect: Improper grades and swales which cause standing water and affects the drainage in the immediate area surrounding the home.

(1) Performance standard: Necessary grades and swales shall be established to provide proper drainage away from the house. Site drainage under this warranty is limited to those immediate grades and swales surrounding the home. Standing or ponding water within the immediate surrounding area of the home which remain for a period longer than 24 hours after a rain is a defect. Where swales are draining from adjoining properties or where a sump pump discharges, an extended period of 48 hours is to be allowed for the water to dissipate. The possibility of standing water after an unusually heavy rainfall should be anticipated and is not to be considered a defect. No grading determination is to be made while there is frost or snow or when the ground is saturated.

(2) Exclusion: Standing or ponding water on the property which does not directly affect the immediate area surrounding the foundation of the home, caused by unusual grade conditions, retainage of treed areas, or sodding done by the homeowner is not considered a defect.

(3) Builder/Warrantor responsibility: The Builder/Warrantor is responsible for initially establishing the proper grades, swales and drainage away from the home.

(4) Owner responsibility: The owner is responsible for maintaining such grades and swales once property established by the Builder/Warrantor to prevent runoffs and erosion of the soil.

(5) Exclusion: Soil erosion and runoff caused by failure of the owner to maintain the property established grades, drainage structures and swales, stabilized soil, sodded, seeded and landscaped areas are excluded from the Warranty.

ii. Defect: Grassed or landscaped areas which are disturbed or damaged due to work on the property in correcting a defect.

(1) Performance standards: Landscaped areas which are disturbed during repair work is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall restore grades, seed and landscape to meet original condition.

(3) Exclusion: Replacement of trees which existed at the time the house was constructed or those which subsequently die are excluded from Warranty Coverage.

(c) Rules concerning concrete are as follows:

1. Cast-in place concrete:

i. Defect: Basement or foundation wall cracks, other than expansion or control joints.

(1) Performance standard: Non-structural cracks are not unusual in concrete foundation walls. Cracks one-eighth inch in width or greater are a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair non-structural cracks in excess of one-eighth inch by surface patching. These repairs should be made toward the end of the first year of ownership to permit normal stabilizing of the home by settling.

ii. Defect: Cracking of basement floor.

(1) Performance standard: Minor cracks in concrete basement floors are common. Cracks exceeding three-sixteenths inch wide or one-eighth inch in vertical displacement is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair cracks exceeding maximum tolerance by surface patching or other methods, as required.

iii. Defect: Cracking of attached garage floor slab.

(1) Performance standard: Cracks in garage floor slabs in excess of one-quarter inch in width or one-eighth inch in vertical displacement is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair excessive cracks by chipping out and surface patching or other methods, as may be required.

iv. Defect: Cracks in attached patio slab.

(1) Performance standard: Cracks in excess of one-eighth inch in width or one-eighth inch in vertical displacement are defects. An "attached patio" is defined as a concrete patio slab on grade which is an integral part of the home being structurally supported and connected to the foundation.

(2) Exclusion: Patio slabs which are poured separately, and abut the house are excluded from warranty coverage.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall make repairs as required. Where cracks are caused by settlement or improper installation, Builder/Warrantor shall replace that portion which has settled and finish as close as possible to match the existing surface, where a major portion at the patio has cracked, the entire slab shall be replaced.

v. Defect: Cracks in concrete slab-on grade floors, with finish flooring.

(1) Performance standard: Cracks which rupture or significantly impair the appearance or performance of the finish flooring material, is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall determine the cause for the cracking, and correct (remove and replace if required). Repair cracks as required, so as not to be apparent when the finish flooring material is in place. Repair or replace finish flooring. (See "(g). FINISHES").

vi. Defect: Uneven concrete floor slabs.

(1) Performance standards: Except for basement floors or where a floor or portion of floor has been designed for specific drainage purposes, concrete floors in rooms designed for habitability shall not have pits, depressions or area of unevenness exceeding one-quarter inch in 32 inches, or slopes in excess of one-two hundred fortieths of room width or length (that is, 10.0 wide room not to exceed one-half inch out of level).

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall determine cause and repair and/or replace to meet the standard. Where applicable, surface patching is an accepted method of repair. Reinstall or replace any finish flooring material as necessary.

vii. Defect: Pitting, scaling or spalling of concrete work.

(1) Performance standard: Concrete surfaces which do not disintegrate to the extent that the aggregate is exposed and loosened under normal conditions of weathering and use is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall take whatever corrective action is necessary to repair or replace defective concrete surfaces.

(3) Exclusion: Deterioration caused by salt, chemicals, implements used and other factors beyond Builder/Warrantor control.

viii. Defect: Excessive powdering or chalking of concrete surfaces.

(1) Performance standard: Powdering or chalking of concrete surfaces is a defect, but should not be confused with surface dust that may accumulate for a short period after the home is occupied.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall take whatever corrective action is necessary to treat, repair or resurface defective areas.

ix. Defect: Separation of brick or masonry edging from concrete slab and step.

(1) Performance standard: It is common for the joint to crack between concrete and masonry due to the dissimilarity of the materials. Cracks in excess of one-eighth inch is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall grout crack fully and reset loose masonry where required. Replacement of masonry material, if required, shall match the existing as close as possible.

## 2. Construction and control joints:

i. Defect: Separation or movement of concrete slabs within the structure at construction and control joints.

(1) Performance standard: None.

(2) Exclusion: Concrete slabs within the structure are designed to move at construction and control joints and is not a defect.

(3) Builder/Warrantor responsibility: None.

(4) Homeowner responsibility: Maintenance of joint material.

(d) Rules concerning masonry are as follows:

### 1. Unit masonry (brick, block and stone):

i. Defect: Cracks in non-bearing or non-supporting basement and foundation walls.

(1) Performance standard: Small shrinkage cracks are not unusual running through masonry and mortar joints. Cracks in excess of one-eighth inch in width is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair non-structural shrinkage cracks in excess of one-eighth inch by pointing or patching. Repairs shall be made near the end of the first year warranty period.

ii. Defect: Cracks in bearing or supporting masonry walls.

(1) Performance standard: Vertical or diagonal cracks which do not affect the structural ability of masonry bearing walls are not unusual. Cracks in excess of one-eighth inch in width are a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair shrinkage cracks in excess of one-eighth inch by pointing or patching. Where the structural integrity of the wall is affected, suitable repair or replacement shall be done to eliminate the condition.

iii. Defect: Horizontal cracks in basement and foundation walls.

(1) Performance standard: Horizontal cracks in the joints or masonry walls are not common but may occur. Cracks one-eighth inch or more in width are a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair cracks up to one-eighth inch in width by pointing and patching. Cracks exceeding one-eighth inch shall be investigated by the builder to determine the cause. Builder shall take the necessary steps to remove the cause and make repairs by pointing and patching, reinforcement or replacement of the defective courses.

iv. Defect: Cracks in masonry walls or veneer above grade.

(1) Performance standard: Small cracks are common in mortar joints of masonry construction. Cracks one-eighth inch or greater in width are a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair cracks and voids in excess of one-eighth inch by surface pointing. These repairs should be made toward the end of the warranty period to permit the home to stabilize and normal settlement to occur. Warrantor is not responsible for color variations between existing and new mortar, however, it shall be made to match as close as possible.

v. Defect: Cracking, settling, or heaving of stoops and steps.

(1) Performance standard: Stoops and steps are not to settle or heave in excess of one inch in relation to the house structure. Cracks, except hairline cracks less than one-sixteenth inch, are not acceptable in concrete stoops. A separation of up to one-quarter inch is permitted where the stoop or steps abut the house or where an expansion strip has been installed.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall take whatever corrective action is required to meet acceptable standards. In a case where repair is made to the concrete surface, it is required that such repair match the adjoining surfaces as closely as possible or the entire area be resurfaced or replaced.

vi. Defect: Standing water on stoops, steps, porches and attached concrete patios.

(1) Performance standard: Not a defect, except in cases where standing water exists due to settlement or heaving as defined under (c)l.v. above.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall take whatever corrective action is necessary to eliminate standing water if the condition is due to settlement or heaving.

### 2. Stucco and cement plaster:

i. Defect: Cracking or spalling of stucco and cement plaster.

(1) Performance standard: Hairline cracks in stucco or cement plaster are common especially if applied directly to masonry back-up. Cracks greater than one-eighth inch in width or spalling of the finish surface is a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall scrape out cracks and spalled areas. Fill with cement plaster or stucco to match finished and color as close as possible.

**NOTE:** Builder not responsible for failure to match color or texture, due to nature of the material.

(e) Rules concerning carpentry are as follows:

**1. Rough carpentry:**

i. **Defect:** Floors squeak, due to improper installation or loose subfloors.

(1) **Performance standard:** A large area of floor squeak which is noticeable, loud and objectionable is a defect.

(2) **Exclusion:** Squeak proof floors cannot be guaranteed; an isolated floor squeak is not a defect.

(3) **Builder/Warrantor responsibility:** The Builder/Warrantor shall correct the problem if caused by faulty construction within reasonable repair capability. Where a finished ceiling exists under the floor, the corrective work may be attempted from the floor side. Where necessary, remove the finish floor material to make the repair and reinstall or replace if damaged.

ii. **Defect:** Uneven wood framed floors.

(1) **Performance standard:** Floors which are more than one-quarter inch out of level within any 32 inch measurement is a defect. Floor slope within any room which exceeds one-two hundred fortieths of the room width or length is a defect. (that is, 10'-0" wide room—not to exceed one-half inch out of level.)

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall correct or repair to meet the allowances in the performance standard above.

iii. **Defect:** Bowed stud walls or ceilings.

(1) **Performance standard:** All interior and exterior frame walls or ceilings have slight variations on the finish surfaces. Bowing should not be visible so as to detract from the finished surface. Walls or ceilings which are bowed more than one-quarter inch within a 32 inch horizontal or vertical measurement.

(2) **Builder/Warrantor responsibility:** Exterior and interior frame walls or ceilings bowed in excess of the allowable standard shall be corrected to meet the allowances of the above standard.

iv. **Defect:** Wood frame walls out of plumb.

(1) **Performance standard:** Wood frame walls which are out of plumb more than one-half inch in an eight foot vertical measurement is a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall make necessary repairs to meet the performance standard above.

v. **Defect:** Warping, checking or splitting of wood framing is common as the wood itself dries out, and is not considered a defect. Such condition, which affects the structural integrity of the member or any applied surface material is a defect.

(1) **Builder/Warrantor responsibility:** Where a structural problem exists or the surface material is affected, the builder shall repair, replace or stiffen the frame member as required.

vi. **Defect:** Delamination of plywood sheathing and subflooring.

(1) **Performance standard:** Plywood sheathing and subflooring when properly installed for its intended use and delaminates on the side a finish material has been applied is a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall repair or replace plywood subflooring or sheathing as required. Replacement of the finish materials when necessary shall be done to match the existing as closely as possible.

**2. Finish carpentry:**

i. **Defect:** Exterior or interior wood trim does not match.

(1) **Performance standard:** Grade or species of wood which is dissimilar to cause a distinct difference in the finish is a defect.

(2) **Exclusion:** Wood is a natural material and differences in color, graining and surface irregularities are the nature of wood and not a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall match wood as close as possible within limitations of the material and refinish to match as close as possible where applicable.

ii. **Defect:** Unsatisfactory quality of finished exterior trim and workmanship.

(1) **Performance standard:** Joints between exterior trim elements, and siding or masonry which are in excess of one-quarter inch is a defect. In all cases, the exterior trim abutting masonry and siding shall be capable of performing its function to exclude the elements.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall repair open joints and touch up finish coating where required to match existing as close as possible. Open joints between dissimilar materials shall be caulked.

iii. **Defect:** Unsatisfactory quality of finished interior trim and workmanship.

(1) **Performance standard:** Joints between moldings and adjacent surfaces which exceed one-eighth inch in width is a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall repair defective joints and touch up finish coating where required to match as close as possible.

iv. **Defect:** Surface defects in finished woodwork and millwork such as checks, splits, and gouges.

(1) **Performance standard:** Finished woodwork and millwork is to be smooth and without surface marks. Finished surfaces which fall beyond the limits of the Quality Standards of the Architectural Woodwork Institute is a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall correct repairable defects; sanding, filling, or puttying is acceptable to return the surface to its original condition. Non-repairable material shall be replaced, refinished and restored to match surrounding surfaces as closely as possible.

v. **Defect:** Exposed nail heads in woodwork.

(1) **Performance standard:** Material used to fill nail holes has a tendency to shrink and dry up after a period of time and is not considered a defect. Nail holes which have not been filled on finished painted woodwork is a defect.

(2) **Exclusion:** Nail holes do not have to be filled where the surface finish is not conducive or so designed to have nail holes filled because of the product.

(3) **Builder/Warrantor responsibility:** The Builder/Warrantor shall fill nail holes where required and if necessary, touch up paint to match as close as possible.

(f) Rules concerning thermal and moisture protection are as follows:

**1. Waterproofing:**

i. **Defect:** Leaks in basement or in foundation/crawl space.

(1) **Performance standard:** Leaks resulting in actual trickling of water through the walls or seeping through the floor are defects.

(2) **Exclusion:** Leaks caused by landscaping improperly installed by owner, or failure by owner to maintain proper grades are excluded from the warranty. Dampness in basement and foundation walls or in concrete basement and crawlspace floors is often common to new construction and is not a defect.

(3) **Builder/Warrantor responsibility:** The Builder/Warrantor shall take such action as is necessary to correct basement and crawlspace leaks, except where the cause is determined to be the result of owner negligence. Where a sump pit has been installed by the Builder/Warrantor in the affected area but the sump pump was not contracted for or installed by the Builder/Warrantor, no action is required until a properly sized pump is installed by the owner in an attempt to correct the condition. Should the condition continue to exist, then the Builder/Warrantor shall take necessary action to correct the problem.

**2. Insulation:**

i. **Defect:** Insufficient insulation.

(1) **Performance standard:** Insulation which is not installed around all habitable areas in accordance with the energy sub-code of the New Jersey Uniform Construction Code is a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall install insulation of sufficient thickness and characteristics to meet the Energy Code Requirements. In the case of dispute, cost for investigating the sufficiency of insulation and restoring areas to prior condition is to be borne by the homeowner if it is found that the standard has been met by the builder.

**3. Louvers and vents:**

i. **Defect:** Insufficient attic or crawlspace ventilation.

(1) **Performance standard:** Attics and crawlspaces which are not properly vented in accordance with the New Jersey Uniform Code Requirements is a defect. (Attic spaces shall have a natural ventilation area equal to 1/150 of floor area or 1/300 of floor area when an accepted vapor barrier is installed on the warm side of the ceiling and when at least 50 percent of the required ventilation is provided at least three feet above the ceiling. Crawlspaces shall have a natural ventilation area equal to 1/150 of floor area or 1/1500 of the floor area when the ground surface is covered with an accepted vapor barrier.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall install properly sized louvers or vents to meet the New Jersey Uniform Construction Code.

ii. **Defect:** Leaks due to snow or driven rain through louvers and vents.

(1) **Performance standard:** Improperly installed louvers and vents that permit penetration under normal conditions is a defect.

(2) **Exclusion:** Properly installed louvers or vents may at times allow penetration of rain or snow under strong wind conditions and is not a defect.

(3) **Builder/Warrantor responsibility:** The Builder/Warrantor shall take necessary steps to eliminate penetration of rain or snow under normal conditions.

**4. Exterior siding:**

i. **Defect:** Delamination, splitting, joint separation or deterioration of exterior siding.

(1) **Performance standard:** Exterior siding with joint separations or which delaminates, splits or deteriorates is a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall repair and/or replace only the damaged siding. The siding shall match the original as close as possible, however, the owner shall be aware that the new finish may not exactly match the original surface texture or color.

ii. **Defect:** Damaged siding or broken shingles.

(1) **Performance standard:** Damaged siding or broken shingles is a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall replace or repair damaged siding if properly reported in time.

(3) **Owner responsibility:** The owner shall notify the Builder/Warrantor of any defect within 30 days of warranty date.

iii. **Defect:** Loose or fallen siding.

(1) **Performance standard:** All siding which is not installed properly so as not to come loose or fall off is a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall reinstall or replace siding and make it secure.

**5. Roofing:**

i. **Defect:** Roof or flashing leaks.

(1) **Performance standard:** Roof or flashing leaks that occur under normal weather conditions is a defect.

(2) **Exclusion:** Where cause is determined to result from severe weather conditions such as ice and snow build-up, high winds and driven rains.

(3) **Builder/Warrantor responsibility:** The Builder/Warrantor shall correct any roof or flashing leaks which are verified to have occurred under normal weather conditions.

ii. **Defect:** Lifted, curled or torn roof shingles.

(1) **Performance standard:** Roof shingles which lift or curl during the first year of warranty coverage or tear loose during normal weather conditions is a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall repair or replace lifted, curled or torn shingles.

(3) **Note:** See N.J.A.C. 5:25-3.4(a)7., Warranty exclusions, for exceptions to Builder/Warrantor responsibility.

iii. **Defect:** Build-up of ice and snow on roofs.

(1) **Performance standard:** During prolonged periods of cold weather, ice and snow have a tendency to build up on flat roofs, roof eaves and gutters. Improper installation or construction of a roof which causes a build-up of ice and snow is a defect.

(2) **Builder/Warrantor responsibility:** When determined the cause was due to improper installation or construction, the Builder/Warrantor shall make the necessary repairs to correct the condition.

(3) **Exclusion:** Build-up of ice and snow on flat roofs, roof eaves and gutters is a homeowner maintenance item and builder is not responsible for any subsequent damage.

iv. **Defect:** Standing water on built-up roofs.

(1) **Performance standard:** A properly pitched built-up roof is to drain water except for minor ponding. Dead flat roofs will retain a certain amount of water. Excessive ponding of water which causes leaking of the built-up roofing is a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall repair all leaks due to or caused by standing water.

(3) **Exclusion:** Standing or ponding water is not considered a defect.

**6. Sealants:**

i. **Defect:** Water or air leaks in exterior walls due to inadequate caulking.

(1) **Performance standard:** Joints and cracks in exterior wall surfaces and around openings which are not properly caulked to exclude the entry of water or excessive drafts and do not meet the requirements of the Energy Subcode of the New Jersey Uniform Construction Code is a defect.

(2) **Builder/Warrantor responsibility:** The Builder/Warrantor shall repair and/or caulk joints or cracks in exterior wall surfaces as required to correct deficiency one time during the first year of the warranty period.

(3) Owner responsibility: The owner shall maintain caulking once the condition is corrected.

**7. Sheet metal:**

i. Defect: Gutters and downspouts leak.

(1) Performance standard: Gutters and downspouts which leak is a defect. Gutters which are improperly pitched to drain water is a defect.

(2) Exclusion: Standing water in gutters is acceptable if it does not exceed one inch in depth.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair leaks and pitch gutters to drain properly to meet standard.

(4) Owner responsibility: The owner shall be responsible to keep gutters and downspouts free from leaves and debris to prevent overflow.

(g) Rules concerning doors and windows are as follows:

**i. Doors: interior and exterior:**

i. Defect: Warpage of interior or exterior doors.

(1) Performance standard: Interior and exterior doors that warp so as to prevent normal closing and fit is a defect. The maximum allowable warpage is one-quarter inch when measured from top to bottom vertically or diagonally.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair or replace as may be required. New doors to be refinished to match the original as close as possible. Exterior doors must fit properly to meet the U.C.C./Energy Subcode requirements.

ii. Defect: Door binds against jamb or head of door frame. Door does not lock.

(1) Performance standard: Passage doors that do not open and close freely without binding against the door frame is a defect. Lock bolt is to fit the keeper to maintain a closed position.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall adjust the door and keeper to operate freely.

iii. Defect: Door panels shrink and expose bare wood.

(1) Performance Standard: None.

(2) Exclusion: Door panels will shrink due to the nature of the material, exposing bare wood at the edges and is not a defect.

(3) Builder/Warrantor responsibility: None.

iv. Defect: Door panels split.

(1) Performance Standard: Door panels that have split to allow light to be visible through the door is a defect.

(2) Builder/Warrantor responsibility: If light is visible, the crack shall be filled and the panel finished to match as close as possible. Correct one time during first year of warranty. If panel cannot be repaired to hide crack, the panel or the door itself shall be replaced and finished to match original.

v. Defect: Bottom of doors rub on carpet surface.

(1) Performance Standard: Where it is understood by Builder/Warrantor and Homeowner that carpet is planned to be installed as a floor finish, whether by the Builder/Warrantor or Homeowner, the bottom of the doors which rub or disturb the carpet is a defect.

(2) Exclusion: Where carpet is selected by the Homeowner having excessive high pile, the Homeowner is responsible for any additional door undercutting.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall undercut doors as required.

vi. Defect: Excessive opening at the bottom of interior doors.

(1) Performance Standards: Passage doors from room to room that have an opening between the bottom of the door

and the floor finish material in excess of one and one-half inches is a defect. Closet doors having an opening in excess of two inches is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall make necessary adjustment or replace door to meet the required tolerance.

**2. Garage doors (attached garage):**

i. Defect: Garage door fails to operate or fit properly.

(1) Performance standard: Garage doors that do not operate and fit the door opening within the manufacturer's installation tolerances is a defect. Some entrance of the elements can be expected under heavy weather conditions and is not a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall make necessary adjustments to meet the manufacturer's installation tolerances.

(3) Exclusion: No adjustment is required when the cause is determined to result from the owner's installation of an electric door opener.

**3. Wood, plastic and metal windows:**

i. Defect: Malfunction of windows.

(1) Performance standard: Windows which do not operate in conformance with manufacturer's design standards is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall consult with manufacturer when necessary and make necessary adjustments for windows to operate and meet the above performance standard.

ii. Defect: Double hung windows do not stay in place when open.

(1) Performance standard: Double hung windows are permitted to move within a two inch tolerance, up or down when put in an open position. Any excessive movement exceeding the tolerance is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall adjust sash balances one time only during the first year warranty period and where possible instruct the owner on the method of adjustment for future repair.

iii. Defect: Condensation or frost on window frames and glass.

(1) Performance standard: None.

(2) Exclusion: Window glass and frames will collect condensation on the frame and glass surface when humidity and temperature differences are present. Condensation is usually the result of temperature/humidity conditions in the home.

(3) Builder/Warranted responsibility: None.

**4. Hardware:**

i. Defect: Hardware does not work properly, fails to lock or perform its intended purpose.

(1) Performance standard: All hardware installed on doors and windows which does not operate properly is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall adjust, repair or replace hardware as required.

ii. Defect: Failure to furnish keys for locks.

(1) Performance standard: Keys for all locks requiring key operation that are not furnished to the owner is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall furnish keys as required.

**5. Storm doors, windows and screens:**

i. Defect: Storm doors and windows do not operate or fit properly.

(1) Performance standard: Storm doors and windows when installed and do not operate or fit properly to provide the protection for which they are intended is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall make necessary adjustments for proper fit and operation. When adjustment cannot be made storm doors and/or windows shall be replaced.

ii. Defect: Screen panels do not fit properly. Screen mesh is torn or damaged.

(1) Performance standard: Rips or gouges in the screen mesh or openings between the screen panel and frame are defects.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair or replace rips and gouges in the screen mesh. The screen panels shall be adjusted to fit properly in frame one time only during the first year of warranty.

(3) Owner responsibility: The owner shall be responsible to notify Builder/Warrantor within 30 days from the warranty date or the date on which the screens are furnished and/or installed.

#### 6. Weatherstripping and seals:

i. Defect: Drafts around doors and windows.

(1) Performance standard: Weatherstripping is required on all doors leading directly to the outside from a habitable area. Some infiltration is normally noticeable around doors and windows, especially during high winds. Excessive infiltration resulting from opening in poorly fitted doors or windows, or poorly fitted weatherstripping is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall adjust or correct poorly fitted windows or doors, or poorly fitted weatherstripping so as not to exceed the limits set by the U.C.C. Energy Subcode.

#### 7. Glass and glazing:

i. Defect: Broken glass.

(1) Performance standard: Broken glass is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall replace if notified by the owner within the required time.

(3) Owner responsibility: The owner shall notify the Builder/Warrantor within 30 days from warranty date.

ii. Defect: Clouding and condensation on inside surfaces of insulated glass.

(1) Performance standard: Insulated glass which clouds up or has condensation on the inside surfaces of the glass is defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall replace glass in accordance with window and glass manufacturer's requirements.

(h) Rules concerning finishes are as follows:

#### 1. Lath and plaster:

i. Defect: Cracks in plaster walls and ceiling surfaces.

(1) Performance standard: Noticeable cracks in plaster wall and ceiling surfaces is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair cracks and touch up paint to match as close as possible, one time only. Such conditions should be reported near the end of the first year warranty date to allow for normal movement in the home.

#### 2. Gypsum wallboard:

i. Defect: Defects caused by poor workmanship such as cracks over door and window frames, over archways, blisters in tape, excess compound in joints, exposed corner beads, nail pops, or trowel marks.

(1) Performance standard: Slight defects such as occasional nail pops, seam lines and cracks are common gypsum wallboard installations. Blisters in tape, cracks over door and window frames and over archways, excess compound in joints,

trowel marks, nail popping and exposed corner beads are defects. Nail pops are a defect only when there are signs of spackle compound cracking or falling away.

(2) Exclusion: Depressions or slight mounds at nail heads are not a defect.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall correct such defects to acceptable tolerance and repaint affected areas one time only to match as close as possible. Where excessive repair has been made the entire area shall be painted. Such conditions shall be reported near the end of the first year warranty date to allow for normal movement of the home.

#### 3. Hard surface flooring (flagstone, marble, quarry, tile, slate, ceramic tile, etc.):

i. Defect: Flooring cracks or becomes loose.

(1) Performance standard: Ceramic tile, flagstone or similar hard surfaced sanitary flooring which crack or become loose is a defect. Subfloor and wallboard are required to be structurally sound, rigid and suitable to receive finish.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall determine and correct the cause for the cracking or loosening of the finish material. Replace cracked material and reset loose flooring.

(3) Exclusion: Cracking and loosening of flooring caused by the owner's negligence is not a defect.

(4) The Builder/Warrantor is not responsible for slight color and pattern variations or discontinued patterns of the manufacturer. The Builder/Warrantor shall not be required to replace the entire finish when the new material consists of less than 25 percent of the finish area.

ii. Defect: Cracks appear in grouting of ceramic tile joints or at junctions with other material such as a bathtub or shower.

(1) Performance standard: Cracks in grouting of ceramic tile joints are defects. Regrouting of these cracks is a maintenance responsibility of the homeowner within the life of the home after the first year of warranty.

(2) Exclusion: Open cracks or loose grouting, where the wall surface abuts the flashing lip at a tub or shower basin, are considered owner's maintenance and any resultant damage to other finish surfaces due to leaks, etc. are not a defect.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall repair grouting as necessary one time only within the first year of warranty.

#### 4. Resilient flooring:

i. Defect: Nail pops appear on the surface of resilient flooring.

(1) Performance standard: Readily apparent nail pops are a defect.

(2) Exclusion: see N.J.A.C. 5:23-3.4(a)11.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall correct nail pops that will or have caused damage to the floor material and repair or replace damaged floor covering in the affected area.

(4) The Builder/Warrantor is not responsible for discontinued patterns or color variations.

ii. Defect: Depressions or ridges appear in the resilient flooring due to subfloor irregularities.

(1) Performance standard: Readily apparent depressions or ridges exceeding one-eighth inch is a defect. The ridge or depression measurement is taken as the gap created at one end of a six-inch straight edge placed over the depression or ridge with three inches on one side of the defect held tightly to the floor.

(2) Exclusion: See N.J.A.C. 5:25-3.4(a)11.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall take required corrective action, repair and/or replace subfloor, to bring defect within acceptable tolerances so as to be not readily visible. Builder is not responsible for discontinued patterns or color variations in floor covering, owner neglect or abuse, nor installations performed by others.

iii. Defect: Resilient flooring or base loses adhesion.

(1) Performance standard: Resilient flooring or base that lifts, bubbles, or becomes unglued is a defect.

(2) Exclusion: See N.J.A.C. 5:25-3.4(a)11.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall repair or replace resilient flooring or base as required. Builder is not responsible for discontinued patterns or color variation.

iv. Defect: Seams or shrinkage gaps show at resilient flooring joints.

(1) Performance standard: Gaps in excess of one-eighth inch in width in resilient floor covering joints is a defect. Where dissimilar materials abut, a gap in excess of three-sixteenths inch is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall take required action to correct the cause of the defect by reinstalling or replacement of the resilient floor covering.

(3) The Builder/Warrantor is not responsible for discontinued patterns or color variations of floor covering.

#### 5. Plywood wall covering:

i. Defect: Variations in panelling color; scratches or checks on the finished surface.

(1) Performance standard: Plywood paneling pattern and color will often vary and this is not a defect. Scratches on the paneling surface are defects, except where a check or crack are part of the finish.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair or replace damaged paneling when the defect has been reported in the stipulated time. Builder is not responsible for discontinued panel or color variations.

(3) If damaged paneling cannot be replaced with new paneling to owner's satisfaction, the defect may be repaired within reasonable standard of good materials and workmanship.

(4) The owner shall notify the Builder/Warrantor within 30 days of the warranty date.

#### 6. Finished wood flooring:

i. Defect: Dents, chips, knotpops open joints or cracks in wood flooring.

(1) Performance standard: Dents, chips, knotpops, open joints, or cracks in floor boards of finished wood flooring which exceed the manufacturer's quality standards of the wood flooring grade are a defect. Manufacturer's grade quality standards shall be as defined by: Wood and Synthetic Flooring Institute, National Oak Flooring Association and Maple Flooring Manufacturer's Association.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall determine the cause, for defect(s) and correct. For repairable defects, repair cracks, chips or dents by filling and refinishing to match the wood surface as close as possible. For non-repairable defects, replace and finish affected area to match remaining flooring as closely as possible.

(3) The owner shall report such defects to Builder/Warrantor within 30 days of the warranty date.

#### 7. Painting:

i. Defect: Knot and wood stains appear through paint on exterior.

(1) Performance standard: Excessive knot and wood stains which bleeding through the paint are defects.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall seal affected areas where excessive bleeding of knots and stains appear and touch up paint to match.

ii. Defect: Exterior paint or stain peels, deteriorates or fades.

(1) Performance standard: Exterior paints or stains that peel or deteriorate during the first year of ownership is a defect.

(2) Exclusion: Fading, however, is normal and subject to the orientation of painted surfaces to the climatic conditions which may prevail in the area. Fading is not a defect.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall properly prepare and refinish affected areas, matching color as closely as possible. Where finish repairs affect the majority of the surface area, the whole area should be refinished. The warranty on the newly repainted surfaces will not extend beyond the original warranty period.

iii. Defect: Painting required as corollary repair because of other work.

(1) Performance standard: Necessary repair of a painted surface required under this warranty is to be refinished to match surrounding areas as closely as possible.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall refinish repaired areas to meet the standard as required.

iv. Defect: Mildew or fungus forms on painted or factory finished surfaces.

(1) Performance standard: None.

(2) Exclusion: Mildew or fungus that forms on a painted or factory finished surface when the structure is subject to various exposures (that is, ocean, lake, riverfront, heavily wooded areas or mountains) is not a defect.

(3) Builder/Warrantor responsibility: None.

v. Defect: Deterioration of varnish or lacquer finishes.

(1) Performance standard: Natural finishes on interior woodwork which deteriorate during the first year of ownership is a defect.

(2) Exclusion: Varnish-type finishes used on the exterior will deteriorate rapidly and are not covered by the warranty.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall refinish affected areas of natural finished interior woodwork, matching the color as closely as possible.

vi. Defect: Interior paint quality and coverage.

(1) Performance standard: Interior paint of poor quality and not applied in a manner sufficient to visually cover wall, ceiling and trim surfaces is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repaint wall, ceiling or trim surfaces where inadequate paint has been applied. Where a large area is affected the entire surface shall be repainted.

vii. Defect: Paint splatters and smears on finish surfaces.

(1) Performance standard: Paint stains on porous surface which are excessive that detract from the finish and which cannot be removed by normal cleaning methods is a defect.

(2) Exclusion: Minor paint splatter and smears on impervious surfaces which can be easily removed is considered as homeowner maintenance and not a defect.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall remove paint stains without affecting the finish of the material, or replace the damaged surface if stain cannot be removed.

viii. Defect: Painted area damaged due to minor repairs.  
 (1) Performance standard: Repaired areas are to be re-finished to match surrounding area as closely as possible.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repaint affected area. Where 25 percent or more of any one surface has been repaired then the entire surface shall be painted to match the existing or abutting paint color as close as possible.

ix. Defect: Pitting scaling and rust spots on exterior painted metal surfaces.

(1) Performance standard: Excessive areas of pitting, scaling and rust spots on painted metal surfaces is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall remove the defect and repaint the repaired area to match as closely as possible.

**8. Wall covering:**

i. Defect: Peeling of wallcovering installed by builder.

(1) Performance standard: Peeling of wallcovering is a defect, unless it is due to owner's abuse or negligence.

(2) Exclusion: See N.J.A.C. 5:25-3.4(a)11.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall repair or replace defective wallcovering.

ii. Defect: Mismatching in wallcovering pattern.

(1) Performance standard: Mismatched wall covering pattern that severely detracts from its intended purpose due to poor workmanship is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall remove mismatched wall covering and replace. Builder/Warrantor is not responsible for discontinued patterns or variations in color.

iii. Defect: Lumps and ridges and nail pops in wallboard which appear after owner has wallcovering installed by others.

(1) Performance standard: None.

(2) Exclusion: Owner shall insure that the surface to receive wallcovering is suitable and assumes full responsibility should lumps, ridges and nail pops occur at a later date.

(3) Builder/Warrantor responsibility: None.

**9. Carpeting**

i. Defect: Seams in carpet.

(1) Performance standard: Seams in carpeting that separate due to improper installation is a defect.

(2) Exclusion: Carpeting material is not covered under the warranty.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall correct to eliminate the separation.

ii. Defect: Carpeting comes loose or excessive stretching occurs.

(1) Performance standard: Wall to wall carpeting that comes loose is a defect.

(2) Exclusion: Stretching that may occur in the carpeting is subject to the quality and surface over which it is laid and is not a defect.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall resecure loose carpeting one time during the first of warranty coverage.

iii. Defect: Spots on carpets, minor fading.

(1) Performance standard: Spots or stains on the carpeting is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall remove spots and stains on a one time basis. Replace when excessive spots and stains cannot be removed.

(3) Exclusion: Fading is not a defect and builder has no responsibility.

(4) The owner shall notify the Builder/Warrantor within 30 days from the warranty date.

(i) Rules concerning specialties are as follows:

**1. Fireplaces:**

i. Defect: Fireplace or chimney does not draw properly causing smoke to enter the house.

(1) Performance standard: A properly designed and constructed fireplace and chimney is to function as intended. It is normal to expect that high winds can cause temporary negative draft situations. Similarly, negative draft situations can also be caused by obstructions such as large branches of trees too close to the chimney. In addition, the geographic location of the fireplace or its relationship to adjoining walls and roof may be the cause of negative draft conditions. In some cases, it may be necessary to open a window slightly to create an effective draft. Since negative draft conditions could be temporary, it is necessary the owner substantiate the problem to the Builder/Warrantor by constructing a fire so the condition can be observed.

(2) Builder/Warrantor responsibility: When it is determined that the malfunction is based upon improper construction of the fireplace then the Builder/Warrantor take the necessary steps to correct the problem.

(3) Exclusion: Where it is determined that the fireplace is properly designed and constructed, but still malfunctions due to natural causes beyond the builder's control, builder is not responsible.

ii. Defect: Darkening of the surrounding wall surfaces of the fireplace.

(1) Performance standard: Darkening of the surrounding wall surfaces of a fireplace due to excessive smoking from an improperly constructed fireplace is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall be responsible to clean the surfaces and take corrective action to prevent the condition from reoccurring.

iii. Defect: Malfunctioning fireplace damper.

(1) Performance standard: A fireplace damper which does not operate with reasonable ease to provide a fully open or closed position is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall make necessary repairs for the damper to operate properly.

iv. Defect: Chimney separation from structure to which it is attached.

(1) Performance standard: Newly built fireplaces will often incur slight amounts of separation. Separation which exceeds one-half inch from the main structure in any 20 foot vertical measurement is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall determine the cause of separation and correct. Caulking or grouting is acceptable up to one-half inch displacement.

**2. Built-in sauna and steam bath units:**

i. Defect: Refer to the pertinent section of these performance standards for deficiencies that may exist in construction, materials, finish and equipment of a steam bath or sauna unit.

(1) Performance standard: Built-in equipment such as sauna and steam bath units are to be constructed and must operate properly under the same applicable standard for finishes and mechanical and electrical equipment involved. Any deficiencies in finish materials or equipment referred to in these standards are defects.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall make all necessary repairs or replacements including equipment covered under a manufacturer's warranty.

(j) Rules concerning kitchen cabinets and vanities are as follows:

1. Defect: Kitchen or vanity cabinet doors and drawers malfunction.

(1) Performance standard: Cabinet doors, drawers and other operating parts that do not function as designed are defects.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair or replace operating parts as required.

ii. Defect: Surface cracks, delaminations and chips in high pressure laminates of vanity and kitchen cabinet countertops.

(1) Performance standard: Countertops fabricated with high pressure laminate coverings that delaminate, have chips, scratches, or surface cracks or joints between sheets exceed one-sixteenth inch are defects.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair or replace laminated surface covering having chips, cracks, scratches or joints exceeding the allowable width.

(3) The owner shall notify the Builder/Warrantor within 30 days at the warranty date.

iii. Defect: Warping of kitchen and vanity cabinet doors and drawer fronts.

(1) Performance standard: Warpage that exceeds one-quarter inch as measured from the face of the cabinet frame to the further most point of warpage on the drawer or door front in a closed position is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall correct or replace door or drawer front as required.

iv. Defect: Gaps between cabinets, ceiling and walls.

(1) Performance standard: Counter top, splash, base and wall cabinets are to be securely mounted. Gaps in excess of one-quarter inch between wall and ceiling surfaces is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall make necessary adjustment of cabinets and top or close gap by means of moulding suitable to match the cabinet or counter top finish or other acceptable means.

v. Defect: Natural wood finished kitchen and vanity cabinets do not match.

(1) Performance standard: Doors, drawers and other natural wood finished surfaces may vary in color, grain and shade. Mismatched finishes due to variations in grade or species of the wood is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair or replace when dissimilar grade or species of wood are used.

(k) Rules concerning mechanical systems are as follows:

1. **Septic tank systems:**

i. Defect: Septic system fails to operate properly.

(1) Performance standard: Septic system is to be capable of properly handling normal flow of household effluent. It is, however, possible that due to freezing, soil saturation, changes in the ground water table or excessive use of plumbing or appliances, an overflow can occur. Periodic pumping of the septic tank is considered homeowner maintenance, and a normal need for pumping is not a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall take corrective action as required, if it is determined that malfunction is due to improper design or construction. Builder is not responsible for malfunctions which occur through owner negligence or abuse. Builder is also not responsible for malfunctions which occur due to acts of nature such as freezing and changes in the ground water table.

(3) Exclusion: The following are considered owner negligence or abuse as an exclusion under the warranty:

(A) Excessive use of water such as overuse of washing machine and dishwasher including their simultaneous use;

(B) Connection of sump pump, roof drains or backwash from water conditioner, to the system;

(C) Placing of non-biodegradable items in the system;

(D) Addition of any harsh chemicals, greases or cleaning agents and excessive amounts of bleaches or drain cleaners;

(E) Excessive use of a food waste disposer;

(F) Placement of impervious surfaces over the disposal area;

(G) Allowing vehicles to drive or park over the disposal area;

(H) Failure to periodically pump out the septic tank, when required.

2. **Plumbing:**

i. Defect: Plumbing pipes freeze.

(1) Performance standard: Drain, waste and water pipes are to be adequately protected to prevent freezing during normally anticipated cold weather as required by the Uniform Construction Code. Freezing of pipes is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall correct the condition responsible for pipes freezing, and repair piping damaged by freezing.

(3) The owner is responsible to maintain suitable temperatures in the home to prevent pipes from freezing. Homes which are periodically occupied such as summer homes, or where there will be no occupancy for an extended period of time must be properly winterized or periodically checked to insure a reasonable temperature is maintained. Leaks occurring due to owner's neglect and resultant damage are not the builder's responsibility.

ii. Defect: Leakage from any piping.

(1) Performance standard: Leaks in any sanitary soil, waste vent and water piping are defects.

(2) Exclusion: Condensation on piping does not constitute leakage, and is not a defect, except where pipe insulation is required.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall make necessary repairs to eliminate leakage.

iii. Defect: Faucet or valve leak.

(1) Performance standard: A valve or faucet leak due to material or workmanship is a defect.

(2) Exclusion: Leakage caused by worn or defective washers or seal are a homeowner maintenance item.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall repair or replace the leaking faucet or valve.

iv. Defect: Defective plumbing fixtures, appliances or trim fittings.

(1) Performance standard: Fixtures, appliances or fittings are to be judged according to the manufacturer's standards as to use and operation.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall replace or repair any fixture or fitting which is outside of acceptable standards as defined by the manufacturer.

v. Defect: Stopped up sanitary sewers, fixtures and sanitary drains are defects.

(1) Performance standard: Sanitary sewer, fixtures and sanitary drains should operate and drain properly.

(2) Builder/Warrantor responsibility: Where defective construction is shown to be the cause, the builder shall make necessary repairs.

(3) Exclusion: Sewers, fixtures, and drains which are clogged through the owner's negligence the owner shall assume repair costs.

(4) NOTE: Builder responsibility for defective sewer lines extends to the property line on which the home is constructed.

vi. Defect: Chipped or damaged plumbing fixtures and appliances.

(1) Performance standard: Chips, cracks, or other such damage to plumbing fixtures and appliances are defects.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair any chips or cracks if notified within the stipulated time. If repair cannot be made, the fixture or appliance is to be replaced to match the original.

(3) The owner shall notify the Builder/Warrantor within 30 days of warranty date.

(4) Exclusion: Where a fixture is built into surrounding wall areas such as a tub or shower basin which requires repair, replacement is not covered under the warranty except where the defect causes the fixture to be unuseable.

### 3. Water supply:

i. Defect: Staining of plumbing fixtures due to high iron content in water.

(1) Performance standard: High iron content in the water supply system will cause staining of plumbing fixtures.

(2) Builder/Warrantor responsibility: None. Maintenance and treatment of the water is the homeowner's responsibility.

ii. Defect: Drinking water supply is not potable.

(1) Performance standard: All water must be free from contamination that would affect its potability. Potable water is defined as water fit for human consumption. In many cases, well water tests will show contamination that exceeds the recommended amounts permitted under applicable Federal and State standards, however, it still may be considered potable. In order to make this determination, the owner must provide written documentation from a independent testing laboratory or a board of health providing such service stating that the water is unfit for human consumption. Water test reports furnished by a commercial water treatment company cannot be used to make such a determination. Water is considered potable when a certificate of compliance is issued by the local/county board of health. Any recommendation for treatment of the water by the Local/County Board of Health is contractual between owner and builder and cannot be considered a defect.

(2) Exclusion: Water which becomes non-potable after certification by a source beyond the control of the builder shall be excluded from coverage.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall supply potable drinking water.

iii. Defect: Water supply system fails to deliver water or pressure is low.

(1) Performance standard: All service connections to municipal water main or private water supply are the Builder/Warrantor's responsibility when installed by him. Water supply installations must be designed and installed in accordance with The New Jersey Uniform Construction Code.

(2) NOTE: Low water pressure is defined as follows: Use of the cold water supply at any one single fixture drastically reduces the cold water supply at any one other single fixture.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair as required, if failure to supply water is the result of defective workmanship or materials. If conditions exist which disrupt or eliminate the sources of water supply that are beyond his control, then the builder is not responsible.

iv. Defect: Noisy water pipes.

(1) Performance standard: Some noise can be expected from the water pipe system, due to the flow of water. Water hammer in the supply system is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall correct to eliminate "water hammer".

(3) Exclusion: Noises due to water flow and pipe expansion are not defects.

### 4. Heating and air conditioning:

i. Defect: Inadequate heat.

(1) Performance standard: A heating system shall be capable of producing an inside temperature of 70 degrees F. as measured in the center of the room at a height of five feet above the floor, under local outdoor winter design conditions as specified in the latest edition of the New Jersey U.C.C. Energy Subcode and ASHRAE Handbook in effect at the time the home was constructed.

(2) Note for Heating: The outdoor design temperature established by ASHRAE varies geographically throughout the State of New Jersey. There may be periods when the outdoor temperature falls below the design temperature, thereby lowering the temperature in the home. Orientation of the home and location of rooms will also provide a temperature differential, especially when the heating system is controlled by a single thermostat for one or more floor levels.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall correct heating system as required to provide the required temperatures. Balance dampers, registers and make minor adjustments one time only.

ii. Defect: Inadequate cooling.

(1) Performance standard: Where air conditioning is provided, the cooling system is to be capable of maintaining a temperature of 78 degrees F. as measured in the center of each room at height of five feet above the floor, under local outdoor summer design conditions as specified in the latest edition of the New Jersey U.C.C. Energy Subcode and ASHRAE Handbook in effect at the time the home was constructed.

(2) Note for Air Conditioning: The cooling cycle outdoor design temperature established by ASHRAE provides for a maximum of 12 degree temperature differential between the outdoor and the indoor temperature. There may be periods when the outdoor temperature rises above the design temperature, thereby raising the temperature in the home. Orientation of the home and location of rooms will also provide a temperature differential, especially when the air conditioning system is controlled by a single thermostat for one or more floor levels.

(3) Builder/Warrantor responsibility: The Builder/Warrantor shall correct cooling system to meet the above temperature requirements.

iii. Defect: Ductwork and heating piping not insulated in uninsulated areas.

(1) Performance standard: Ductwork and heating pipes that are run in uninsulated crawlspaces, garages or attics are to be insulated in accordance with the New Jersey U.C.C. Energy Subcode. Basements are not "uninsulated areas", and no insulation is required.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall install required insulation.

iv. Defect: Refrigerant lines leak.

(1) Performance standard: Refrigerant lines that develop leaks during normal operation are defects.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall repair leaking lines and recharge unit as required.

v. Defect: Condensate lines clog-up.

(1) Performance standard: Condensate lines will clog under normal conditions.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall provide clean and unobstructed lines on warranty date.

(3) Owner responsibility: Continued operation of drain line is homeowner maintenance item.

vi. Defect: Improper mechanical operation of evaporative cooling system.

(1) Performance standard: Equipment that does not function properly at temperature standard set is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall correct and adjust so that blower and water system operate as designed.

vii. Defect: Ductwork noisy.

(1) Performance standard: Noise in ductwork may occur for a brief period when the heating or cooling begins to function and is not considered a defect. Continued noise in the ductwork during its normal operation is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall take necessary steps to eliminate noise in the ductwork.

viii. Defect: Ductwork separates, becomes unattached or leaks excessive air.

(1) Performance standard: Ductwork that is not intact or securely fastened and leaks air excessively is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall reattach and resecure all separated or unattached ductwork and seal joints or seams that leak air.

(1) Rules concerning electrical systems are as follows:

**1. Electrical conductors:**

i. Defect: Failure of wiring to carry its designed (fuse) load to switches and receptacles.

(1) Performance standard: Wiring that is not capable of carrying the designed load, for normal residential use to switches and receptacles and equipment is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall check wiring for conformity with the N.J. U.C.C. The Builder/Warrantor shall replace wiring if it does not conform to code requirements or fails to conform to the design load requirements.

**2. Switches and receptacles:**

i. Defect: Fuses blow, or circuit breakers kick out.

(1) Performance standard: Fuses and circuit breakers which deactivate under normal usage, when reset or replaced is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall check wiring for conformity with the N.J. U.C.C. The Builder/Warrantor shall replace wiring or breaker if it does not conform to code requirements or it is defective.

ii. Defect: Drafts from electrical outlets.

(1) Performance standard: The electrical junction box on exterior walls may produce a slight air flow whereby the cold air can be drawn through the outlet into a room. This problem is normal in new home construction.

(2) Builder/Warrantor responsibility: None, except where it is determined the installation is faulty and creates an excessive draft.

iii. Defect: Malfunction of electrical outlets, switches or fixtures.

(1) Performance standard: All switches, fixtures and outlets which do not operate as intended is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor repair or replace defective switches, fixtures and outlets, in accordance with the N.J. U.C.C.

**3. Service and distribution:**

i. Defect: Ground fault interruptor trips frequently.

(1) Performance standard: Ground fault interruptors are sensitive safety devices installed into the electrical system to provide protection against electrical shock. These devices are sensitive and can be tripped very easily. Ground fault interruptors are required on outlets located in the kitchen, bath and powder rooms along with all exterior outlets. Ground fault outlets which do not operate as intended is a defect.

(2) Builder/Warrantor responsibility: The Builder/Warrantor shall install ground fault interruptors in accordance with the N.J. U.C.C. If the device is defective, the Builder/Warrantor shall correct the problem by replacement.

**5:25-3.[5]6 Structural and mechanical system standards**

The structural and mechanical systems standards to be used in determining the adequacy of design, materials and workmanship for the structural components of the one and for the mechanical systems of the home including plumbing, electrical and heating and cooling systems shall be the provisions of the State Uniform Construction Code in effect on the date that the construction permit under which the new home was constructed was issued. [The standards of adequacy for heating and cooling system capability shall be as specified in N.J.A.C. 5:25-3.4(k) 4 and 5 of this section. The standards of adequacy for electrical and plumbing systems shall be as specified in N.J.A.C. 5:25-3.4(k) 9 and 3.4(k)3.] **The standards of adequacy for plumbing systems shall be as specified in N.J.A.C. 5:25-3.5(K)3; for Heating and Air Conditioning systems shall be specified in N.J.A.C. 5:25-3.5(K)5 and for Electrical system capability shall be as specified in N.J.A.C. 5:25-3.5(J).**

**5:25-3.[6]7 Major [construction] structural defects**

[The standards to be used in determining the existence of a major construction defect shall be those of the N.J. Uniform Construction Code in effect on the date that the construction permit under which the new home was constructed was issued.]

(a) **The load bearing portion of a home is defined as the framing members and structural elements that transmit both dead and live loads of the home to the supporting ground. Examples of load bearing elements are: roof rafters and trusses; ceiling and floor joists; bearing partitions, supporting beams, columns, basement and foundation walls, and footings.**

(b) **A structural failure will not be considered a defect until it has been established by the Bureau of Construction Code Enforcement under the Uniform Construction Code in effect on the date that the Construction Permit under which the new home was constructed was issued as an actual or pending structural failure of some part of the load bearing system as defined in (a) above. To be eligible, such defect does not have to render the home uninhabitable, however, it must be of such a serious nature that it vitally affects the use of the home for residential purposes and the Construction Code Official shall issue a notice to that effect under N.J.A.C. 5:23-2.32 (Unsafe Structures).**

(c) **The following are excluded as major structural defects:**

**1. Changes by the owner to the established grade lines affecting basement and foundation walls;**

**2. Movement caused by flood or earthquake;**

**3. Actual or resultant damage caused by lighting, tornado, unnatural high winds or hurricanes;**

4. Damage caused by additions or alterations to the home;
5. Improper loading over and above the design criteria for which that portion of the house was intended;
6. Resultant structural damage due to fire;
7. Changes in the water level which is caused by new development in the immediate area or can be directly traced to an act of nature;
8. Water seepage in basement or crawlspace after the first year of coverage.

(d) In the case where a major structural defect exists and the home is rendered uninhabitable, the Builder/Warrantor shall be responsible to pay for reasonable living expenses of the owner until the home is made habitable should the condition occur during the first two years of the warranty. The State Plan or private plan will assume such responsibility during the third through tenth year coverage.

#### 5:25-3.[7]8 Limit on liability

The liability of a builder under the new home warranty shall be limited to the purchase price of the home in the first good faith sale thereof or the fair market value of the home on its completion date if there is no good faith sale. In the event a Certificate of Participation misstates the purchase price or the commencement date and the homeowner fails to notify the New Home Warranty Program within 45 days from the actual warranty commencement date, the limit of liability shall be as stated on the Certificate of Participation at the time of validation.

#### 5:25-3.[8]9 Warranty minimum

(No change in text.)

#### 5:25-3.[9]10 Remedy exclusive

Pursuant to New Home Warranty and Builders' Registration Act (P.L. 1977, c.467) the filing of a claim against the warranty specified by this subchapter shall constitute the election of a remedy and shall bar the owner from all other remedies. Nothing herein shall be deemed to limit the owner's right to elect other remedies except that such election shall bar the owner from pursuing the same claim under the warranty specified in this subchapter and in accordance with the procedures related hereto. For the purpose of this section, election of other remedies shall mean the filing of a complaint, counter-claim, cross-claim or third party complaint in any court that alleges matters covered by the warranty in particular or unworkmanlike construction in general.

#### 5:25-4.2 Requirements

(a) In order to receive or maintain an approval a private plan shall conform to all the requirements specified in this section.

(b) The private plan shall provide financial security adequate to cover the total amount of claims that may be reasonably assessed against participating builders and adequate to cover the costs of operation of the plan.

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

(e) A private plan shall provide a complaint, claims and payment procedure which:

- 1.-2. (No change.)
3. Provides the owner with an opportunity to accept or reject [a conciliation] an arbitration decision in satisfaction of the claim and notice of the opportunity to appeal that decision to a court of competent jurisdiction.
4. (No change.)
5. Provides for a process through which arbitration decisions that either party finds to be technically unsound, not specifically in accordance with the Act and these regulations or outside the

scope of the arbitrator's authority may be reviewed. This process shall provide for the following:

i. A review of the decision by a panel of qualified, disinterested third parties who shall determine if the award is technically sound in accordance with the Act and these regulations and within the scope of the arbitrator's authority. A copy of the review shall be given to the owner, builder, private plan and the Department.

ii. A new arbitration hearing when ordered by the Department as a result of the finding of the review panel that the decision was technically unsound, not specifically in accordance with the Act and these regulations or outside the scope of the arbitrator's authority.

(f) (No change.)

(g) Private plans shall maintain such loss and payment records as the Department may require and shall provide such reports as the Department may require including, but not limited to the following:

1.-2. (No change.)

3. Within ten days, all private plans shall notify the Department in all cases where a builder's enrollment has been terminated and shall provide sufficient information on the cause of termination as it relates to N.J.A.C. 5:25-2.5 "Denial, Suspension and Revocation of Registration."

(h)-(j) (No change.)

#### 5:25-4.3 Application approval

(OAL NOTE: The current text of 5:25-4.3 is deleted in its entirety and replaced by the following.)

(a) Applicants for approval of a private plan shall submit a written application in letter form, the required fee in the amount of \$5,000 which is non-refundable and any additional information the Department may require.

(b) Each application for approval shall contain all such information as may be necessary to determine that the plan if approved will conform to the requirements established by N.J.A.C. 5:25-4.2. Such information shall include but not be limited to, the following:

##### 1. Warranty Guarantor:

- i. The name, full street and postal address and telephone number of the warranty guarantor;
- ii. The documents necessary for the qualifications of the warranty guarantor, as required by N.J.A.C. 5:25-4.2(j);
- iii. A copy of the agency agreement between the warranty administrator and the warranty guarantor, if any.

##### 2. Warranty Administrator:

- i. The name, full street and postal address and telephone number of the warranty administrator if different from the warranty guarantor;
- ii. Copy of the Certificate of Incorporation if the warranty administrator is a corporation, copy of the Partnership Agreement if the warranty administrator is a general or limited partnership, other business organization papers if organized under another form;
- iii. The names, addresses and positions of all principals of the corporation, partnership or other type of business entity and the percent of interest held by each.

##### 3. Agents:

- i. The name, full street and postal address of the agents for service of process for the warranty guarantor and warranty administrator who shall be a resident of the State of New Jersey or a corporation licensed to do business in New Jersey.

##### 4. Division of responsibility:

i. Specific information in narrative form on the division of responsibility between the builder and the warranty guarantor for the processing and satisfaction of claims under the warranty security plan, detailing such information as the coverage periods under the warranty for which either the builder or the warranty guarantor is primarily responsible.

**5. Rate schedule and charges:**

i. The rate schedule of charges by the warranty guarantor showing all rate classes and the manner in which charges are determined, including a justification for any deductible amounts charged to an owner, builder or the warranty administrator;

ii. The rate schedule of charges or fees, if any, by the warranty administrator for builder membership in the private plan;

iii. A complete breakdown of proposed plan expenses for the warranty administrator, expressed in percent of the total premium dollars collected, including but not limited to expenses for overhead costs, advertising, dispute settlement services, claims processing, etc.

**6. Financial security:**

i. A certified, audited financial statement of income and expense for the warranty administrator, showing assets and liabilities for the fiscal year directly preceding the date of the application; and an estimated statement of income and expenses for the current fiscal year; and a certified statement of assets and liabilities as of the date of the application;

ii. A full description of the manner by which financial security is assured and through which sufficient funds to pay all claims which may be reasonably anticipated are available. The Plan's procedures for receipt of premiums and other funds shall be included.

**7. Complaint/claims process:**

i. A full description of the complaint/claims process proposed for use by the private plan which clearly specifies the respective responsibilities of the warranty administrator and the warranty guarantor, if different entities. The description shall include all time limits established for action by any party;

ii. Specific information of the plan's technical "Quality Standards" and Major Structural Defects Standards, including all exclusions, with full description of how the plan will deal with such exclusions.

**8. Copy, samples and submissions:**

i. Final copy of samples of the notice of warranty, claims forms and dispute settlement procedures required by N.J.A.C. 5:25-4.2(e). The name and address of the agency or agencies that will provide settlement services for the plan must be included and a full description of the manner in which dispute settlement will be conducted under the plan.

ii. Final copy samples of any contractual agreements between member builders and the warranty administrator, including indemnification agreements, member application and all other forms;

iii. Final copy samples of the homeowners' package, including the warranty, insurance policy and all forms used;

iv. Copy of the plans' builder information program literature.

**9. Federal Trade Commission regulations:**

i. A legal opinion from the plan's attorney regarding the applicability of any regulation administered by the Federal Trade Commission and the Magnuson-Moss Warranty Act.

**10. Affidavit of application certification:**

i. Provide an affidavit signed by the responsible partners and notarized certifying that in the event the approval is granted to the Private Plan by the Department of Community Affairs of this filed Application, that the Warranty Guarantor, Warranty Administrator and Agents are fully and completely aware of all the requirements and conditions of the Act and Regulations for

the Private Plan and all Amendments thereto; and that they will abide by all requirements and conditions of the Act and Regulations and Amendments thereto; and that they will operate the Plan exactly as stated in their Application without any deviation from the filing.

(c) Each application for approval as a private alternate new home warranty security plan shall be submitted in the following manner:

1. Two sets of the required information and documents shall be submitted in separate binders, maximum size to be 8½" by 11", fastened at the top or side in such a manner as to permit the reading of each page without requiring removal, the first page of which shall be a table of contents.

2. All information and documents shall be arranged in the order set forth in (b) above.

3. Each binder shall note the name and address of the person responsible for preparation of the application on the front cover.

4. The right side of the first page of each section shall bear a tab numbered in conformity with the table of contents. Each tab shall be visible without the necessity of lifting any other tab.

5. If a section or document is omitted a single sheet of paper, properly tabbed, shall be inserted containing a description of what is omitted and an explanation as to the reason for the omission.

6. Any information or document which cannot practicably be included in the binder shall be submitted in a separate folder and a notation of such shall be in the binder.

(d) Each application for approval of a private plan shall be accompanied by a non-refundable application fee in the amount of \$5,000.

(e) Upon receipt of a complete application for approval, in proper form, accompanied by payment of the proper fee, the Department shall, within 10 business days, issue a notice of filing indicating the application is complete as to contents and form. This notice shall not be construed as an approval of the application or any portion thereof.

(f) Within 90 days from the date of the notice of filing or notice of correction as provided in (g) below, the Department shall enter an order approving the application, provided the Department affirmatively determined that the private plan meets the requirements set forth in the Act and these regulations and that there is reasonable assurance that the private plan will act in accordance with the Act and these regulations.

(g) When the Department determines that any of the requirements of the Act or these regulations have not been met it shall notify the applicant of the deficiencies and the applicant shall make the necessary corrections within 30 days.

(h) In the event an order of approval is not issued within 90 days from the date of the notice of filing or notice of correction, no notice of rejection is issued or the applicant has not consented to an extension, the application shall be deemed to have been denied for the purposes of appeal.

(i) In the event the Department finds the application does not meet the requirements of the Act and these regulations it shall issue a notice of rejection which shall include the findings of fact upon which the order is based.

(j) Approval shall be valid for a period of two years from the date of approval. Applications for reapproval shall be filed with the Department not later than 60 days before the expiration of the previous approval. No private plan shall permit approval to lapse so long as any home is covered by the warranty secured by the program. Applications for reapproval shall be accompanied by a \$1,000 fee and shall include such information as may then differ from that submitted on the original application for approval. If nothing has changed then the application for

renewal of approval shall so certify. The Department shall then review the application for renewal and if required, stipulate any conditions imposed for renewal.

(k) If at any time during the period of approval any material fact stated or described in the application for approval shall change, the applicant shall file an amended application with the Department within 30 days the change takes place. No change, except as may be made outside the control of the applicant, shall be made without prior approval of the Department.

1. Whenever a private plan shall seek to substitute one warranty guarantor or administrator for another, such shall be permissible, provided that the rights and benefits due owners under the plan, shall not be materially affected.

5:25-4.5 Denial, suspension or revocation hearing

(a) Whenever the Department shall believe that it has cause to suspend, deny or revoke approval, [the procedure followed shall be as herein provided] **the following procedure shall apply:**

1. (No change.)

2. Hearing: The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act (P.L. 1968, C.410 c.52:14B-1 et seq.) applicable to contested cases. Upon the conclusion of the hearing, the hearing officer shall issue a recommended report and decision, a copy of which shall be furnished the [Director] **Commissioner** and the applicant. Each party shall be afforded 15 days in which to file exceptions, objections and replies hereto.

3. Decision: The [Director] **Commissioner** shall, upon the expiration of the period permitted for the filing of exceptions, objections and replies, issue a decision within 45 days which adopts, rejects, or modifies the recommended report and decision. The decision of the [Director] **Commissioner** shall be final. Failure of the [Director] **Commissioner** to issue a decision within 45 days shall be deemed an affirmation of the decision below.

5:25-5.4 Warranty contributions; amount; date due

(a) Each builder not participating in an approved private plan shall contribute to the State in an amount equal to 0.4 of one percent of the purchase price of the home or the fair market value of the home on its completion date if there is no good faith sale, each time he sells a home. **When the cost of land is not included in the sale the purchase price shall be 1.25 percent of the contract amount and shall be the basis of calculating the premium and will be the dollar value placed on the Certificate of Participation.**

1. Whenever the seller of a new home is not the builder who constructed it, or a builder taking from the builder who constructed it, such as a mortgagee in possession, receiver in bankruptcy, or executor of an estate, such person shall not be excused from payment of premiums or from taking corrective action on complaints, dispute settlement, or the like in the same manner as would any builder. Such person may contract with a builder for such a follow-up services, or may at his option pay an additional 0.4 of one percent of the purchase price of the new home and be relieved of the obligation to provide such follow-up services. The State Plan shall then stand in his place and **the Department will inspect the new home for any defects. The list of defects will be attached to the Certificate of Participation as incompleting portions and will be excluded from warranty coverage until completed under N.J.A.C. 5:25-3.3(d)1.** The additional amount paid shall not be passed through to the owner.

2. **Where a builder is under contract with a property owner to fully construct a new home and provide the required warranty coverage and fails to complete the contract and obtain a**

**certificate of occupancy, the owner may apply to the Department for a new home warranty and pay a premium of 0.8 of one percent of the sales value of the home. Such procedure shall be similar to that defined in N.J.A.C. 5:25-5.4(a)1. A warranty will not be applicable when the home is less than 80 percent complete or it is determined the cause for not completing the home is due to the owner failing to meet their responsibility in the contract.**

Renumber old 2.-3. as 3.-4. (No change in text.)

5:25-5.5 Claims procedure

(a) (No change.)

(b) Owner responsibilities rules are as follows:

1. **Except as specifically required in N.J.A.C. 5:25-3.4,** any owner who believes he has a covered defect shall provide written notice of the **nature** of the defect(s) to the builder not later than seven calendar days after the date on which the warranty on that item expires. The notice shall be delivered to the builder's business address.

2. (No change.)

3. If the matter cannot be resolved through the informal dispute settlement process established in (a)5., (b)1. and 2. above, then the owner may file Notice of Claim and demand for dispute settlement with the Division. The Notice of Claim shall be filed [within 14 days] **not later than 14 days** after the expiration of the 30 day period provided in (b)2. above. The claim shall state the name of the builder, the date on which the notice of defect was given to the builder, the Certificate of Participation number and a copy of the written notice of the defect, as prescribed in (b)1. above.

i.-ii. (No change.)

**iii. Where a claimed defect is filed that cannot be observed or determined under normal conditions it is the owner's responsibility to substantiate that the condition does exist. Any cost involved shall be paid by the owner and if properly substantiated, reimbursement shall be made by the builder or the State Plan, whichever is liable for the claim.**

4. Where an owner of a new home has not received a valid Certificate of Participation pursuant to (a)1. above from the builder then the owner may file both the notice of defect and the notice of claim and demand for conciliation with the Division directly and need not provide notice to the builder. **In the event the builder subsequently pays the warranty premium the Department shall give him notice of any pending claims and the status thereof.**

(c) Rules concerning departmental responsibilities, formal claims resolution process are:

1.-2. (No change.)

3. If all or any part of the dispute remains unresolved after conciliation, the Department shall provide one of the following options:

i. Arbitration:

(1) Where both parties agree, the Division shall designate an arbitrator, who shall hear the matter in accordance with the rules of procedure of the American Arbitration Association. **The arbitrator shall possess proof of satisfactorily passing the course and tests for the One and Two Family Dwelling Code and such proof shall be obtained within two years from (the effective date of these regulations).**

(2) The decision of the arbitrator shall be binding on both parties and reviewable only under such circumstances and to such extent as is available pursuant to the New Jersey Arbitration Act. The decision shall fix responsibility, [and] the extent of the defect, [the manner in which the defect shall be corrected] and the date by which it must be corrected. In all

cases where both parties elect to arbitrate the claims dispute and an arbitration decision has been rendered, there shall be no recourse to subsequent arbitration. **In the event the decision of the arbitrator requires clarification, either party or the Division may request the arbitrator's jurisdiction be reinstated for the sole purpose of clarification of the award.**

(3.)-(4.) (No change.)

(5) **In lieu of separate conciliation and arbitration, the Division may provide, at its sole option and discretion, for an expedited dispute settlement process wherein conciliation and arbitration are performed simultaneously and any agreement arrived at or decision rendered shall be binding as provided in (2) above. Such arbitration shall be subject to the same rules and regulations as defined in (3) above.**

ii. Administrative hearing:

(1) Where both parties do not agree to arbitration, the Bureau of Construction Code Enforcement shall thoroughly review the matter and shall make a decision as to the merits of the claim. This decision shall be binding on both parties, provided, however, that if either party files a notice of appeal of the decision with the Division within 15 days of service of notice of such decision, **such notice shall be accompanied with a certified check in the amount of \$200.00 made payable to the State Warranty Fund.** The Division shall then provide an administrative hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(2) Such hearing shall be held within 30 days of demand by either party, **as in (1) above**, and a recommended report and decision shall be issued within 45 days of the hearing. **The fee of \$200.00 shall be retained, if such decision is found in favor of the Division. If part or all of the decision is found in favor of the complainant, then the decision shall contain a statement as to the amount of the fee to be refunded to the complainant.** Each party shall be permitted 15 days from the date of their receipt of the recommended report and decision to file written exceptions, objections, or argument before the [Director] Commissioner, who shall, within 45 days thereafter, issue a final decision which adopts, modifies or rejects the recommended decision. Failure of the [Director] Commissioner to issue a decision within 45 days shall constitute affirmation of the recommended decision.

(d) Claim on common elements rules are as follow:

1. Claims including common elements in a condominium or cooperative may only be made by an authorized representative of the association. Where, however, the builder retains control of more than 50 percent voting interest in the association, claim may be made by [10 percent of] the owners of unit interest **directly to the Bureau. The claimed common element defect will then be part of the unit claim and processed according to (c) above.**

(e) Final payment in event of builder default rules are as follows:

1. If any builder shall, after receiving the decision of the arbitrator, the Bureau of Construction Code Enforcement or the Director, as the case may be, refuse to correct the defect within the time period specified in the decision, then the owner may file a request for payment with the Department. **Notwithstanding any conciliation agreement or arbitration award, the Division shall inspect the home for the purpose of determining if the defect is covered by the warranty and upon verification that the defect is covered [upon verification of the right to payment,] and upon submission of the bids and review thereof as provided in 2. below**, the Director shall certify the amount of the award to the Treasurer, who shall make payment from the fund.

2. The amount of the award shall, in all cases, be based upon the lower or lowest of two or more bona fide estimates **acceptable to the Division** for the work intended to be covered. Payment shall be made jointly to the owner and to the contractor performing the work upon certification by both of them that the work is complete and the defect has been removed, provided, however, that payment may be made to the owner only, upon presentation of proof that the contractor has been paid. An owner electing to perform the work himself shall receive payment in an amount not to exceed the cost of the materials upon certification by him of the completion of the work and the removal of the defect. Payment shall be made only for work authorized in writing by the Department and upon completion to the Department's satisfaction.

3. (No change.)

4. **When a payment is made under these regulations the owner shall assign to the State all rights, title and interest in any claim or cause of action the owner may have against the builder arising out of the claim for which payment is made. The owner shall execute and deliver any instruments and do whatever else is necessary to secure such rights and shall do nothing to prejudice such right.**

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

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## HEALTH

### (a)

#### PUBLIC HEALTH COUNCIL

##### Disposal of Cremains

##### Public Hearing

Take notice that the Public Health Council hereby announces that a public hearing will be held on a proposed addition to the State Sanitary Code dealing with the Disposal of Cremains. The hearing will be held on:

Monday, January 13, 1986 at 9:30 A.M.  
 Commissioner's Conference Room  
 Health Agriculture Bldg., Room 805  
 John Fitch Plaza  
 Trenton, New Jersey

The proposed new rule, N.J.A.C. 8:9-1.11, appears at 17 N.J.R. 2325(a). This public hearing is being rescheduled due to the cancellation of a public hearing on this subject previously scheduled for November 12, 1985.

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**(a)****LOCAL HEALTH DEVELOPMENT SERVICES****Implementation of Local Health Services Act****Proposed New Rule: N.J.A.C. 8:53**

Authorized By: Charles F. Pierce, Acting State Commissioner of Health.

Authority: N.J.S.A. 26:3A2-1 et seq., specifically 26:3A2-10c.(2) and d, and 26:1A-15.

Proposal Number: PRN 1985-655.

Submit comments by January 2, 1986 to:  
 Ronald S. Ulinsky, Acting Chief  
 Evaluation and Training Program  
 CN 364  
 Trenton, NJ 08625

The agency proposal follows:

**Summary**

N.J.A.C. 8:53 implements the provisions of the Local Health Services Act (N.J.S.A. 26:3A2-1 et seq.). This chapter was originally filed and became effective on March 17, 1977. Revisions to this Chapter were filed and became effective on August 6, 1979, as R.1979 d.300. See: 11 N.J.R. 234(b), 11 N.J.R. 400(d).

Under the provisions of Executive Order No. 66, 1978 (which provides for the expiration of amended or new rules within five years), subchapter 1, Implementation of Local Health Services Act expired on July 19, 1984.

N.J.S.A. 26:3A2-10c. mandates that every municipality not presently providing a program of public health services meeting the minimum standards of performance (N.J.A.C. 8:51) must provide such a program via one of four alternatives. N.J.A.C. 26:3A2-10c.(2) provides that one such alternative is to contract with another health agency to provide the minimum standards.

Further, N.J.S.A. 26:3A2-10d. requires that the Commissioner of Health periodically review every local health department to determine whether it is meeting the minimum standards.

In order to fulfill the above mandate the proposed new rule requires that all municipalities contracting with local health agencies to provide a program of public health services submit to the Department of Health a copy of the contract, so that the Department may review the contract to determine whether the municipality will be in compliance with the minimum standards of performance.

The Department of Health, pursuant to the authority of N.J.S.A. 26:3A2-1 et seq. and N.J.S.A. 26:1A-15 (additional powers of the Commissioner), proposes the expired text of N.J.A.C. 8:53-1 et seq. as a new rule without amendments.

A review of the expired rules follows:

N.J.A.C. 8:53-1.1: This section requires any contract between any county board of health and any board of health other than a participating member, to be submitted to the State Commissioner of Health for approval at least 30 days prior to the contract's effective date.

N.J.A.C. 8:53-1.2: This section requires any contract between any regional health commission and any board of health to be submitted to the State Commissioner of Health for approval at least 30 days prior to the contract's effective date.

N.J.A.C. 8:53-1.3: This section requires any contract between any municipal board of health or any county government and boards of health to which it provides services to be submitted to the State Commissioner of Health at least 30 days prior to the contract's effective date.

N.J.A.C. 8:53-1.4: This section makes sample contract forms available.

**Social Impact**

The proposed new rule shall continue to have a beneficial social impact in that the adoption of these rules shall continue to ensure that contracts between any boards of health or any county government, or any health commission and any other board of health will be in compliance with N.J.S.A. 26:3A2-1 et seq. and the "Standards of Performance." Furthermore, adoption of these rules shall continue to ensure that these contracts are in compliance with all other state laws and codes and that they shall protect the health of the public.

**Economic Impact**

Adoption of these rules shall provide the Commissioner of Health the authority to review local health service contracts for the cost effective delivery of services. Those services which are not cost effective and/or duplicative will not be allowed. The Department of Health will provide consultation on the contract development which will save expenditures for attorneys fees.

Full text of the expired rule, proposed as a new rule, can be found in the New Jersey Administrative Code at N.J.A.C. 8:53.

**(b)****DIVISION OF EPIDEMIOLOGY AND DISEASE CONTROL****Cancer Epidemiology Services  
Cancer Registry****Proposed Repeal: N.J.A.C. 8:57-1.19 and 1.20  
Proposed New Rule: N.J.A.C. 8:57-6**

Authorized By: J. Richard Goldstein, M.D.,  
 Commissioner, Department of Health, in  
 consultation with the Public Health Council.  
 Authority: N.J.S.A. 26:2-104 et seq., specifically  
 26:2-106.

Proposal Number: PRN 1985-654.

Submit comments by January 2, 1986 to:  
 Annette Stenhagen, DrPH  
 Director, Cancer Epidemiology Services  
 Division of Epidemiology and Disease Control  
 New Jersey State Department of Health  
 CN 369  
 Trenton, NJ 08625

The agency proposal follows:

#### Summary

N.J.A.C. 8:57-1.19 and 1.20 concerning the reporting of cancer cases to the New Jersey State Department of Health became effective October 1, 1978.

Pursuant to the requirements and criteria of Executive Order 66(1978), these rules expired on October 30, 1985. The New Jersey State Department of Health has decided not to readopt these expired rules but rather propose a new rule N.J.A.C. 8:57-6.

N.J.A.C. 8:57-1.19 concerned the emergency reporting of bladder cancer for a specified time period. The rule was enacted to enable the Health Department to conduct an emergency investigation of the role of artificial sweeteners in the development of bladder cancer. This study is complete, and the rule is no longer necessary.

N.J.A.C. 8:57-1.20 concerned the reporting of cancer and other tumorous and precancerous conditions to the New Jersey State Department of Health and is mandated by N.J.S.A. 26:2-104-109. This rule will be recodified with minor changes from N.J.A.C. 8:57-1.20 to N.J.A.C. 8:57-6. The establishment of a new subchapter heading for the reporting of cancer and other conditions enables the public to more easily locate the regulations concerning the reporting of cancer. Both the expired rule N.J.A.C. 8:57-1.20 and the proposed rule N.J.A.C. 8:57-6 contain regulations for reporting of cancer and other tumorous and precancerous conditions. The Department's objectives in establishing regulations for such reporting continue to be as follows:

1. To maintain a population-based cancer reporting system for the State of New Jersey. This data base includes all New Jersey residents diagnosed with cancer or other reportable conditions since October 1, 1978.

2. To provide annual New Jersey cancer incidence data by age, race, sex, and geographic area for use in planning and establishing cancer prevention and control activities, and for evaluating progress made in reducing the cancer problem.

3. To provide data and promote studies related to the identification of high risk groups and occupational patterns of cancer occurrence.

4. To promote the establishment or expansion of cancer registry programs in New Jersey health care facilities.

5. To provide educational information to the medical profession and useful feedback information to physicians and hospitals.

The proposed new subchapter, entitled Cancer Registry, defines the disease conditions to be reported to the State Department of Health. The subchapter further delineates that the administrative officers of every health care facility, physicians and dentists, and directors of every independent clinical laboratory shall report to the Cancer Registry. These regulations remain unchanged from the expired regulations.

Reports shall be made on forms supplied by the State Department of Health. The forms must be completed entirely, or supplemental information must be supplied from copies of the history and physical section of the medical record and the discharge summary. If the hospital tumor registry abstract contains all specified information, then these forms may be submitted in lieu of State Department of Health forms. This is a change in the regulation to allow hospitals to supply medical documentation on diagnostic and treatment procedures rather than abstracting this information onto the standard form. Similarly, patient follow-up information may be submitted either on hospital forms or on forms supplied by the Department of Health.

The expired regulations require that a copy of the pathology tissue report and/or hematology report shall be submitted to the Cancer Registry. The proposed regulation requires that a copy of the operative report for surgically treated cases be submitted along with the pathology tissue report and/or hematology report. This additional information is necessary in order to allow the State Department of Health to characterize treatment modalities. Another change specifies the submission of follow-up information on an annual basis to permit analysis of cancer survival patterns.

The expired regulation requiring the reporting of cases within six months of the date of diagnosis or within three months of the date of discharge from the reporting facility remains unchanged.

The expired and proposed regulations also specify that every health care facility and independent clinical laboratory shall allow State Department of Health representatives to obtain all required information from medical, pathological and other records and logs. These representatives shall also have access to or be provided with information on specified cancer patients and other patients for purposes of State Department of Health research studies related to cancer prevention and control.

#### Social Impact

The proposed new rule would have a beneficial social impact. Cancer remains a leading cause of morbidity and mortality in this state and the nation. Adoption of this rule expedites the mechanism for reporting cancer and precancerous conditions to the New Jersey State Department of Health. Registry data are used in a variety of research programs aimed at controlling and preventing cancer as well as special investigations of cancer etiology. The New Jersey State Cancer Registry is the largest population based cancer registry in the free world. It is now a fundamental part of the National Cancer Institute's Surveillance Epidemiology and End Results Program which is the primary source of cancer incidence and survival data for the United States. Reliable data from the New Jersey State Cancer Registry therefore impacts on the health of all Americans.

#### Economic Impact

The proposed new rule does not significantly increase the economic burden of health care facilities, independent clinical laboratories and physicians and dentists who are currently complying with N.J.A.C. 8:57-1.20. The cost to the reporting sources involves the personnel and cost of photo copying the required documents (pathology report, operative report, and in some cases the discharge summary and history and physical). In many cases these costs have been included in the base rate allowed by the State for hospital reimbursement purposes. The regulations would not add unnecessary medical expenditure incurred in the diagnosis and treatment of any case. The regulations save the reporting sources the financial burden of supplying reporting forms unless they choose to use their own abstract.

In the long term, the reporting of cancer case information provides a beneficial impact to the public by facilitating the planning of cancer prevention and control activities and more effective allocation of scarce health resources.

**Delete** in its entirety the current text found in the New Jersey Administrative Code at N.J.A.C. 8:57-1.19 and 1.20.

Full text of the proposed new rule follows.

#### SUBCHAPTER 6. CANCER REGISTRY

##### 8:57-6.1 Reporting of cancer

(a) Cases of cancer and other tumorous and precancerous diseases, which shall be specified in a listing to be supplied by the Commissioner of Health and which are initially diagnosed after the effective date of these regulations, shall be reported to the State Department of Health.

(b) The administrative officer of every health care facility shall be responsible for reporting to the State Department of Health every case of cancer or other specified tumorous and precancerous disease when it is initially diagnosed or first admitted to that facility. A report shall also be given for each subsequent primary cancer diagnosed in an individual.

(c) Every physician and dentist shall report to the State Department of Health an initial diagnosis of each case of cancer or other specified tumorous and precancerous disease not referred to or previously diagnosed in a health care facility in the State of New Jersey.

(d) The director of every independent clinical laboratory shall report to the State Department of Health results of examination of tissue specimens and/or hematology examinations indicating the existence of cancer or other specified tumorous and precancerous disease, not previously reported from that laboratory.

(e) The information to be reported shall be provided upon forms supplied by the State Department of Health. The forms must be completed entirely, or supplemental information must be supplied by submitting copies of the history and physical section of the medical record and the discharge summary. A hospital tumor registry abstract form may be used, provided that information required by the State Commissioner of Health is recorded therein according to standardized definitions utilized by the State Department of Health.

(f) A copy of the pathology tissue report and/or hematology report shall be required in cases confirmed by laboratory analysis.

(g) A copy of the operative report shall be required in cases who receive surgical cancer treatment.

(h) All case reports shall be sent within six months of the date of diagnosis or within three months of the date of discharge from the reporting facility, whichever is sooner.

(i) Follow-up reports shall be sent on each cancer case at least annually to confirm vital status until the patient's death.

(j) Every health care facility and independent clinical laboratory shall allow representatives of the State Department of Health to obtain information from all medical, pathological, and other pertinent records and logs related to cancer cases, as necessary for fulfilling the functions of the cancer registry program.

(k) Every health care facility and independent clinical laboratory shall allow access to or provide necessary information on specified cancer patients and other patients specified by characteristics for research studies related to cancer prevention and control conducted by the State Department of Health and which have been approved by the State Commissioner of Health after appropriate review for assuring protection of human subjects. This shall include patients who came under the care of the health facility prior to the effective date of the regulations.

##### 8:57-6.2 Reportable list

(a) If a diagnosis includes the following words the case must be reported:

CANCER  
MALIGNANT  
CARCINOMA  
SARCOMA  
LYMPHOMA  
LEUKEMIA

(b) Basal cell carcinomas of the skin need not be reported except when diagnosed in the following sites: labia, clitoris, vulva, prepuce, penis, and scrotum. Certain other tumors, along with the more common carcinomas and sarcomas of particular body sites, are reportable and are included in the reportable list. The tumors are listed under the body site of the primary tumor. If it cannot be decided whether a case must be reported, the State Registry Office should be contacted for guidance.

(c) Since "soft tissue" tumors can arise in nearly any body site, the (primary site) soft tissue must also be consulted for any questionable neoplasm.

(d) All conditions which are listed on the reportable list must be reported by each New Jersey facility.

#### ADRENAL

Adrenal cortical carcinoma  
Chromaffin paraganglioma (\*)  
Ganglioneuroblastoma  
Neuroblastoma  
Neuroepithelioma  
Paraganglioma (+)  
Pheochromocytoma  
Sympathicoblastoma

#### ANUS (see G-I tract)

#### APPENDIX (see G-I tract)

#### BILE DUCTS (see gall bladder and bile ducts)

#### BLOOD (see Hematopoietic/Lymphoid)

#### BLOOD VESSELS (see soft tissues)

#### BONE AND JOINTS

Adamantimona  
Ameloblastoma, malignant only  
Angioblastoma (+)  
Angiosarcoma  
Chondrosarcoma  
Chordoma  
Ewing's Sarcoma  
Fibrosarcoma (medullary, periosteal, central, endosteal)  
Giant cell tumor of bone (+)  
Hemangioendothelioma  
Malignant giant cell tumor  
Malignant hemangioendothelioma  
Mesenchymal chondrosarcoma  
Myeloma  
Osteoclastoma (+)  
Osteogenic sarcoma  
Osteosarcoma  
Parosteal osteoma  
Plasmacytoma (+)

**BONE MARROW** (see Hematopoietic/Lymphoid)

**BRAIN AND SPINAL CORD**

- Astroblastoma
- Astrocytoma (fibrillary, gemistocytic, pilocytic, protoplasmic)
- Atypical pineal teratoma (+)
- Ependymoblastoma
- Ependymoma
- Ganglioneuroblastoma
- Germinoma
- Glioblastoma multiforme
- Glioma, all
- Hemangiopericytoma
- Malignant choroid plexus papilloma
- Medulloblastoma
- Medulloepithelioma
- Meningioma (\*)
- Myxopapillary ependymoma (+)
- Neuroblastoma
- Oligodendrocytoma or oligodendroblastoma
- Oligodendroglioma
- Pinealocytoma
- Pinealoma (+)
- Pineoblastoma
- Pineocytoma (+)
- Polarespongioblastoma
- Spongioblastoma
- Subependymal astrocytoma (+)
- Subependymoma (+)

**BREAST**

- Adenocarcinoma
- Apocrine carcinoma
- Colloid carcinoma
- Comedocarcinoma
- Cribiform carcinoma
- Cystosarcoma phyllodes, malignant only
- Ductal carcinoma, in situ
- Fibroadenoma phyllodes, malignant only
- Giant Fibroadenoma, malignant only
- Infiltrating carcinoma, NOS
- Infiltrating ductal carcinoma
- Infiltrating lobular carcinoma
- Intraductal (papillary) carcinoma
- Lobular carcinoma, in situ (+)
- Lobular neoplasia
- Medullary carcinoma
- Non-infiltrating papillary carcinoma
- Paget's disease
- Stromal sarcoma of breast
- Tubular carcinoma

**BRONCHUS** (see lung)

**CERVIX** (see uterus)

**COLON** (see G-I tract)

**EAR** (see skin, soft tissue)

**ENDOMETRIUM** (see uterus)

**ESOPHAGUS** (see G-I tract)

**EYE**

- Epidermoid carcinoma
- Melanoma, malignant
- Retinoblastoma
- Squamous cell carcinoma
- Squamous cell epithelioma
- (Tumors of the orbit: See soft tissues and Hematopoietic/Lymphoid)

**EXTRA-ADRENAL PARAGANGLIA** (see adrenal)

**FALLOPIAN TUBE** (see uterus)

**GALL BLADDER AND BILE DUCTS**

- Adenocarcinoma
- Carcinoma (other)

**GASTRO-INTESTINAL TRACT** (esophagus, stomach, intestine, appendix, colon, anus)

- Adenoacanthoma
- Adenocarcinoma
- Adenoidcystic carcinoma
- (Adeno) carcinoma in Adenomatus polyp with no invasion of stalk
- Adenosarcoma
- Apudoma (+)
- Argentaffinoma (+)
- Bowen's disease of anus
- Carcinoid (except benign)
- Carcinosarcoma
- Clear cell leiomyoma
- Cloacogenic carcinoma
- Epidermoid carcinoma
- Gastrinoma (+)
- Kaposi's Sarcoma
- Leiomyoblastoma (+)
- Leiomyosarcoma
- Linitis plastica
- Lymphoma
- Mixed tumor of esophagus, malignant only
- Paget's disease of anus
- Signet ring cell carcinoma
- Squamous cell carcinoma
- Squamous cell epithelioma
- Transitional cell carcinoma

(See also Hematopoietic/Lymphoid)

**HEMATOPOIETIC/LYMPHOID** (including blood, bone marrow, lymph nodes, spleen, and tumors of hematopoietic or lymphoid histogenesis found in other sites.)

- Acute erythremic myelosis
- Acute megakaryocytic myelosis
- Agnogenic myeloid metaplasia (\*)
- DiGuglielmo syndrome
- Erythroleukemia
- Histiocyte predominant Hodgkin's Disease
- Histiocytic medullary reticulosis
- Histiocytosis-X (\*)
- Hodgkin's Disease
- Letterer-Siwe's Disease
- Leukemia, all
- Leukemic reticuloendotheliosis
- Lymphocyte depleted Hodgkin's Disease
- Lymphocyte predominant Hodgkin's Disease

**HEALTH**

**PROPOSALS**

Lymphoma, all  
 Lymphosarcoma  
 Malignant histiocytosis  
 Malignant lymphoreticular process  
 Malignant megakaryocytosis  
 Malignant reticulosis  
 Megakaryocytic myelosis  
 Mixed cellularity Hodgkin's Disease  
 Multiple myeloma  
 Mycosis fungoides  
 Myeloid metaplasia (\*)  
 Myeloma  
 Myeloproliferative disorder (+)  
 Myelosclerosis (with myeloid metaplasia) (+)  
 Nodular Sclerosing Hodgkin's Disease  
 Panmyelosis (+)  
 Polycythemia Vera (+)  
 Plasmacytoma (+)  
 Reticulum cell sarcoma  
 Sezary's disease  
 Sezary's syndrome  
 Waldenstrom's macroglobulinemia or syndrome

**HYPOPHARYNX (see oral cavity)**

**KIDNEY**

Adenocarcinoma  
 Adenomyosarcoma  
 Clear cell carcinoma  
 Hypernephroma  
 Nephroblastoma  
 Renal cell carcinoma  
 Squamous cell carcinoma  
 Transitional cell carcinoma  
 Transitional cell papilloma (\*)  
 Tubular adenoma (+)  
 Wilms's Tumor

**LARYNX AND TRACHEA**

Adenocarcinoma  
 Adenocystic carcinoma  
 Carcinoid (+)  
 Cylindroma  
 Squamous cell carcinoma

**LIP (see oral cavity)**

**LIVER**

Angiosarcoma  
 Bile duct carcinoma  
 Cholangiocarcinoma  
 Hepatoblastoma  
 Hepatocellular adenoma (\*)  
 Hepatocellular carcinoma  
 Hepatoma (\*)  
 Liver cell adenoma (\*)

**LUNG AND BRONCHUS**

Adenocarcinoma  
 Adenoid cystic carcinoma  
 APUDoma (+)  
 Argentaffinoma (+)  
 Bronchial adenoma (+)  
 Bronchial adenoma (carcinoid type)  
 Carcinoid (+)  
 Cylindroma

Epidermoid carcinoma  
 Large cell (anaplastic) carcinoma  
 Oat cell carcinoma  
 Small cell (anaplastic) carcinoma  
 Squamous cell carcinoma  
 Undifferentiated carcinoma

**LYMPH NODE (see Hematopoietic/Lymphoid)**

**MEDIASTINUM (see Hematopoietic/Lymphoid, soft tissue, or thymus)**

**MENINGES (see brain)**

**MUSCLE (see soft tissue)**

**NERVE (see soft tissue)**

**NOSE (Nasal cavity, Para-nasal sinus and Nasopharynx)**

Adenocarcinoma  
 Epidermoid carcinoma  
 Esthesioneuroblastoma  
 Lymphoepithelioma  
 Malignant mesenchymoma  
 Neuroblastoma  
 Rhabdomyosarcoma  
 Sarcoma botryoides  
 Squamous cell carcinoma

**ORAL CAVITY AND SALIVARY GLANDS**

Adenocarcinoma  
 Adenoid cystic carcinoma  
 Acinic cell carcinoma  
 Acinic cell tumor (+)  
 Cylindroma  
 Epidermoid carcinoma  
 Lymphoepithelioma  
 Melanoma, malignant  
 Mixed tumor, malignant only  
 Mixed tumor, salivary gland type, malignant only  
 Mucoepidermoid carcinoma  
 Mucoepidermoid tumor (+)  
 Pleomorphic adenoma, malignant only  
 Squamous cell carcinoma  
 Transitional cell carcinoma  
 Undifferentiated carcinoma  
 Verrucous carcinoma

**OROPHARYNX (see oral cavity)**

**OVARY**

Adenocarcinoma, NOS  
 Arrhenoblastoma, malignant  
 Borderline tumor (+)  
 Brenner tumor (\*)  
 Carcinoma, NOS  
 Choriocarcinoma  
 Clear cell carcinoma  
 Cystadenoma (\*)  
 Dysgerminoma  
 Embryonal carcinoma  
 Endodermal sinus tumor  
 Endometrioid carcinoma  
 Granulosa cell tumor (+)  
 Granulosa cell carcinoma  
 Granulosa cell tumor, malignant  
 Granulosa-theca cell tumor (+)  
 Gonadoblastoma (+)

Gynandroblastoma (+)  
Leydig cell tumor, malignant  
Malignant teratoma  
Mesonephroid carcinoma  
Mucinous cystadenocarcinoma  
Mucinous papillary cystadenoma of borderline malignancy (+)  
Mucinous papillary cystadenoma with low malignant potential (+)  
Papillary serous cystadenocarcinoma  
Pseudomucinous cystadenocarcinoma  
Seminoma  
Serous papillary cystadenocarcinoma  
Serous papillary cystadenoma of borderline malignancy (+)  
Serous papillary cystadenoma with low malignant potential (+)  
Sertoli-leydig cell carcinoma  
Teratoma, malignant  
Theca-granulosa cell tumor (+)  
Yolk-sac tumor

PANCREAS

Adenocarcinoma  
Alpha-cell adenoma (\*)  
Beta-cell adenoma (\*)  
Cystadenoma (\*)  
Delta-cell adenoma (\*)  
Gastrinoma (+)  
Glucagonoma (\*)  
Insulinoma (\*)  
Islet cell adenoma (\*)  
Islet cell carcinoma  
Islet cell tumor (\*)

PARAGANGLIA

Non-chromaffin paraganglioma (+)  
(see also adrenal gland)

PARATHYROID

Carcinoma, all

PARANASAL SINUSES (see nose)

PENIS

Basal cell carcinoma of Penis and Prepuce (skin of)  
Bowen's disease  
Erythroplasia of Queyrat  
Squamous cell carcinoma  
Verrucous carcinoma

PERICARDIUM (see pleura, pericardium, peritoneum)

PERITONEUM (see pleura, pericardium, peritoneum)

PHARYNX (see oral cavity)

PINEAL (see brain)

PITUITARY

Acidophil adenoma (\*)  
Basophil adenoma (\*)  
Carcinoma  
Chromophobe adenoma (\*)  
Craniopharyngioma (+)  
Eosinophil adenoma (\*)  
Mixed acidophil-basophil adenoma (\*)  
Mucoid cell adenoma (\*)

PLACENTA

Choriocarcinoma  
Chorioepithelioma  
Invasive mole (+)  
Malignant hydatiform mole (+)

PLEURA, PERITONEUM, PERICARDIUM

Fibrosarcoma  
Mesothelioma  
Sarcoma

PROSTATE AND SEMINAL VESICLES

Adenocarcinoma  
Adenoid cystic carcinoma  
Alveolar rhabdomyosarcoma  
Carcinoma  
Carcinosarcoma  
Endometrioid carcinoma  
Rhabdomyosarcoma

RECTUM (see G-I tract)

SALIVARY GLANDS (see oral cavity)

SKIN

Amelanotic melanoma  
Basal cell carcinoma of labia, clitoris, vulva, prepuce, penis and scrotum  
Bowen's disease of anus and penis  
Hutchinson's melanotic freckle  
Lentigo maligna  
Melanocarcinoma  
Melanoma  
Melanosarcoma  
Mycosis Fungoides  
Squamous cell carcinoma  
Superficial spreading melanoma  
Sweat gland carcinoma

(see also soft tissue)

SOFT TISSUE (Including retroperitoneum, peripheral nerve)

Alveolar rhabdomyosarcoma  
Alveolar soft parts sarcoma  
Angiofibrosarcoma  
Angiosarcoma  
Chondrosarcoma  
Clear cell sarcoma of tendons  
Dermatofibrosarcoma protuberans  
Embryonal rhabdomyosarcoma  
Fibromyxosarcoma  
Fibrosarcoma  
Fibrous histiocytoma, malignant only  
Hemangioendothelial sarcoma  
Hemangioendothelioma, malignant only  
Hemangiopericytoma, malignant only  
Juvenile rhabdomyosarcoma  
Kaposi's sarcoma  
Leiomyosarcoma  
Liposarcoma  
Lymphangioendothelioma, malignant  
Lymphangiosarcoma  
Malignant granular cell tumor  
Malignant mesenchymoma  
Malignant rhabdomyoma  
Malignant schwannoma

Malignant xanthofibroma  
 Metastasizing leiomyoma  
 Myosarcoma  
 Myxosarcoma  
 Neuroblastoma  
 Neurogenic sarcoma  
 Neurilemmoma, malignant  
 Neurilemmosarcoma  
 Osteosarcoma  
 Paraganglioma, malignant  
 Reticulum cell sarcoma  
 Rhabdomyosarcoma  
 Sarcoma botryoides  
 Synovial sarcoma

SPINAL CORD (see brain)

SPLEEN (see Hematopoietic/Lymphoid)

STOMACH (see G-I tract)

#### TESTIS

Carcinoid tumor (+)  
 Choriocarcinoma  
 Chorioneopithelioma  
 Embryoma  
 Embryonal carcinoma  
 Embryonal teratoma  
 Endodermal sinus tumor  
 Germ cell carcinoma  
 Gonadal stromal tumor, malignant only  
 Gonadoblastoma (+)  
 Interstitial cell carcinoma  
 Leydig cell carcinoma  
 Mesonephroma  
 Polyembryoma  
 Seminoma  
 Sertoli cell carcinoma  
 Spermatoblastoma  
 Spermatocytic seminoma  
 Spermatocytoma  
 Teratoblastoma  
 Teratocarcinoma  
 Teratoma (+)  
 Vitelline tumor  
 Yolk-sac tumor

#### THYMUS

Epithelioid thymoma (\*)  
 Lymphocytic thymoma (\*)  
 Malignant thymoma  
 Seminoma  
 Spindle cell thymoma (\*)  
 Thymic carcinoid  
 Thymoma (\*)

#### THYROID

Adenocarcinoma  
 Anaplastic carcinoma  
 Follicular carcinoma  
 Giant cell carcinoma  
 Hurthle cell adenoma, malignant only  
 Hurthle cell tumor, malignant only  
 Medullary carcinoma  
 Occult sclerosing carcinoma  
 Papillary carcinoma  
 Undifferentiated carcinoma

TRACHEA (see larynx)

#### URINARY BLADDER, URETER, URETHRA

Adenocarcinoma  
 Adenosarcoma  
 Carcinosarcoma  
 Chemodectoma, malignant only  
 Mullerian mixed tumors  
 Papillary transitional cell carcinoma  
 Papilloma (+)  
 Paraganglioma (+)  
 Pheochromocytoma  
 Rhabdomyosarcoma  
 Squamous cell carcinoma  
 Transitional cell carcinoma  
 Transitional papilloma (\*)

#### UTERUS, UTERINE TUBES, CERVIX

Adenoacanthoma  
 Adenocarcinoma  
 Adenosarcoma  
 Adenosquamous carcinoma  
 Carcinoma in situ CIN III, IV  
 Endolymphatic stromal myosis (+)  
 Endometrial stromal sarcoma  
 Leiomyosarcoma  
 Mesonephric carcinoma  
 Mesonephroma  
 Mixed mesodermal tumor

#### VULVA AND VAGINA

Basal cell carcinoma of vulva, clitoris, and labia  
 Clear cell carcinoma  
 Mesonephroid carcinoma  
 Mesonephroma  
 Paget's disease  
 Squamous cell carcinoma

NOTE: The following superscripts indicate the nature of other than overtly malignant reportable tumors listed:

- (\*) Benign reportable  
 (+) Borderline, reportable

(a)

## DRUG UTILIZATION REVIEW COUNCIL

### Interchangeable Drug Products

### Proposed Amendments: N.J.A.C. 8:71

Authority: N.J.S.A. 24:6E-6(b).

Proposal Number: PRN 1985-643.

A **public hearing** concerning this proposal will be held on December 27, 1985 at 10 A.M. at:

Conference Room A-1  
 Conference Center, 4th Floor  
 Hughes Justice Complex  
 25 Market St.  
 Trenton, N.J. 08625

Submit comments by January 2, 1986 to:  
Thomas T. Culkin, PharmD, MPH  
Executive Director  
Drug Utilization Review Council  
New Jersey Department of Health  
CN 364  
Trenton, N.J. 08625  
609-984-1304

The agency proposal follows:

**Summary**

The List of Interchangeable Drug Products is a generic formulary, or list of acceptable generic drugs which pharmacists must use in place of brand-name prescription medicines, passing on the resultant savings to consumers.

For example, the proposed temazepam capsules could then be used as a less expensive substitute for Restoril, a branded prescription medicine. Similarly, the proposed diazepam tablets could be substituted for the more costly branded product, Valium.

The Drug Utilization Review Council is mandated by law to ascertain whether these proposed medications can be expected to perform as well as the branded products for which they are to be substituted. Without such assurance of "therapeutic equivalency", any savings would accrue at a risk to the consumer's health. After receiving full information on these proposed generic products, including negative comments from the manufacturers of the branded products, the advice of the Council's own technical experts, and data from the generics' manufacturers, the Council will decide whether any of these proposed generics will work just as well as their branded counterparts.

Every proposed manufacturer must attest that they meet all Federal and State standards, as well as having been inspected and found to be in compliance with the U.S. Food and Drug Administration's regulations.

**Social Impact**

The social impact of this proposal would primarily affect pharmacists, who would need to either place in stock, or be prepared to order, those products ultimately found acceptable.

Many of the proposed items are simply additional manufacturers for products already listed in the List of Interchangeable Drug Products. These proposed additions would expand the pharmacist's supply options.

Physicians and patients are not adversely affected by this proposal because the statute (N.J.S.A. 24:6E-6 et seq.) allows either the prescriber or the patient to disallow substitution, thus refusing the generic substitute and paying full price for the branded product.

**Economic Impact**

The proposed amendment will expand the opportunity for consumers to save money on prescriptions by accepting generic substitutes in place of branded prescriptions. The full extent of the saving to consumers cannot be estimated because pharmacies vary in their prices for both brands and generics.

Some of the economies occasioned by this proposal accrue to the State through the Medicaid, Pharmaceutical Assistance to the Aged and Disabled Program, and prescription plan for employees. This saving also cannot be totalled accurately.

Full text of the proposal follows.

Erythromycin ethylsuccinate susp. 200, 400 mg/5 ml	Pharmafair
Amitriptyline HCl tabs 25, 50, 75, 100 mg	Amer. Ther.
Trifluoperazine HCl tabs 1, 2, 5, 10 mg	Zenith
Procainamide tabs slow-release 250, 500 mg	Sidmak
Chlorthalidone tabs 25, 50 mg	Sidmak
Sulfamethoxazole/trimethoprim tabs 400/80, 800/160	Sidmak
Naphazoline HCl 0.025%/pheniramine 0.3% ophth sol	Pharmafair
Dextromethorphan HBr/brompheniramine maleate/pseudoephedrine HCl liquid	Bay
Fluocinolone acetonide 0.01% solution	Bay
Vitamins A, D, C with Flouride 0.25 mg & 0.5 mg soln	Bay
Codeine/guaifenesin/pseudoephedrine liquid	Bay
Trimeprazine tartrate syrup 3.125 mg/5 ml	Bay
Triamcinolone acetonide 0.025%, 0.1% lotion	Bay
Fluocinolone acetonide cream 0.01%, 0.025%	Bay
Fluocinolone acetonide oint. 0.025%	Bay
Brompheniramine/codeine/phenylpropanolamine oral liquid	Bay
Promethazine/codeine liquid	Bay
Promethazine/codeine/phenylephrine liquid	Bay
Promethazine/dextromethorphan liquid	Bay
Promethazine/phenylephrine liquid	Bay
Prochlorperazine edisylate syrup	Bay
Metoclopramide tabs 10 mg	Danbury
Ibuprofen tabs 200, 400, 600 mg	Danbury
Procainamide tabs slow-release 250, 500, 750 mg	Danbury
Furosemide tabs 20, 40 mg	Danbury
Tolazamide tabs 100, 250, 500 mg	Danbury
Betamethasone valerate lotion 0.1%	Lemmon
Hydralazine HCl tabs 10, 25, 50, 100 mg	Camall
Nystatin 100000 U/triamcinolone 1 mg/g cream	Clay-Park
Nystatin ointment 100000 U/g	Clay-Park
Tolbutamide tabs 500 mg	Purepac
Nystatin 100000 U/triamcinolone 1 mg/g cream	NMC
Hydralazine/Hydrochlorothiazide caps 25/25, 50/50	Superpharm
Isosorbide dinitrate oral tabs 5, 10, 20 mg	Superpharm
Acetaminophen/codeine tabs 15, 30, 60 mg	Superpharm
Indomethacin caps 25, 50 mg	Superpharm
Spirolactone tabs 25 mg/hydrochlorothiazide 25 mg	Superpharm
Thioridazine tabs 10, 25, 50 mg	Superpharm
Meclizine HCl tabs 12.5, 25 mg	Superpharm
Chlorpheniramine maleate 8 mg/pseudoephedrine HCl 120 mg caps, slow-release	Graham
Indomethacin capsules, 25, 50 mg	Duramed
Procainamide HCl tabs, slow-release, 500 mg	Copley
Temazepam caps 15, 30 mg	PharmBasic
Dipyridamole tabs 25, 50, 75 mg	Duramed
Diazepam tabs 2, 5, 10 mg	P-D
Chlorthalidone tabs 25, 50 mg	P-D
Indomethacin caps 25, 50 mg	P-D
Spirolactone tabs 25 mg	P-D
Spirolactone 25 mg/hydrochlorothiazide 25 mg tabs	P-D
Hydrocortisone/neomycin/polymyxin B otic susp	Lemmon
Diazepam tabs 2, 5, 10 mg	Par
Hydroflumethiazide tabs 50 mg	Par
Hydroflumethiazide 50/reserpine 0.125 mg tabs	Par
Sulfpyrazone tabs 100 mg & caps 200 mg	Par
Allopurinol tabs 100, 300 mg	Par
Methyldopa 250/hydrochlorothiazide 15 mg tabs	Cord
Methyldopa 250/hydrochlorothiazide 25 mg tabs	Cord
Methyldopa 500/hydrochlorothiazide 50 mg tabs	Cord
Methyldopa 500/hydrochlorothiazide 30 mg tabs	Cord
Ibuprofen tabs 400, 600 mg	Danbury
Chlordiazepoxide 5 mg/clidinium 2.5 mg caps	Barr
Ibuprofen tabs 400, 600 mg	Barr

Propoxyphene napsylate/APAP 50/325, 100/650 mg	Barr
Spirolactone 25/hydrochlorothiazide 25 mg tabs	Barr
Quinidine sulfate tabs 200 mg	Superpharm
Ergoloid mesylates oral tablet 1 mg	Superpharm
Ergoloid mesylates SL tabs 0.5, 1.0 mg	Superpharm
Diazepam tabs 2, 5, 10 mg	Superpharm
Meclizine HCl tabs 12.5, 25 mg	Superpharm
Trimethoprim tabs 100 mg	Danbury
Tolazamide tabs 100, 250, 500 mg	Chelsea
Metoclopramide tabs 10 mg	Chelsea
Ibuprofen tabs 400 mg	Chelsea
Disopyramide caps 100, 150 mg	Chelsea
Diazepam tabs 2, 5, 10 mg	Chelsea
Diphenhydramine HCl elixir 12.5 mg/5 ml	Naska
Nystatin oral susp. 100,000 U/ml	Naska
Carbamazepine tabs 200 mg	PharmBasic
Metoclopramide tabs 10 mg	Purepac
Betamethasone dipropionate lotion 0.05%	NPC, Pharmaderm,
	Fougera, Savage
Betamethasone valerate lotion 0.1%	NPC
Quinidine sulfate tabs 200 mg	PFI
Folic acid tabs 1 mg	PFI
Thioridazine HCl tabs 150, 200 mg	Danbury
Methylodopa tabs 250, 500 mg	Cord
Hydroxyzine HCl tabs 10, 25, 50 mg	Amer Ther
Hydralazine HCl tabs 10, 25, 50 mg	Amer Ther
Propranolol tabs 10, 20, 40 mg	Duramed
Diazepam tabs 2, 5, 10 mg	Barr, Lederle
Disopyramide phosphate caps 100, 150 mg	Barr
Flurazepam caps 15, 30 mg	Barr
Nalidixic acid tabs 250, 500, 1000 mg	Barr
Oxytriphyllyne tabs 100, 200 mg	Barr
Phenylbutazone caps 100 mg & tabs 100 mg	Barr
Propranolol tabs 10, 20, 40, 60, 80 mg	Barr
Tolazamide tabs 100, 250, 500 mg	Barr
Multivitamin/flouride chew. tab 0.5 mg, 1 mg	Amer Ther
Multivitamin/flouride/iron chew, tabs 1 mg	Amer Ther
Ibuprofen tabs 400 mg	Ohm
Erythromycin topical solution 2%	Pharmafair
Desonide 0.5 mg/g cream	DermProd/ Owen
Hydrocortisone butyrate cream, ointment 1%	DermProd/ Owen
Benzoyl peroxide gel 2.5%, 5%, 10%	DermProd/ Owen
Hydrocortisone cream 1%	DermProd/ Owen
Coal tar solution 12%	DermProd/ Owen
Procainamide HCl extended tabs 250, 500, 750 mg	Central

Submit comments by January 2, 1986 to:  
 Grey J. Dimenna, Esq.  
 Administrative Practice Officer  
 Department of Higher Education  
 225 West State Street  
 Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

The Board of Higher Education, through the Chancellor of Higher Education, is statutorily authorized to promulgate rules and regulations to implement the Veterans Tuition Credit Program. The program provides benefits in the form of tuition credits at an institution of higher education to veterans who have resided in New Jersey for at least two years and who were domiciled in New Jersey either at the time of induction or discharge from the armed forces.

First enacted by the Board of Higher Education in 1977, the current regulations expired on November 21, 1984 pursuant to the provisions of Executive Order No. 66(1978). The regulations were noticed in the New Jersey Register on August 20, 1984; however they were not adopted because the program was not funded in the Fiscal Year 1985 budget. As the program received funding in the supplemental bill to the Fiscal Year 1986 budget, it is necessary to now repropose the rules as new.

Since the rules expired pursuant to the Executive Order, the rules are being proposed as new without change to the expired text with the exception of a change in address to which the applications must be sent. In addition, the new rules are being relocated from the administrative policies chapter (N.J.A.C. 9:2) to the student assistance programs chapter (N.J.A.C. 9:7) within the Board's regulations.

The rules establish requirements regarding residency of eligible veterans approved educational institutions, approved full and half time courses of study, benefit amounts, application procedures and payment procedures within the program.

**Social Impact**

Since its inception in the 1977-1978 academic year, the Veterans Tuition Credit Program has not been funded for 1978-1979 academic year or the 1984-1985 academic year. However, during the years it received funding, it served a steadily decreasing number of veterans. The following number of full and part-time students received awards under the program in the following academic years:

1977-78	11,884
1979-80	7,710
1980-81	4,087
1981-82	3,140
1982-83	2,136
1983-84	1,330

The Department anticipates that approximately 10 percent fewer veterans than in the year 1983-1984 will take advantage of the program during the current academic year.

Further, the program also has had a beneficial impact upon the institutions of higher education. The program increased the number of veterans attending these institutions without creating a significant administrative burden. Most colleges and universities already had full-time veteran coordinators who assumed responsibility for the administration of the program on each campus. The Department of Higher Education also monitors the program on a state-wide level within the Tuition Aid Grant and Scholarship Office.

**HIGHER EDUCATION**

**(a)**

**BOARD OF HIGHER EDUCATION**

**Veterans Tuition Credit Program**

**Proposed New Rules: N.J.A.C. 9:2-11 (to be recodified as 9:7-7)**

Authorized By: Board of Higher Education, T. Edward Hollander, Chancellor and Secretary.

Authority: N.J.S.A. 18A:71-64 et seq., specifically 18A:71-71.

Proposal Number: PRN 1985-648.

**Economic Impact**

Award amounts under the statute establishing the program, N.J.S.A. 18A:71-64 et seq., are set at a maximum of \$400.00 per year for full-time students. By regulation, part-time students may receive a maximum award of \$200.00 per year. During the first three years of funding, awards were only available at half the maximum amounts. Since that time, awards have been funded at the maximum amounts. Below follows the total amount of awards granted each year and the average amount of the awards for full and part-time students:

Academic Year	Total Amount of Awards	Average Full-time Awards	Average Part-time Awards
1977-78	\$1,545,031	\$173	\$ 95
1979-80	1,113,619	197	99
1980-81	567,675	200	100
1981-82	851,470	399	179
1982-82	583,036	396	200
1983-84	357,665	399	200

The Department anticipates the total amounts of the awards to be approximately \$322,000 during this academic year. This figure represents a 10 percent reduction from the 1983-84 year.

Full text of the expired rules proposed as new appears in the New Jersey Administrative Code at N.J.A.C. 9:2-11.

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

9:7-7.8 Application procedure

(a) Upon completion of written agreement with the institution and the Chancellor of Higher Education, application forms will be mailed to the eligible institution.

1.-3. (No change.)

- 4. Applications shall be mailed to:  
New Jersey Department of Higher Education  
Veterans Tuition Credit Program  
[P.O. Box 1417] CN 542  
Trenton, NJ 08625

**HUMAN SERVICES**

**DIVISION OF PUBLIC WELFARE**

The following proposals are authorized by Geoffrey S. Persey, Acting Commissioner, Department of Human Services.

Submit comments by January 2, 1986 to:  
Audrey Harris, Director  
Division of Public Welfare  
CN 716  
Trenton, New Jersey 08625

**(a)**

**Public Assistance Manual  
Child Support and Paternity: Availability of  
Services and Application Fee for Non-AFDC  
Applicants; Enforcement Techniques for  
Overdue Support**

**Proposed Amendments: N.J.A.C. 10:81-11.2,  
11.7, 11.9 and 11.20**

Authority: N.J.S.A. 44:7-6 and 44:10-3; 45 CFR 302.33, 302.54, 302.75, and 303.105; Child Support Enforcement Amendments of 1984 (P.L. 98-378).  
Proposal Number: PRN 1985-652.

The agency proposal follows:

**Summary**

The Child Support Enforcement Amendments of 1984 P.L. 98-378) were developed to make critical improvements in the child support system. The recommended improvements include the extension of services to families not receiving assistance under the Aid to Families with Dependent Children (AFDC) program, the strengthening of interstate enforcement, use of proven enforcement techniques and basing of Federal reimbursement on efficiency and effectiveness of program operations.

On enforcement, there is the provision of a remedy for overdue support. It requires the imposition of a late payment fee for cases with an arrearage amount equivalent to 14 days of payment. Such fee accrues as arrearages accrue and is not reduced until the full amount of overdue support is paid.

Obligor who have an arrearage amount of over \$1,000 are subject to reporting to a consumer reporting agency that requests such information. Obligor thus affected have the right to a hearing if the amount of overdue support is being contested.

Support collection and paternity determination services are being made available to families not receiving AFDC benefits. An application fee will be charged to partially offset the administrative costs of handling the case. The fee, however, has been held at a minimum of \$5.00.

All obligees will be eligible to receive an annual report on all support collected in a year. This will enable them to keep track of overdue support for future court activity.

All of the provisions of the amendments stress tighter control of program operations.

**Social Impact**

It is generally believed that a strong enforcement system will have a positive social effect, i.e., parents will become more cognizant of their responsibilities and less apt to leave their families. The value of family maintenance cannot be measured in dollars and cents nor can it be predicted how many families will be favorably affected.

**Economic Impact**

The intent of P.L. 98-378 is generally to increase the effectiveness of the child support enforcement program by requiring states to implement certain enforcement procedures and by emphasizing the need to serve all families in an effective manner. The fundamental reason for this is the belief that the new procedures will increase collections, thus, reducing welfare costs. Additionally, non-AFDC families who utilize support collection services under the new procedures, will find it possible to survive without the need of having to seek public assistance. The overall projection for the increase in collections is \$350 million per year, nationwide. For New Jersey, the expected increase is estimated at \$25 million per year.

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

10:81-11.2 Eligibility requirements

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

(c) **Title IV-D support collections and paternity determinations shall be made available to any individual not receiving AFDC, who files an application with a county IV-D agency.**

10:81-11.7 [Child support collection and establishment of paternity under Title IV-D] **Responsibilities of the State agency**

(a) [State agency responsibilities:] The State Bureau of Child Support and Paternity Programs, located in the Division of Public Welfare, shall be the single organizational unit responsible for the supervision of the administration of the Child Support and Paternity Program. This unit shall be referred to as the Bureau of CSP Programs. [1.] Responsibilities of the Bureau of CSP Programs include but are not limited to the following:

Recodify i.-ix. as 1.-9. (No change in text.)

10. **The assessment of a late payment fee of five percent for overdue support, to be applied the first day of the month following the month in which the support was due.**

11. **To annually send a notice of the amount of support payments collected during the preceding year to individuals who have assigned rights to support, as per N.J.A.C. 10:81-11.2(a)2.**

12. **The processing of requests from consumer reporting agencies, concerning the amount of overdue support owed by an obligor (see N.J.A.C. 10:81-11.9(a)). ("Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.)**

i. **Upon receipt of Form CSP-166 (Consumer Credit Request) from a county agency or a direct request from a Consumer Reporting Agency, the Child Support and Paternity Unit (CSPU) shall investigate the status of the person in question, to determine whether that person is identified in a IV-D case as an obligor.**

ii. **If the person is identified as an obligor but the support account is not more than \$1,000 in arrears, the CSPU will complete Form CSP-167 (Credit Report) and send it to the inquiring consumer reporting agency, indicating that it has been an inappropriate inquiry.**

iii. **If the person is identified as an obligor and has a support account that is more than \$1,000 in arrears, the CSPU will prepare Form CSP-168 (Notice of Account Disclosure) and send it to the obligor, advising that overdue support is more than \$1,000 and that the consumer reporting agency is to be advised of the amount. The notice will also advise the obligor of procedures to follow for an administrative hearing if the amount owed is contested.**

(1) **The obligor shall be given 10 days, from the mailing date of Form CSP-168 to request a hearing. If a hearing is requested, Form CSP-169 (Hearing Request) will be forwarded to the Administrative Office of the Courts (AOC). A hearing shall be scheduled within 30 days from the date of receipt of the request. The hearing decision shall be sent to the obligor and simultaneously to the CSPU for further action.**

(2) **If it is found that the obligor does not owe more than \$1,000, the consumer reporting agency shall be advised, via Form CSP-167.**

**(3) If it is determined that the obligor does not have an arrearage of more than \$1,000, Form CSP-167 will indicate the request was inappropriate.**

10:81-11.9 Responsibilities of the CWA/CSP Unit

(a) This unit shall be responsible for taking appropriate action to locate [absent parents] **obligors**, to establish paternity and/or secure child support due AFDC recipients **and non-AFDC persons**; for securing and timely transmittal of all health benefits information, both voluntary and from new or modified court orders for support of AFDC **and non-AFDC** clients to the State **Bureau of Child Support and Paternity [Bureau]** and the State Division of Medical Assistance and Health Services; for referral of cases, when the whereabouts of the [absent parent] **obligor** is unknown, to the State Parent Locator Service; [and] for providing services for location, filiation and obtaining and enforcing support for non-public assistance persons [.]; **and for referral of requests from consumer reporting agencies, concerning the amount of overdue support owed by an obligor, to the State Bureau of Child Support and Paternity, via Form CSP-166. (See N.J.A.C. 10:81-11.7(a)1xii regarding responsibilities of the State agency.)**

(b)-(g) (No change.)

(h) (See proposals at 17 N.J.R. 369(a) and 17 N.J.R. 2516(b).)

(i)-(k) (See proposal at 17 N.J.R. 369(a).)

[j](1) Title IV-D services available to non-public assistance persons: Appropriate child support services are to be made available to non-public assistance persons upon application filed by such individual with the IV-D Agency. These services shall include locating [absent parents] **obligors**, establishing paternity and security support.

1. Form CSP-111, Application for Non-Public Assistance Child Support and Paternity Services: Non-public assistance individuals requesting services from the CWA shall apply for such services by signing Form CSP-111. This form shall be executed in duplicate. (See N.J.A.C. 10:81-11.2(c) regarding application fee.)

1.-5. (No change.)

10:81-11.20 **Rules concerning application fee for non-AFDC applicants**

(a) **Non-AFDC individuals, who do not have an active support order and who do not know the location of the obligor, shall file an application with the CWA/CSP unit. (Individuals with an active support order or those without an active support order who know the whereabouts of the obligor shall file the application for IV-D services at the appropriate county probation department.) See N.J.A.C. 10:81-11.9(j)1 regarding Form CSP-111, Application for Non-Public Assistance Child Support and Paternity Services.**

(b) **Each non-AFDC applicant shall pay an application fee in the amount of \$5.00.**

1. **The applicant shall be given a receipt to cover the fee, a copy of which shall be retained in a case record file.**

(c) **The \$5.00 fee shall be deposited in the Administration Account as an offset against CSP administrative costs.**

**(a)****Assistance Standards Handbook  
Recovery of Overpayments****Proposed Amendment: N.J.A.C. 10:82-2.19**

Authority: N.J.S.A. 44:7-6 and 44:10-3, and 45 CFR 233.20(a)(13).

Proposal Number: PRN 1985-651.

The agency proposal follows:

**Summary**

The Department of Human Services published proposed amendments to N.J.A.C. 10:82-2.19 regarding recovery of overpayments in the Aid to Families with Dependent Children (AFDC) program in the August 6, 1984 issue of the New Jersey Register at 16 N.J.R. 2055(a). The Department is herewith repropounding amendments to N.J.A.C. 10:82-2.19.

Existing regulations at N.J.A.C. 10:82-2.19 provide that when an adult eligible unit member responsible for the overpayment is no longer receiving AFDC, recovery shall be sought from that individual. Recovery action by reduction of the assistance payment to the remaining members of the eligible unit is precluded. The United States Department of Health and Human Services, Office of Family Assistance, has advised that those State regulations were inconsistent with Federal regulations found at 45 CFR 233.20(a)(13)(i)(B) and directed that the State rules be amended accordingly.

Therefore, the reproposal directs the primary recovery effort toward the "responsible individual" and, failing this for want of practicability or success, requires that recovery action should proceed next against the various units/individuals deemed liable for the overpayment.

Amendments at N.J.A.C. 10:82-2.19(a) and (b) provide definitions of the terms "overpayment" and "underpayment;" clarify that county welfare agencies (CWAs) must take all reasonable steps to promptly correct overpayments; and clarify that overpayments resulting from assistance paid pending a hearing decision are also subject to recovery.

New language at N.J.A.C. 10:82-2.19(a)3 establishes joint liability for an overpayment, in accordance with the aforementioned Federal regulation, among the individual responsible for the overpayment, the overpaid eligible unit, the individual members of the overpaid eligible unit, and any eligible unit of which a member of the overpaid unit subsequently becomes a member. N.J.A.C. 10:82-2.19(a)4 provides a general statement regarding the allowable means of recovering an overpayment.

Existing language at N.J.A.C. 10:82-2.19(a)4, 5, and 6, regarding recovery of an overpayment occasioned by an adult eligible unit member, recovery of an overpayment made to an eligible unit no longer receiving AFDC, and recovery of overpayments caused by administrative error, is being deleted since amendments contained elsewhere in this reproposal address those circumstances.

Amendments at N.J.A.C. 10:82-2.19(a)5 clarify that the recovery amount due may be repaid, in part or in full, by the eligible unit and clarify that for cases subject to monthly reporting, the CWA may deny or suspend assistance for the corresponding payment month to correct an overpayment.

Language at N.J.A.C. 10:82-2.19(a)6 and 7 establish a priority of recovery, which directs CWAs to first take action to

recover the overpayment from the responsible individual. When a member of the eligible unit is the individual responsible for the overpayment, the CWA shall recover from that unit. If the responsible individual is no longer receiving assistance, the CWA shall initiate court action against the responsible individual. If such recovery is not completed through court action, the CWA shall then proceed to recover in accordance with the provisions of N.J.A.C. 10:82-2.19(a)7 described below. If the responsible individual is a member of another eligible unit, the CWA shall recover from that unit.

The priority of recovery for all other circumstances is outlined by the new language at N.J.A.C. 10:82-2.19(a)7. CWAs are directed to recover all overpayments from those individuals liable for the overpayment (as specified at N.J.A.C. 10:82-2.19(a)3) in a logical order: the overpaid eligible unit; any eligible unit of which a member of the overpaid eligible unit subsequently becomes a member; and any individual members of the overpaid eligible unit whether or not currently recipients. Additionally, the rule at N.J.A.C. 10:82-2.19(a)8, requiring recovery of an overpayment from an eligible unit, all members of which are no longer receiving AFDC, to be made through court action, is being clarified to provide that such court action is not mandatory if the family voluntarily repays the overpayment.

Language at N.J.A.C. 10:82-2.19(a)9 incorporates into administrative code the existing procedure of CWAs that, in cases having both an overpayment and an underpayment, one may be offset against the other in correcting the payment.

Language at N.J.A.C. 10:82-2.19(a)14 directs CWAs not to initiate or continue recovery of overpayments of assistance which may have occurred in another state. Federal regulations at 45 CFR 233.20(a)(13) assign responsibility for recovery of AFDC overpayments to the State in which the overpayment occurred, and do not provide for interstate transfer of such responsibility.

**Social Impact**

Since this proposal directs CWAs to first attempt all reasonable efforts to recover from the responsible individual, the negative social impact of this proposal is minimal. However, the Department recognizes that some small negative social impact may be anticipated in certain circumstances when CWAs will be required to seek recovery from remaining members of an overpaid unit, regardless of whether or not those recipients were responsible for the overpayment. It is anticipated that this alternative will be the exception, rather than the general course of events.

No measurable social impact is expected from the amendment precluding CWAs from initiating or continuing recovery action for overpayments which occurred in another state. The social impact, if any, would be to eliminate any undue hardship to the client caused by such recovery.

The remaining amendments provide policy clarification and have no social impact on clients or CWAs.

**Economic Impact**

Inasmuch as this proposal directs CWAs to first pursue recovery from the responsible individual through all available means, including court action against that individual, before pursuing recovery from the remaining individuals deemed liable for the recovery of an overpayment, the negative economic impact of this proposal on the latter recipients is minimized.

The Department anticipates that most overpayments will be recovered from the individual responsible for the over-

payment. The number of cases requiring recovery from remaining members of the overpaid unit is not anticipated to be significant, thus minimizing the negative economic impact on recipients who, although not responsible for the overpayment, are considered liable for recovery of the overpayment.

The policy clarifications contained in the remaining amendments should serve to facilitate program administration. These changes have no adverse economic impact on the Department or CWAs administering the program.

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

10:82-2.19 Overpayments and underpayments.

(a) **Overpayments: Overpayment means a financial assistance payment received by or for an eligible unit for the payment month which exceeds the amount for which that unit was eligible.** Upon discovery of an overpayment, the CWA shall take [action] **all reasonable steps necessary to promptly correct any overpayment** as outlined in (a) of this section. The CWA shall seek recovery of all overpayments regardless of fault, including overpayments caused by administrative action or inaction **and overpayments resulting from assistance paid pending hearing decisions.**

1.-2. (No change.)

**3. Liability for overpayments: Liability for an overpayment is established jointly among:**

i. **The individual responsible for the overpayment;**

(1) "Individual responsible for the overpayment" refers to a recipient who, intentionally or otherwise, e.g., by misstatement or omission, obtains overpayment for himself or herself, or the eligible unit.

ii. **The overpaid eligible unit;**

iii. **The individual members of the overpaid eligible unit; and**

iv. **Any eligible unit of which a member of the overpaid eligible unit subsequently becomes a member.**

**4. Recovery may be accomplished by securing repayment from the existing income and resources of the eligible unit, by reducing the assistance payable to the eligible unit, by suspending assistance payable to an eligible unit subject to monthly reporting, or by securing repayment through court action, if necessary.**

[4. If an adult eligible unit member responsible for an overpayment is no longer eligible or becomes a member of another assistance unit, recovery shall be sought from that individual. When two adults are responsible for an overpayment and one or both are no longer eligible, a proportionate share of the overpayment shall be assigned to each individual and recovery sought. In the event that a dependent child is responsible for the overpayment, recovery shall be sought from all members of the eligible unit.

5. For cases of overpayment caused by administrative error, recovery shall be sought from all members of the eligible unit.

6. Overpayments to an eligible unit which is no longer receiving AFDC, shall be recovered by the CWA through a court of appropriate jurisdiction.]

[3.]**5.** In the circumstances of an overpayment to an eligible unit which is currently receiving assistance (including recipients whose overpayment occurred during a prior period of eligibility), the amount may be repaid **(in part or in full)** by the eligible unit, or the grant shall be reduced by an amount which is equal to 10 percent of the appropriate allowance standard for the family size. The AFDC grant shall be reduced by this amount until such time as the full amount of the

overpayment is recovered. **For cases subject to monthly reporting, the CWA may deny or suspend assistance for the corresponding payment month in accordance with (a)5ii below.** If the grant is reduced to zero because of recovery, members of the eligible unit will continue to be considered [in receipt of AFDC benefits] recipients of AFDC. If the amount payable because of recovery is less than \$10.00, the AFDC check shall be issued in that lesser amount.

i. (No change.)

ii. **The CWA may deny or suspend assistance for the corresponding payment month rather than recover if the eligible unit was ineligible for the budget month, the CWA becomes aware of the ineligibility when the monthly report is submitted, the recipient accurately reported to budget month's income and other circumstances, and the eligible unit will be eligible for the following payment month.**

**6. Priority of recovery when a member of the eligible unit is the individual responsible for the overpayment:**

i. **If the individual responsible for the overpayment is still a member of the overpaid eligible unit, the CWA shall recover the overpayment from that eligible unit.**

ii. **If the individual responsible for the overpayment is no longer receiving assistance, the CWA shall initiate court action against the responsible individual to recover the overpayment.**

(1) **If despite CWA action, recovery is not completed through court action, the CWA shall recover the overpayment in accordance with the provisions of (a)7 below.**

iii. **If the individual responsible for the overpayment is a member of another eligible unit, the CWA shall recover from that unit.**

**7. Priority of recovery in all other circumstances: In all other circumstances the CWA shall recover all overpayments from those individuals considered liable for the overpayment in the following order:**

i. **The overpaid eligible unit;**

ii. **Any eligible unit of which a member of the overpaid eligible unit subsequently becomes a member; or**

iii. **Any individual members of the overpaid eligible unit whether or not currently recipients.**

**8. Overpayments to an eligible unit, all members of which are no longer receiving AFDC, shall be recovered by the CWA through a court of appropriate jurisdiction if the family does not voluntarily repay the overpayment. Where the overpayment amount owed by an eligible unit no longer receiving AFDC is less than \$35.00 or it is determined that recovery efforts are no longer cost effective, the CWA shall proceed in accordance with the provisions of (a)13 below.**

**9. For cases which have both an underpayment and an overpayment, the CWA may offset one against the other in correcting the payment.**

[7.]**10.** (No change in text.)

[8.]**11.** In locating former recipients who have outstanding overpayments, the CWA shall use appropriate data sources such as unemployment insurance files, the Division of Taxation, the Department of Motor Vehicles, Bendex, and other data sources relating to **current or** former recipients.

[9.]**12.** (No change in text.)

[10.]**13.** (No change in text.)

**14. The CWA shall not initiate or continue recovery of any outstanding overpayments of assistance that occurred in another state.**

(b) **Underpayments: Underpayment means a financial assistance payment received by or for an eligible unit for the payment month which is less than the amount for which the unit was eligible, or failure by the CWA to issue a financial as-**

sistance payment for the payment month to an eligible unit if such payment should have been issued. Upon discovery of an underpayment, the CWA shall determine the amount underpaid and proceed as follows:

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

**(a)**

**General Assistance Manual  
Exempt Unemployment Insurance Benefits  
(UIB) Repayments**

**Proposed Amendment: N.J.A.C. 10:85-3.3**

Authority: N.J.S.A. 44:8-111(d).  
Proposal Number: PRN 1985-647.

The agency proposal follows:

**Summary**

The proposed amendment will prevent the counting as income of certain funds which are not, in fact, available. When a General Assistance applicant or recipient returns to the New Jersey Department of Labor (DOL) an endorsed Unemployment Insurance Benefit (UIB) check as repayment of a previous overpayment, the amount will not be considered as income in computing the assistance grant.

**Social Impact**

The proposed amendment would allow General Assistance applicants and recipients who have received overpayments of UIB to cooperate with DOL in its recovery of overpayments. Without this rule, those General Assistance recipients who cooperate with DOL experience grant reductions in the amount of the repayment.

**Economic Impact**

Through elimination of the fiscal penalty for cooperation, the proposed amendment may improve the collection of overpayments by DOL. To the extent that the recovered IUB funds are divisible between the State and Federal governments, each will benefit according to the proportions of the allocation. The amounts are not subject to calculation but the total is expected to be extremely small. The positive impact on any individual will be in the amount of the returned check. The benefits to the State and Federal governments will be offset by additional payments in General Assistance, the cost of which is shared between the State and the municipalities in the ratio of three to one. As with the benefits, the costs are not subject to calculation but are expected to be extremely small.

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

10:85-3.3 Financial eligibility

- (a)-(d) (No change.)
- (e) Rules concerning unearned income are:
  - 1.-4. (No change.)
  - 5. Income exclusions: The following shall not be counted when determining financial eligibility:
    - i.-xi. (No change.)

xii. Unemployment Insurance Benefits for which a check(s) was/were issued, endorsed by the payee, and returned to the issuing agency in repayment of an overpayment. Verification shall be by examination of Employment Service Form B-65, Receipt for Refund of Benefits, a copy of which shall be retained in the case record.

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

**(b)**

**General Assistance Manual  
"Workfare" definition**

**Proposed Amendment: N.J.A.C. 10:85-10.1**

Authority: N.J.S.A. 44:8-111(d) and 114.  
Proposal Number: PRN 1985-646.

The agency proposal follows:

**Summary**

The term "workfare" is used periodically as a convenient reference to the system by which General Assistance recipients perform work or engage in various activities of a training or work preparation nature in return for their assistance grants. The proposed amendment simply acknowledges and defines the term.

**Social Impact**

The social impact of this proposed rule amendment will be reflected in terms of a uniformity of understanding and ease of administration. The amendment merely codifies a commonly used term so as to give it meaning within the context of New Jersey's General Assistance program which requires that employable recipients "work-off" their grants of assistance.

**Economic Impact**

The amendment is not likely to have any significant economic impact because it does not change the flow of dollars to or from any person or agency.

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

10:85-10.1 Work assignments: **"Workfare"**

(a) All employable recipients of General Assistance shall participate in work assignments, **sometimes referred to as "workfare"**, in accordance with the provisions of this subchapter. See N.J.A.C. 10:85-3.2(g) regarding registration.

1. **"Workfare" definition: "Workfare" means the system by which certain persons perform work or engage in various training or work preparation activities in exchange for their grants of assistance.**

- (b) (No change.)

# LABOR

## THE COMMISSIONER

The following proposals are authorized by Charles Serraino, Commissioner, Department of Labor.

Submit comments by January 2, 1986 to:  
George M. Krause, Acting Deputy  
Commissioner and Controller  
Labor Building, Room 1204  
John Fitch Plaza  
Trenton, New Jersey 08625

### (a)

#### Contributions, Records and Reports Remuneration

##### Proposed Amendments: N.J.A.C. 12:16-4.8

Authority: N.J.S.A. 43:21-1 et seq., specifically  
43:21-19(i)(1)(A).  
Proposal Number: PRN 1985-661.

The agency proposal follows:

##### Summary

The proposed amendment reflects a change in the money value for board, meals and lodging which employers provide their employees. The proposal updates the rules to provide current information to determine an employee's taxable wage base for 1986. The change is required as a result of the increase in the taxable wage base beginning January 1, 1986 which is set by the Controller pursuant to statute at the rate of 35 percent the full value of room and board.

##### Social Impact

The proposed amendment to subsection (c) will enable the Department to be in compliance with subsection (b) in the existing rule which states that the Assistant Commissioner for Finance and Controller of the Department of the Labor shall determine the cash value of board, meals and lodging in determining wages payable to an employee and in computing contributions under the law.

##### Economic Impact

The Department foresees a nominal increase in cost to the employers in the State because, for example, a \$7.00 taxable wage increase between 4 to 5 percent will result in a tax increase of about \$0.40. There is no cost increase to the Department.

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

12:16-4.8 Other remuneration

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

(c) Money value for board and room, meals and lodging, shall be treated as follows:

1. (No change.)

2. [Unless the employer can establish different costs determined by generally accepted accounting principles,] The

Controller shall establish rates for board and room, meals and lodging furnished in addition to, or in lieu of, money wages, **unless the employer can establish different costs determined by generally accepted accounting principles**, as follows:

- i. Full board and room, weekly ..... [\$65.00] **\$72.00**
- ii. Meals per day ..... [ 7.80] **8.20**  
if less than 3 meals per day, the individual meals shall be valued as follows:  
Breakfast ..... [ 2.30] **2.40**  
(meals served between 12:01 A.M. and 11:00 A.M.)  
and  
Lunch ..... [ 2.30] **2.40**  
(meals served between 11:00 A.M. and 4:00 P.M.)  
and  
Dinner ..... [ 3.20] **3.40**  
(meals served between 4:00 P.M. and 12:00 P.M.)  
and  
iii. Lodging per week ..... [ 28.00] **31.00**

### (b)

#### Contributions, Records and Reports Temporary Disability Payments

##### Proposed New Rule: N.J.A.C. 12:16-4.10

Authority: N.J.S.A. 43:21-1 et seq., specifically  
43:21-11.  
Proposal Number: PRN 1985-662.

The agency proposal follows:

##### Summary

The proposed new rule defines the taxability of private plan disability payments versus the taxability of sick pay. The new rule will promote uniform application of a definitive standard of determining when sick pay is considered taxable and when an extended sick leave is considered disability and therefore non-taxable. The new rule is necessary due to the various number of private plans and the varied application and differences in such plans throughout the State. The rule establishes a uniform cut-off date between what is considered sick pay and what is considered disability payments.

##### Social Impact

The proposed new rule will enable the Department to conduct the administration of its activities in a more efficient manner by establishing a uniform distinction between sick pay and disability payments among New Jersey employers. By defining when sick pay is taxable versus when a disability leave is non-taxable, the rule will reduce confusion between the distinction which will assist employers in determining what the differences are. Furthermore, with a uniform treatment of the distinction the Department anticipates a reduction in the number of administrative hearings required to clarify any confusion.

**Economic Impact**

The Department foresees no increase in cost either to itself or to the employers in the State. A reduction in administrative costs to both the Department and the employers may be realized by the reduction of required administrative hearings.

Full text of the proposed new rule follows.

12:16-4.10 Temporary disability payments

(a) Payments made to employees under an approved Private Plan shall be considered as taxable remuneration, if payments are for a period of less than seven consecutive days following the date of disability.

(b) Payments made for periods after the seventh consecutive day following the date of disability shall not be considered as taxable.

(c) If the period of disability extends to the twenty-second day of disability and payment is made for that twenty-second day, then the first seven days, referred to in (a) above would not be considered taxable.

**(a)**

**Contributions, Records and Reports Due Dates**

**Proposed Amendments: N.J.A.C. 12:16-5.2**

Authority: N.J.S.A. 43:21-1 et seq., specifically 43:21-14(a)(2)(A).

Proposal Number: PRN 1985-663

The agency proposal follows:

**Summary**

The proposed amendment reflects a change in the due dates of the employer's Quarterly Contribution Reports (Forms UC-27). The change in due dates is necessitated by the consolidation of the employer's Quarterly Contributions Report with the Employer Report of Wages Paid (Form WR-30). The UC-27 and the WR-30 are being combined into a single package. The provision for extending the due dates that fall on a Saturday, Sunday or legal holiday is deleted because N.J.S.A. 43:21-14(a)(2)(A) does not permit extensions of filing contributions or reports which are due on the thirtieth day following close of the quarter.

**Social Impact**

The proposed amendment will enable the Department to conduct its activities in a more efficient manner by having both of its reports due on the same day. The due dates of the WR-30 are set by law (N.J.S.A. 43:21-14(a)(2)(A)), whereas the due dates of the UC-27 were set by regulation.

**Economic Impact**

The Department foresees no increase in cost to the employers in the State. The cost to the Department will be reduced since the two reports mentioned above will be now mailed together instead of separately.

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

12:16-5.2 Due dates

(a) Employers' contributions shall be paid and contribution reports filed on a quarterly basis as follows:

Quarter Ending	Due Date
March 31	April 30
June 30	July [31] <b>30</b>
September 30	October [31] <b>30</b>
December 31	January [31] <b>30</b>

(b) Notwithstanding (a) above, the Controller is authorized to require an employer or employers to file contribution reports and pay contributions on a monthly or other basis when, in his discretion, he considers it necessary to do so.

[(c) If the due date of any quarterly report falls on a Saturday, Sunday, or legal holiday, the due date will be the next succeeding day which is not a Saturday, Sunday, or legal holiday.]

**LAW AND PUBLIC SAFETY**

**(b)**

**BOARD OF ARCHITECTS**

**Rules of the Board of Architects**

**Proposed Repeal: N.J.A.C. 13:27-1, 2, 3, 4, 5 and 7.**

**Proposed New Rules: N.J.A.C. 13:27-1, 2, 3, 4, 5, 7 and 9.**

Authorized By: James Gaspari, President, New Jersey Board of Architects.

Authority: N.J.S.A. 45:3-3, -7, N.J.S.A. 45:1-3.2.

Proposal Number: PRN 1985-657.

Submit comments by January 2, 1986 to:

Barbara Hall, Secretary-Director  
State Board of Architects  
1100 Raymond Boulevard, Room 511  
Newark, New Jersey 07102

The agency proposal follows:

**Summary**

The Board of Architects has undertaken a comprehensive review of its regulations in accordance with the spirit of the "Sunset" provisions of Executive Order No. 66 (P.L. 1978). The Board now proposes to repeal N.J.A.C. 13:27-1, 2, 3, 4, 5 and 7 and to adopt a complete revision of these subchapters and one new subchapter, N.J.A.C. 13:27-9. No changes are proposed at this time for N.J.A.C. 13:27-6, the subchapter pertaining to division of responsibility in submission of site plans and major subdivision plots by licensed architects, engineers, land surveyors and planners, or for N.J.A.C. 13:27-8, the recently adopted subchapter pertaining to certified landscape architects.

The proposed revision eliminates some sections of the present rules, adds some entirely new rules, retains some of the present rules without change, and makes both substantive and

technical changes in others. The following description of the proposal explains the proposed regulations and the effective changes from the present regulations.

N.J.A.C. 13:27-1.1 and 1.2. These new sections set out the purpose and scope of the Board's regulations.

N.J.A.C. 13:27-2, Subchapter 2, Administration, was formerly Subchapter 1. This proposed subchapter sets out the Board name and office location, Board meeting schedules, the mode of election of Board officers and their duties, and the duties of the Secretary-Director, in effect amending the present similar provisions of Subchapter 1 to update the information contained in them. New subsection N.J.A.C. 13:27-2.3(d) explains Board policy concerning chronic absenteeism by its members. New section N.J.A.C. 13:27-2.7 describes the contents of the Board Roster which is published periodically. Outdated provisions now contained in N.J.A.C. 13:27-1.9, 1.10 and 1.11 which are inconsistent with presently effective legislation concerning the professional boards will be eliminated.

N.J.A.C. 13:27-3 will contain amended versions of the definitions of "architect" and the "practice of architecture" now appearing as N.J.A.C. 13:27-2.1 and 2.2. Definitions of "architect of record," "principal architect," "incidental uses," "aesthetic principles," "human values" and "human habitative or use," as these terms are used within the meaning and intent of Board regulations are added.

N.J.A.C. 13:27-4. As proposed, Subchapter 4 will include the Board regulations on exemptions and title blocks, replacing the present Subchapter 4 which includes rules pertaining to certificates, seals, and title blocks. N.J.A.C. 13:27-4.1 and 4.2 explain that pursuant to the Board's enabling legislation only licensed architects may perform certain functions with the exceptions set out in the following provisions.

N.J.A.C. 13:27-4.3. This new section interprets the engineering project exemption contained in N.J.S.A. 45:3-10, defining engineering projects in a general way and giving some examples of facilities for which licensed professional engineers may prepare plans and specifications.

N.J.A.C. 13:27-4.4. This section is also new. It further defines work which in the view of the Board is exempt from the statutory requirement that plans, specifications and preliminary data for the erection or alteration of any building must be prepared by a licensed architect, in that such work on "industrial projects" as defined in the section may also be performed by licensed professional engineers. "Industrial projects" include buildings such as high hazard buildings and factory and industrial buildings as classified and defined in the building sub-code of the Uniform New Jersey Construction Code.

N.J.A.C. 13:27-4.5. This section was formerly N.J.A.C. 13:27-7.1. It is proposed for reoption without amendment. It explains the exemption contained in N.J.S.A. 45:3-10 which permits a person to design a single family residence to be constructed by that person solely as a residence for him or her or an immediate family member.

N.J.A.C. 13:27-4.6 and 4.7. These sections describe the requirements for title blocks to be used by licensed architects on drawings, plans and specifications, replacing present sections N.J.A.C. 13:27-4.5, 4.6, 4.7 and 4.9. Requirements for form, lettering and reproducibility remain effectively unchanged. Present subsection N.J.A.C. 13:27-4.5(f) forbidding the use of unlicensed persons' names is omitted as unnecessary. Formats to be used by architects practicing as individuals, partnerships or professional service corporations are set out in proposed N.J.A.C. 13:27-4.7 but present provisions

dictating the kinds of names to be used by firms are omitted. It is the view of the Board that so long as a firm name complies with the requirements of N.J.S.A. 14A:17-14, if it is a professional corporation, and with accepted professional standards for non-misleading firm names where architects practice as individuals or in partnerships, no explicit regulation, defining acceptable firm names is necessary. Also omitted as unnecessary is present section N.J.A.C. 13:27-4.10, referring to information to be included with license renewals.

N.J.A.C. 13:27-4.8, which permits architects to submit title blocks to the Board for approval, remains unchanged.

N.J.A.C. 13:27-4.9 permits the use of engineers' secondary seals and title block for the engineering portion of building project plans, and the use of architects' seals and title blocks on any architectural portion of plans for an engineering or industrial project.

N.J.A.C. 13:27-4.10 provides that all original drawings and specifications shall be signed when prepared and that all copies shall be dated and sealed when submitted to a client or public agency.

N.J.A.C. 13:27-5 is proposed as the subchapter describing requirements for licensure and setting out the Board fee schedule, replacing the present regulations of N.J.A.C. 13:27-3. The present N.J.A.C. 13:27-5 contains a single section describing the form for uniform penalty letters. This section is outdated and unnecessary and is not proposed for reoption.

N.J.A.C. 13:27-5.1 replaces N.J.A.C. 13:27-3.1 without amendment.

N.J.A.C. 13:27-5.2 sets out the general requirements for licensure, including the education and three years practical experience required pursuant to N.J.S.A. 45:3-5. The major change in these requirements is the Board determination that after June 30, 1987 all applicants will be required to hold an National Architectural Accrediting Board (NAAB) approved degree in architecture or to meet alternate educational criteria established by the Board. Historically the Board has exercised its discretion, pursuant to N.J.S.A. 45:3-5, to permit an applicant to substitute practical experience and training for all or part of its formal education requirement. The National Council of Architectural Registration Boards (NCARB) has required since June 30, 1984 that all candidates for council certification must hold NAAB accredited degree or meet alternate educational criteria. The Board has now also determined that it is no longer practical to attempt to acquire by on-the-job training the equivalent of the highly technical education offered in accredited schools of architecture. In recent years few candidates have sought licensure by this alternative route, and the Board has, for several years, notified potential candidates for licensure who wish to substitute experience for formal education that the regulations presently permitting this will be changed and this change will become operative in 1987.

N.J.A.C. 13:27-5.3 explains the limited examination requirements for licensure of professional engineers as architects, replacing the present section N.J.A.C. 13:27-3.3 with one technical change designating the current title of the required examinations.

N.J.A.C. 13:27-5.4 describes the requirements for applicants registered as architects in other jurisdictions replacing N.J.A.C. 13:27-3.4. The general requirements remain essentially unchanged, that is, where the applicant is registered in another jurisdiction with substantially equivalent requirements for licensure the applicant may be registered although the Board retains the discretion to require evidence of competency or to require the applicant to take portions of the NCARB examination not already taken. Where the applicant

is registered in another jurisdiction without substantially equivalent requirements for licensure the Board requires evidence of five years of responsible licensed practice as a principal architect. Requirements relating to residence in the state of registration or in New Jersey are eliminated.

N.J.A.C. 13:27-5.5 consists of a table setting out the experience considered to be equivalent to formal education for those applicants applying before June 30, 1987. The percentage credits allowed, as proposed, differ from those presently accepted pursuant to N.J.A.C. 13:27-3.5. The proposed equivalents, which conform to those approved by NCARB, permit less credit for training in non-accredited schools of architecture and more for credits obtained in an accredited or approved architectural-engineering program. Two years credit instead of one and one-half is given for other bachelor degrees but no credit is given for incomplete programs leading to other bachelor degrees. Two years of qualified practical training will still be equivalent of one year of academic training.

N.J.A.C. 13:27-5.6 is a table setting out the credits to be given for various kinds of training acceptable for fulfilling the three years of practical experience required for all candidates. This section is proposed as a replacement for N.J.A.C. 13:27-3.6 and 3.7. Full and unlimited credit is still permitted for diversified experience in the employ of a registered architect or practice as a principal. Full credit instead of 50 percent will be allowed for employment under the direct supervision of an architect working for non-architectural firms. One year "Experience" credit will be allowed for time spent in a master's or doctoral degree program and one year for teaching and research in an NAAB accredited program. A new provision permits 50 percent credit for non-diversified experience related to architecture under direct supervision of an architect, or diversified architectural experience supervised by an engineer, landscape architect, planner or interior designer. These new experience equivalents conform in general to the NCARB certification requirements in existence before June 30, 1984.

N.J.A.C. 13:27-5.7 replaces and updates N.J.A.C. 13:27-3.8. This section describes the National Council of Architectural Registration Boards examination used by the Board and provides that credit for sections passed will be carried over without limitation, changing the present regulation which set a three year limitation for carrying over credit. The present section N.J.A.C. 13:27-3.9 concerning oral examination which is no longer required, and -3.10 concerning retaking failed examinations are to be eliminated, as are sections 3.11 and 3.12 which have been obsolete since the Board began using the NCARB exam.

N.J.A.C. 13:27-5.8 replaces N.J.A.C. 13:27-3.13. This section sets out the Board's fees, for which no change is proposed at this time.

N.J.A.C. 13:27-7.1 was formerly N.J.A.C. 13:27-4.1. No change is proposed in this section which provides that applicants must pay fees for licenses within 90 days of the granting of licensure.

N.J.A.C. 13:27-7.2, Reinstatement of certificates, in effect amends present section N.J.A.C. 13:27-4.2. As proposed, architects who permit their certificates to lapse may still apply within two years for reinstatement by paying the appropriate fees, and after two years by paying these fees and submitting supplementary application materials so that his or her file may be replaced. In addition, the applicant must submit a written statement concerning his professional activities during the

period of lapse and may be subject to penalties for unlicensed practice if he is found to have been practicing in New Jersey during the period of lapse.

N.J.A.C. 13:27-7.3, Seals, replaces and amends N.J.A.C. 13:27-4.4. It provides that only seals issued by the Board may be used, and that seals must be returned to the Board on the death of the licensee or when his or her license is forfeited.

N.J.A.C. 13:27-9, Rules of Conduct, is proposed as an entirely new subchapter. Its provisions are derived from the NCARB Guidelines on Rules of Conduct, with some amendments to and omissions of sections of the NCARB formulation which were determined by the Board to be unduly vague or inconsistent with the Board's enabling legislation or the Uniform Enforcement Act, N.J.S.A. 45:1-14 et seq. In some cases conduct proscribed in these rules would clearly be professional misconduct or evidence of negligence or misrepresentation or other bases for disciplinary action by the Board. In other cases the rules simply provide "guidelines" for ethical professional conduct.

N.J.A.C. 13:27-9.1, Competence, provides that an architect shall act with reasonable care and competence in conducting his or her practice, shall comply with all applicable building laws and regulations, and shall undertake only that work for which he or she, or any consultants used, is qualified. N.J.A.C. 13:27-9.1(d) points out that where a licensee's competence becomes substantially impaired for medical or other reasons the Board may act to revoke or suspend his or her license.

N.J.A.C. 13:27-9.2, Conflict of interest, deals with commonly encountered situations where a conflict of interest may exist in the course of an architect's practice. Full disclosure in writing and agreement by the client is required where the licensee is accepting compensation from more than one party on a project, and where the licensee's direct or indirect financial interest may influence his or her judgment in representing a client. Compensation for specifying or endorsing a supplier's products may not be solicited or accepted. Where the licensee acts as interpreter of a contract and judge of contract performance he or she must render decisions impartially.

N.J.A.C. 13:27-9.3, Full disclosure, sets out situations, in addition to those described in proposed N.J.A.C. 13:27-9.2(a) and (b), in which the architect should disclose fully and accurately certain information to the public, clients, the Board or other public agencies. N.J.A.C. 13:27-9.3(a) requires that the licensee disclose that he or she is being compensated if he or she is paid to make public statements on architectural questions. N.J.A.C. 13:27-9.3(b) requires complete accuracy in describing qualifications and work experience to clients. N.J.A.C. 13:27-9.3(c) requires that an architect not only disassociate himself from a client who refuses, after advice from the architect, to alter a decision concerning a project which may result in harm to the public, but also to report such matters to the local authorities. N.J.A.C. 13:27-9.3(d) and (e) prohibit knowingly false or misleading statements made to the Board in applying for licensure or in assisting another in his or her application for licensure by the Board. N.J.A.C. 13:27-9.3(f) requires disclosures to the Board of violations by other licensees which appear to constitute a threat of harm to the public.

N.J.A.C. 13:27-9.5(a) provides that all offices maintained for the practice of architecture shall be adequately supervised by a licensee regularly employed in that office.

N.J.A.C. 13:27-9.5(b) provides that an architect shall not sign or seal work which is not his own or for which he is not actually responsible.

N.J.A.C. 13:27-9.5(c) proscribes the attempt to influence the judgment of existing or prospective clients by the use of gifts other than reasonable entertainment and hospitality.

#### Social Impact

The Board's proposal will provide updated and accurate information to licensees and the public about current Board administration and licensure requirements, replacing provisions which have been made obsolete by changes in legislation concerning the professional boards, and by changes resulting from the Board's adoption of the NCARB national licensing examination.

The major substantive change proposed is the requirement, effective June 30, 1987, that all candidates for licensure have obtained a degree in architecture from an approved school. This change will, however, have a limited impact since in recent years only a few candidates have sought licensure by presenting practical experience in lieu of formal education. In so far as possible, all of the affected candidates have been notified of the impending change by the Board, and all should be aware of the similar changes in the requirements for N.C.A.R.B. certification which became effective more than a year ago. This provision is necessitated by the virtual impossibility in practice of obtaining the professional education necessary to pass the licensing examination through on-the-job training. This upgrading of education requirements will benefit the public by assuring that all licensees have an adequate formal education. The administrative burden on the Board of verifying and evaluating the quality of such practical experience will be eliminated.

Changes in credits given for the three years of practical training required of all candidates in addition to their education consist of permitting time spent in graduate programs and research to be credited toward the three year requirement. More credit will also be allowed for certain kinds of employment experience which the Board has found to comply with the legislative intent that experience beyond the acquisition of a bachelor's degree in architecture be required for licensure. The net effect of these changes will be to give the candidate a wider choice of methods of obtaining the required three year credit. These changes will have no impact on the public or the Board.

The new exemption provisions contained in N.J.A.C. 13:27-4.3 and 4.4 constitute definitions with examples of work that is exempt from the requirement of an architect's license if it is performed by a licensed professional engineer. N.J.S.A. 45:3-10 contains an exemption for "engineering projects" but "engineering projects" is not defined. Proposed section N.J.A.C. 13:27-4.3 defines engineering projects and gives examples of the kinds of construction which would be included in the definition. In N.J.A.C. 13:27-4.4 the Board defines "industrial projects" and gives further examples of exempt work which may be performed by a licensed professional engineer, with reference to the building use group classifications which are part of The Uniform Construction Code. This clarification of the scope of architectural practice will thus be of benefit to affected licensees of both the architectural and engineering professions.

By amending the Board's regulations concerning title blocks to make the requirements for firm names consistent with the Professional Service Corporation Act, clarification of title block requirements is provided for those licensees practicing as professional corporations.

The new subchapter on rules of conduct will benefit licensees by providing guidelines to licensees about acceptable professional behavior in a variety of situations.

#### Economic Impact

The proposed new regulations will have little or no economic impact on the Board and consumers. Administrative costs may be slightly decreased in 1987 when the Board will no longer have the burden of processing applications for admission to examination based on experience equivalent to education. The only significant economic impact will be on those few candidates who may have planned to seek admission to examination based on experience equivalent to education, and who will now, if applying after June 30, 1987, have to have completed a bachelor program in architecture in an approved school.

Full text of the proposed new rule follows:

### SUBCHAPTER 1. PURPOSE AND SCOPE

#### 13:27-1.1 Purpose

These rules define and establish guidelines for the practice of Architecture in the State of New Jersey.

#### 13:27-1.2 Scope

The practice of Architecture is regulated by P.L. 1902, c. 29, p. 54 as amended and supplemented (N.J.S.A. 45:3-1 et seq.) and by rules and regulations adopted in accordance with the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.).

### SUBCHAPTER 2. ADMINISTRATION

#### 13:27-2.1 Establishing board name

In accordance with P.L. 1902, c. 29, p. 54 as amended and supplemented (N.J.S.A. 45:3-1 et seq.) the name of this Board shall be the New Jersey State Board of Architects and shall be hereafter referred to as the "Board."

#### 13:27-2.2 Office location

The offices of the Board are located at 1100 Raymond Boulevard, Newark, New Jersey 07102.

#### 13:27-2.3 Meetings of board; quorum

(a) The Board shall hold an annual meeting at the Board office in July of each year.

(b) The meetings of the Board shall be held as scheduled and notice thereof shall be filed in accordance with the Open Public Meetings Law (P.L. 1975, c. 231).

(c) A majority of the appointed membership of the Board shall constitute a quorum (N.J.S.A. 45:1-2.2(d)).

(d) Chronic absence and/or lack of participation by a member in Board activities, as documented by Board records, may be the basis for the submission of a request for replacement to the appropriate authority, as determined by a majority vote of the Board.

#### 13:27-2.4 Election of officers; term; vacancies

(a) At its annual meeting, the Board shall elect from its members a President and a Vice President. These officers shall be elected by a quorum of the Board.

(b) The term of each officer so elected shall be for one year, but shall continue until a successor has been elected and qualified, unless such officer is removed for cause by vote of a quorum of the Board. In the event of a vacancy in an office, an officer shall be elected by a quorum of the Board to fill the unexpired term.

## 13:27-2.5 Duties of officers: committee appointments

(a) The President of the Board shall preside at all meetings, appoint all committees and chairpersons and shall perform all other duties ordinarily pertaining to the Office of the President as herein described, or as may be directed by the Board.

(b) The Vice President shall perform the duties of the President during the absence or incapacity of the President. In the absence of both the President and Vice President, the Board member with seniority shall preside.

## 13:27-2.6 Secretary-Director; duties

(a) A Secretary-Director shall be chosen by the Board to serve as chief administrative officer and official custodian of the records of the Board.

(b) The Secretary-Director shall, in a thorough and efficient manner, fulfill administrative duties as established by the Board, including but not limited to duties in connection with the keeping of minutes of meetings, examinations, correspondence, staff and records.

## 13:27-2.7 Roster; dissemination of statutes, rules and code datas

A roster of architects licensed to practice in New Jersey shall be issued every two years. The roster shall also include the laws and regulations pertaining to the practice of architecture and shall list other appropriate codes relating to practice in New Jersey.

## SUBCHAPTER 3. DEFINITIONS

## 13:27-3.1 Words and phrases defined

The following are definitions of words or terms as used within the meaning and intent of these rules.

"Aesthetic principles" include the concepts of balance, color, harmony, proportion, scale, rhythm, texture, light, mass, and shape.

"Architect" means an individual who, through education, training, and experience, is skilled in the art and science of building design and has been licensed by the State Board of Architects to practice architecture in the State of New Jersey.

"Architect of record" means the licensed architect who signs and seals plans and specifications and assumes responsibility for the project. The architect of record assumes overall responsibility for the project as an individual in practice or as a principal of a firm with more than one owner.

"Architecture" means the art and science of building design and particularly the design of any structure for human use or habitation. Architecture, further, is the art of applying human values and aesthetic principles to the science and technology of building methods, materials, and engineering systems required to comprise a total building project and to accomplish a coherent and comprehensive unity of structure and site.

"Human habitation or use" pertains to the activities of living, including but not necessarily limited to, housing, learning, working, playing, worshipping, assembling, shopping, convalescing and providing health care.

"Human values" include the social, cultural, historical, economic, and environmental influences that impact on the quality of life.

"Practice of architecture", within the meaning and intent of the licensing statute, consists of the rendering or offering to render architectural services in connection with the design and construction of structures which have as their principal purpose human habitation or use, and utilization of space within and surrounding such structures. The services referred to in the previous sentence include planning, providing

preliminary studies, site and building designs, drawings, specifications, and administration of construction contracts. No person, unless licensed to practice, shall be permitted to use the title "architect" or otherwise represent to the public that he or she is registered to practice architecture in New Jersey.

"Principal architect" means an architect who is a partner or a shareholder in a firm with more than one licensed professional.

"Uses incidental to" architectural projects and engineering projects are defined by the following provisions:

1. When the principal purpose of a building or structure is to enclose or accommodate human habitation or use, the engineering of building systems is considered incidental to an architectural project.

2. When the principal purpose of a design is to provide an engineering project, a building to enclose or accommodate the project is considered incidental to an engineering project.

## SUBCHAPTER 4. ARCHITECTURAL PRACTICE AND RESPONSIBILITY; EXEMPTIONS, TITLE BLOCKS

## 13:27-4.1 Scope

N.J.S.A. 45:3-1 et seq. regulates the practice of architecture and licensure of architects to prepare plans, specifications and preliminary data for the erection or alteration of any building.

## 13:27-4.2 Preparation of building plans

Plans and specifications for any building classified by the New Jersey Uniform Construction Code must be prepared by and contain the title block, seal and signature of an architect of record, unless exempted by the following provisions.

## 13:27-4.3 Engineering project exemption

(a) Pursuant to N.J.S.A. 45:3-10 a licensed professional engineer may engage in the business of preparing plans, specifications and preliminary data for the erection or alteration of buildings incidental or supplemental to engineering projects.

(b) Engineering projects are facilities or systems which require the application of special knowledge of mathematical, physical and engineering sciences and which would not be classified for human occupancy.

(c) By way of example, engineering projects would generally include the following:

Water and conservation facilities, storm and flood control systems, sanitary systems, power facilities, transportation systems, communication systems and harbor and shore facilities.

(d) Building alterations may be considered incidental to an engineering project when the purpose is to install or modify mechanical, electric or structural components rather than to change the arrangement or use of space.

## 13:27-4.4 Industrial building exemption

(a) Plans for industrial projects may be prepared, signed and sealed by a licensed professional engineer. Industrial projects include buildings such as those classified as Use Group (H), High Hazard Buildings and Use Group (F), Factory and Industrial Buildings, as defined in the Building Officials and Code Administrators (BOCA) building sub-code adopted as part of the Uniform New Jersey Construction Code pursuant to N.J.A.C. 5:23-3.14.

(b) A secondary use to such buildings may also be designed by a licensed professional engineer when it meets the requirements for an incidental use as defined in the BOCA subcode of the New Jersey Uniform Construction Code.

## 13:27-4.5 Single family exemption

(a) In accord with N.J.S.A. 45:3-10, any person in this State may act as a designer of a detached dwelling and appurtenances thereto to be constructed by that person solely as a residence for that person or member of that person's immediate family.

(b) The person may design the dwelling and all appurtenances thereto, prepare the plans, then file the plans with an affidavit indicating that that person drew the plans.

(c) In lieu of personally preparing the plans, the person may utilize pre-prepared (commercially published, available to the public) plans which bear a certification that they were originally drawn by an architect licensed in any United States jurisdiction, provided that these plans are reviewed, signed, sealed and adapted to the specific site by a New Jersey licensed architect. By signing and sealing these plans, the New Jersey licensed architect assumes full responsibility, just as if the plans were prepared under the architect's direct supervision.

(d) The person, in lieu of personally constructing the residence, may engage others to perform the work.

## 13:27-4.6 Title block on drawings; form; removal

(a) Every architect 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 by the architect.

(b) Such 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, box, 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.

## 13:27-4.7 Title block contents

(a) When the architect practices as an individual, the title block shall contain:

1. The name and location of the project;
2. The full name of the architect;
3. The title "architect";
4. Certificate number and handwritten signature of the architect;
5. The date when signed.

(b) When two or more licensed architects practice architecture as a firm or partnership, the title block shall contain:

1. The name and location of the project;
2. The firm name;
3. The title "architects";
4. The full name and certificate number of each partner named in the title block;
5. The handwritten signature of at least one of the partners;
6. The date when signed.

(c) When professionals in affiliated professions practice architecture as a professional service corporation organized under N.J.S.A. 14A:17-1 et seq. the title block shall contain:

1. The name and location of the project;
2. The professional service corporation name;
3. The full name and certificate number of the architect of record;
4. The handwritten signature of the architect of record;
5. The date when signed.

(d) A similar title block shall be provided on a site plan which shall be included in any set of drawings of a building project.

(e) The title block may contain the initials of the draftsmen or checker, and dates, drawing numbers, revision numbers and such similar incidental items as is customary in architects offices; provided, however, the name of the architect, whether for an individual firm, partnership or corporation, shall be the major size lettering within the heavy borderline of the title block.

## 13:27-4.8 Submission of title block form for approval

Any architect may submit a proposed form of title block to the State Board of Architects for approval.

## 13:27-4.9 Secondary seal/title block

(a) An architect may provide a sub-title block and then apply a secondary seal and signature for the architectural portion of an engineering or industrial project.

(b) An engineer may provide a sub-title block and then apply a secondary seal and signature for the engineering portion of any building project.

## 13:27-4.10 Sealing documents

All working drawings and specifications prepared by the architect or under his or her supervision shall be signed on the original with the personal signature of the architect. Thereafter, all copies of such drawings and specifications shall be dated and sealed prior to submission to the client or filing with a public agency.

## SUBCHAPTER 5. LICENSING; FEES

## 13:27-5.1 Eligibility for licensure

Every applicant for a license to practice architecture in this State shall be required to take the written examination prescribed by the State Board of Architects, except as may be provided in this subchapter.

## 13:27-5.2 Eligibility for admission to examinations

(a) Only individuals are eligible for registration to practice architecture in this State.

(b) An applicant shall present evidence to the satisfaction of the Board that he or she is:

1. More than 18 years of age; and
2. Of good moral character, as established by references from individuals, schools and other records acceptable to the Board.

(c) An applicant shall present evidence, to the satisfaction of the Board, that he or she possesses the following qualifications:

1. After June 30, 1987, all candidates for examination must hold a National Architectural Accrediting Board (NAAB) approved degree in Architecture or meet the alternate education criteria adopted by the New Jersey State Board of Architects. In addition to the educational qualifications, an applicant shall present to the satisfaction of the Board, that he or she has acquired three years of experience as set out in N.J.A.C. 13:27-5.6. This experience shall be subsequent to the completion of the third full year of the educational requirement.

2. On or before June 30, 1987, in lieu of the above educational requirements, the candidate may present for consideration by the Board a record of 13 years experience or experience and partial education as the equivalent of a full course in architecture as described in N.J.A.C. 13:27-5.5, Table 1 and/or as evaluated and required by the Board.

(d) Such experience as required by these rules shall be accomplished in:

1. The office of a reputable registered architect in private practice; or
2. Public employment under the supervision of a registered architect where his or her activities are comparable in scope, in the opinion of the Board, to those of private practice; or
3. Such other professional practice as the Board may approve in accordance with N.J.A.C. 13:27-5.6, Table 2, Training requirements.

(e) No applicant shall be entitled to consideration for admission to the examination for license or shall be permitted to take said examination while a complaint is pending in which the individual is charged with the illegal practice of architecture or while penalties impose pursuant to law remain unsatisfied.

13:27-5.3 Eligibility of professional engineers for admission to examination; limited examinations

An applicant who is licensed to practice professional engineering in the State, is in good standing and is without restriction of complaint or charge of illegal practice of architecture, as described in N.J.S.A. 45:3-5 shall be admitted to the written examinations, which shall be limited solely to Site Design and Building Design.

13:27-5.4 Registration of a person holding an architecture certificate from another jurisdiction

(a) Any person registered to practice architecture in another jurisdiction of the United States, and applying for registration to practice architecture in this State may be granted a certificate under the following conditions:

1. That the applicant is more than 18 years of age and of good moral character, as established by references from individuals, schools, and other records acceptable to the Board.
2. That the applicant is not charged by the Board with a violation of any law relating to the practice of architecture or any violation which would indicate a lack of good character as required by statute; or, having been found guilty of violation, has not satisfied the penalty imposed.
3. That the qualifications required in such other jurisdiction are substantially equal to those now required in this State, and as required under current law.
4. That the applicant has provided satisfactory evidence of competency as the Board, in its discretion, may require.
  - i. Such evidence may consist of, but not be limited to, exhibits of three major projects illustrated in drawings and specifications and photographs; and may include oral examinations.
  - ii. The board may require the applicant to take such portion(s) of the examination as it deems necessary.

(b) In those cases in which the applicant shall have been granted certification in such other state, territory or possession following a period of preregistration experience less than that required for registration in this State, the board in its discretion, may accept, in lieu of such deficiency, equal periods of experience gained by the applicant in his or her own office or in the offices of registered and practicing architects while the applicant held a current, valid certificate of license as an architect in such other state, territory or possession.

(c) In those cases where the applicant shall have been granted registration in such other state, territory or possession on education and experience qualifications not substantially equal to the requirements of this State, the Board may grant registration upon presentation by the applicant of evidence satisfactory to the Board of at least five years of responsible

practice of architecture while holding a valid license as an architect. This five years of responsible practice is defined as five years of practice as a principal architect signing and sealing plans for those years in the state of registration.

13:27-5.5 Education and experience equivalents; Table I

(a) The table below sets out education and experience equivalents referred to in N.J.A.C. 13:27-5.2(c)2.

(b) Credits from a college or university which is located within the United States will not be accepted unless the institution is accredited by the regional association of colleges having jurisdiction, or is approved by the Board.

(c) Credits from a foreign college or university will be evaluated by the Board or by a NAAB accredited school of Architecture on the same basis as they would be evaluated for credit toward graduation by that school, but the cost of translation and evaluation must be borne by the applicant.

(d) When credits are submitted from more than one college or university they will be evaluated on the same basis as by the school last attended.

(e) Periods of practical training will be measured in (12 month) calendar years.

(f) Under 1.5 the maximum of two years credit will be allowed only after full completion of any other Bachelor Degree program. No credit is allowed for partial completion of a Bachelor Degree program.

TABLE I

Item	Description	Percentage Credit Allowed for Each Year Completed		Maximum Allowable Credit in Education Years	Experience Equivalent to Education Years	Required Additional Experience Years	Total Experience Equivalent Years
		First two years	Succeeding years				
1.1	Architectural Program accredited by National Architectural Accrediting Board	75	100	5	10	3	13
1.2	Non-accredited approved by Board	75	75	3-1/2	7	6	13
1.3	Architectural Engineering School accredited	50	75	3-1/2	7	6	13
1.4	Non-accredited approved by Board	50	75	3-1/2	7	6	13
1.5	Any other Bachelor Degree	—	—	2	4	9	13
1.6	Practical training as an employee in the office of a registered architect as a principal. This training must be after graduation from high school.	50	50	5	10	3	13

13:27-5.6 Training requirements; Table II

(a) To satisfy the three-year minimum experience requirement, an applicant must have at least three years of training credits or have completed an equivalent established training program recognized by the Board. The table below sets forth the ways in which training credits can be acquired.

(b) No training credits may be earned prior to satisfactory completion of:

1. Three years in an NAAB accredited bachelor degree program; or

2. The third year of a four year pre-professional degree program in architecture accepted for direct entry to an NAAB accredited master's degree program; or

3. One year in an NAAB accredited master's degree program or such education as, in the opinion of the Board, is substantially equivalent to the above.

(c) No experience used to meet education requirements may be used to earn training credits.

(d) Every applicant must earn at least one year of training credit under 2.1.

(e) To earn training credits, an applicant must work at least 35 hours per week for a minimum period of 10 consecutive weeks under 2.1 or six consecutive months under 2.2, 2.3, 2.4 or 2.5. An applicant may earn one-half of the credits specified under 2.1 for work of at least 20 hours per week in periods of six or more consecutive months. No credits will be given for part-time work in any category other than 2.1

(f) To earn credit under 2.6 or 2.7, an applicant's credit hours must be in subjects evaluated by the State Board as directly related to architecture. Twenty semester hours or 30 quarter credit hours of teaching or equivalent time in research will equal 1 year.

(g) An organization will be considered to be "an office of a registered architect" if the architectural practice of the organization in which the applicant works is in the charge of a person practicing as a principal and the applicant works under the direct supervision of a registered architect.

TABLE II

Type of Experience	Percent Credit Allowed	Maximum Credit Allowed
2.1 Diversified experience in architecture as an employee in the office of a registered architect.	100%	No Limit
2.2 Diversified experience in architecture as a principal practicing in the office of a registered architect with a verified record of substantial practice.	100%	No Limit
2.3 Diversified experience in architecture as an employee of an organization (other than offices of registered architects) when the experience is under the direct supervision of a registered architect.	100%	2 years
2.4 Experience directly related to architecture, when under the direct supervision of a registered architect but not qualifying as diversified experience or when under the direct supervision of a professional engineer, landscape architect, planner or interior designer.	50%	1 year
2.5 Experience, other than 2.1, 2.2, 2.3 and 2.4 above, experience directly related to on-site building construction operations or experience involving physical analyses of existing buildings.	50%	6 months
2.6 A master's or doctoral degree in architecture (except where the degree is the first professional degree).	100%	1 year
2.7 Teaching or research in an NAAB accredited architectural program.	100%	1 year

13:27-5.7 Written examinations; subjects covered; passing required

(a) The subjects covered in the written examination are based on the examinations recommended by the National Council of Architectural Registration Boards and reviewed and approved by the Board as follows:

- Division A Pre-Design
- Division B Site Design
- Division C Building Design
- Division D Structural: General
- Division E Structural: Lateral Forces
- Division F Structural: Long Span
- Division G Mechanical, Plumbing, Electrical and Life Safety Systems
- Division H Materials and Methods
- Division I Construction Documents and Services

(b) Each division successfully passed will be credited to the candidate's record and may be carried over without limitation.

13:27-5.8 Fees

(a) The fees in this section shall be charged by the Board of Architects:

(b) Applicants for examinations or license shall pay a fee of \$25.00 for processing their applications.

(c) The fees for the licensing examination are as follows:

1. Entire Architectural Registration Examination—\$260.00:
  - i. Section I: Pre Design \$40.00;
  - ii. Sections II and III: Site and Building Design \$100.00;
  - iii. Section IV:
    - (1) Structural General \$20.00;
    - (2) Structural Lateral Forces \$14.50;
    - (3) Structural Long Span \$10.50;
    - (4) Mechanical, Plumbing, Electrical Health and Safety \$20.00;
    - (5) Material and Methods \$25.00.
  - iv. Section V: Construction Documents and Services \$30.00;
  - v. The fee for retake of any part of the exam is the same as listed above.

2. If awarded a certificate of license a further charge of \$30.00 is made for issuing it, and of \$25.00 for a seal press and filing it with the Secretary of State. This provides registration to the end of the licensing period in which the license is issued.

(d) Applicants already licensed by another state shall pay an application fee of \$25.00. If awarded a certificate of license, the charge is \$75.00 plus \$25.00 for a seal press and filing with the Secretary of State. This provides registration to the end of the licensing period in which the license is issued.

(e) The fee for reissuing a certificate of license shall be \$15.00

(f) The renewal registration fee shall be \$100.00, payable during the month of July on a biennial basis. When registrations occur within the second year of a biennial period, the fee shall be \$50.00 for that single year or portion thereof, and thereafter \$100.00 for a full biennial period.

(g) The charge for reinstatement of certificate of license shall be \$50.00 if applied for within two years of forfeiture or cancellation. In addition thereto, the applicant shall pay the biennial registration fee or part thereof as the circumstances may require.

(h) The charge for the new seal press shall be \$25.00.

(i) The fee for transmittal of grades, or certification as to registration and status thereof, to other State boards, or to

the National Council of Architectural Registration Boards, or to governmental agencies or governments, shall be \$15.00.

(j) The charge for late payment of biennial registration fees between August 1 and the date of forfeiture shall be \$10.00.

(k) A charge of \$8.00 shall be required for a copy of the "Roster of Architects," except that it shall be issued free to State, county and municipal government agencies and to all architects listed therein.

(l) The following fees shall be charged by the Board of Architects for Landscape Architect Certification matters. Unless otherwise provided herein, all fees are non-refundable.

1. Application for certification under the grandfather clause of L. 1983, c. 337, §17: \$50.00. If an applicant under the grandfather clause is found not qualified for certification under that provision, the \$50.00 fee may be applied toward the examination fee in 3, below.

2. Application to sit for examination: \$100.00.

3. Examination fee: Such fee as is charged by the Council of Landscape Architectural Review Board (CLARB) for the Uniform National Examination. Such proportion of the examination fee as may be established by CLARB shall be subject to refund, upon request, if the applicant is determined to be ineligible for examination, withdraws his application, or fails to appear for examination.

4. License fee for newly certified landscape architects (New Jersey residents), including seal and certificate: \$140.00. Such fee shall be subject to refund upon request, if the applicant is determined to be ineligible for examination, withdraws his application, or fails to appear for examination.

5. License fee for newly certified landscape architects (non-New Jersey residents), including seal and certificates: \$140.00. Such fee shall be subject to refund upon request, if the applicant is determined to be ineligible for examination, withdraws his application, or fails to appear for examination.

6. The fee for biennial renewal of certification shall be \$100.00.

7. The fee for reinstatement of certification shall be \$50.00 in addition to the fee for biennial renewal of certification.

8. A fee for late registration: \$10.00.

9. The fee for reissuing a certificate to any certified landscape architect who attests that the original certificate has been lost, mislaid or destroyed shall be \$15.00.

10. The fee for reissuing a seal to any certified landscape architect who attests that the original has been lost, mislaid or destroyed shall be \$25.00.

11. The fee for transmittal of an applicant or certificate holder's examination grades to another state shall be \$15.00.

12. The fee for a roster of certified landscape architects shall be \$8.00.

#### SUBCHAPTER 7. CERTIFICATES; SEALS

##### 13:27-7.1 Issuance of certificates

When a certificate is granted to an applicant by the Board, the certificate must be accepted by the applicant and all fees paid within 90 days, or a new application will be required.

##### 13:27-7.2 Reinstatement of certificates

(a) Prior to being considered for reinstatement of licensure, any architect whose registration has lapsed or expired shall provide a written statement to the Board delineating the professional activities in which he or she has engaged since his or her license became inactive. In the event that the architect has been found to have practiced architecture in the State of New Jersey during such period of lapsed licensure, he or she

may be subject to penalty for the unlicensed practice of architecture in accordance with N.J.S.A. 45:3-10.

(b) An architect whose certificate has been cancelled by request or forfeited for non-payment of the annual fee may have it reinstated on his or her written request within two years of the date of the cancellation and upon payment of the back fees which would have been paid had the certificate not been withdrawn from active status. In addition to the back fees, there will be a reinstatement fee.

(c) Any architect applying for renewal of a certificate after a lapse of more than two years from the date of the cancellation shall resubmit all application material to the Board in the same manner as a new applicant.

(d) No architect shall be reinstated while any charges of violation are pending against him or her in any state where he or she is or has been registered.

##### 13:27-7.3 Seals

(a) Only seal presses purchased or exchanged through the Board are authorized for use in sealing architectural documents by registrants of the Board. No rubber stamp may be used for such a purpose.

(b) Upon the death of a registrant or the forfeiture of a certificate, the seal shall be returned to the Board. Failure to return a seal rendered invalid by non-payment of renewal fees shall subject the individual to such penalties as provided by law and may be grounds for refusal of the Board to reinstate a license.

#### SUBCHAPTER 9. RULES OF CONDUCT

##### 13:27-9.1 Competence

(a) In practicing architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.

(b) In designing a project, an architect shall take into account all applicable state and municipal building laws and regulations. While an architect may rely on the advice of other professionals (for example, attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, an architect shall not knowingly design a project in violation of such laws and regulations.

(c) An architect shall undertake to perform professional services only when he or she, together with those whom the architect may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved.

(d) No person shall practice architecture if such person's professional competence is substantially impaired by medical or other reasons.

##### 13:27-9.2 Conflict of interest

(a) An architect shall not accept compensation for his or her services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all interested parties.

(b) If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with his or her performance of professional services, the architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest. If the client or employer objects to such association or financial interest,

the architect will either terminate such association or interest or offer to give up the commission or employment.

(c) An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

(d) When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

13:27-9.3 Full disclosure

(a) An architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making such statements.

(b) An architect shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit.

(c) If, in the course of his or her work on a project, an architect becomes aware of a decision taken by his or her employer or client, against the architect's advice, which violates applicable state or municipal building laws and regulations and which would, in the architect's exercise of reasonable judgment, materially affect adversely the safety to the public of the finished project, the architect shall:

1. Report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations;

2. Refuse to consent to the decision; and

3. In circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding his objection, terminate his services with reference to the project.

(d) An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his or her application for registration or renewal.

(e) An architect shall not assist the application for registration of a person known by the architect to be unqualified in respect to education, training, experience, or character.

(f) An architect possessing knowledge of a violation by another architect of these rules or any act administered by the Board shall report such knowledge to the Board where such violation appears to constitute a threat of harm to the public health, safety and welfare.

13:27-9.4 Professional conduct

(a) Each office maintained for the preparation of drawings, specifications, reports, or other professional work shall have an architect resident and regularly employed in that office having direct knowledge and supervisory control of such work.

(b) An architect shall not sign or seal drawings, specifications, reports or other professional work for which he or she does not have direct professional knowledge and direct supervisory control; provided, however, that in the case of the portions of such professional work prepared by the architect's consultants, registered under this or another professional registration law of this jurisdiction, the architect may sign or seal that portion of the professional work if the architect has reviewed such portion, has coordinated its preparation, and intends to be responsible for its adequacy.

(c) An architect shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested.

(a)

BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Fee Schedule

Proposed Amendment: N.J.A.C. 13:40-6.1

Authorized By: Sol Seid, P.E., President, Board of Professional Engineers and Land Surveyors.

Authority: N.J.S.A. 45:1-3.2.

Proposal Number: PRN 1985-658.

Submit comments by January 2, 1986 to:

Cathleen A. McCoy, B.S., M.A.

Secretary-Director

Board of Professional Engineers and

Land Surveyors

1100 Raymond Boulevard, Room 317

Newark, New Jersey 07102

The agency proposal follows:

Summary

The Board of Professional Engineers and Land Surveyors is proposing to amend N.J.A.C. 13:40-6.1 to raise the fees charged by the Board for the processing of applications, administration of examinations, the biennial license renewal, license reinstatement and replacement. Additionally, the Board is proposing a new fee rule. N.J.A.C. 13:40-6.1(a)8 would make fees non-refundable and non-transferable. The Board has thoroughly analyzed its expenses and concludes that the new fees will defray increased costs but not generate excess funds.

Social Impact

The proposed amendments will have little or no social impact. The proposed increases will defray increases in costs to the state. The suppliers of forms, exams, printers, and the exam administrator have increased their fees and postage has also risen.

Economic Impact

The amended fees should yield revenues sufficient to cover the rising expenses generated by the statutory requirement that the Board administer examinations and issue licenses. Whenever fees of this nature increase, it creates some degree of economic hardship on the candidate and licensee. However, in comparison with the economic and social benefit of holding an engineer's or land surveyor's license, the examination fees are a minimum burden.

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

13:40-6.1 Fee schedule

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

1. All application fees shall accompany the application as follows:

i. Engineer-in-training .....	[\$10.00]	<b>\$25.00;</b>
ii. Professional engineer .....	[\$40.00]	<b>\$60.00;</b>
iii. Land surveyor .....	[\$40.00]	<b>\$60.00.</b>

NOTE: These fees do not include the cost of any examination required to be taken.

2. Examination and reexamination fees are based upon the nature of the certificate or license for which the applicant has applied, and will be billed prior to the examination, as follows:

- i. Engineer-in-training (fundamentals of engineering) ..... [\$30.00] **\$45.00;**
- ii. Professional engineer:
  - (1) Fundamentals ..... [\$30.00] **\$45.00;**
  - (2) Specialized training ..... [\$30.00] **\$55.00.**
- iii. Land surveyor: [Two parts, .. \$60.00.]
  - (1) Fundamentals ..... **\$45.00;**
  - (2) Specialized training  
(Principles of land surveying and New Jersey State portion) ..... **\$100.00.**

3. Reexamination fees [each part:] are the same as examination fees.

- [i. Engineer-in-training ..... \$30.00;]
- [ii. Professional engineering specialized training ..... \$30.00;]
- [iii. Land surveying, Each Part .... \$30.00]

4. Renewal fees:

i. The annual fee shall be [\$10.00, however, certificates of licensure shall be] **\$15.00** renewed biennially upon the payment of [\$20.00, commencing April 1978, and] **\$30.00** during the month of April in every [second year thereafter] **even year.**

ii. If a licensee fails to renew his certificate of license in the month of April, a late renewal fee of [\$5.00] **\$10.00** shall be charged (in addition to any other fees due and owing), provided that the licensee applies for renewal within a one-year period immediately subsequent to the 30th day of April in the year of renewal. If a license is not renewed within the one-year time period provided, the licensee upon application for reinstatement shall pay a reinstatement fee of [\$20.00] **\$30.00** plus [\$10.00] **\$15.00** for each year in which the licensee is in arrears.

5. Fee for filing full name of the licensee with the Secretary of State, \$1.00.

6. Certificate [for] replacement fees:

i. The charge for reissuing a certificate of license to any licensee whose certificate may have been lost, mislaid or destroyed shall be [\$5.00] **\$10.00** and accompanied by a certified statement explaining the need for reissuance.

ii. The charge for reissuing a renewal certificate of license to any licensee whose renewal certificate may have been lost, mislaid or destroyed shall be [\$3.00] **\$5.00** and accompanied by a certified statement explaining the need for reissuance.

7. All licensees, and the clerks of each municipality in the State, shall receive without charge one copy of the roster of licensed professional engineers and land surveyors. Additional copies, if and when available, may be purchased at a fee of \$6.00 each.

8. Fees shall be nonrefundable and nontransferable.

### DIVISION OF CONSUMER AFFAIRS

For proposals numbered PRN 1985-659 and 660, submit comments by January 2, 1986 to:

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

(a)

#### Motor Vehicle Advertising Practices

#### Proposed Repeal and New Rules: N.J.A.C. 13:45A-2

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

Authority: N.J.S.A. 56:8-4.

Proposal Number: PRN 1985-660.

The agency proposal follows:

##### Summary

The Division of Consumer Affairs originally adopted N.J.A.C. 13:45A-2 in July 1973. Revisions in the rules became effective in November 1976. The Division now proposes to repeal the existing rules and propose new rules. The new rules substantially retain the existing rules which have been clarified, reordered and renumbered for easier readability.

The proposed new rules clarify existing substantive provisions and their phrasing, as well as addressing specific deceptive advertising practices observed by the Division since the 1976 revisions took effect.

An initial major change effected by the amendments is that an advertised motor vehicle must be on the seller's premises on the date the advertisement runs. This requirement will serve to decrease both "bait and switch" and "high pressure" sales tactics.

Additionally, requirements concerning lease advertisements are specified and clarified. Motor vehicles offered for lease will have to be clearly distinguished from those offered for sale, and minimal disclosure requirements will be necessary with regard to the type of lease, the total cost and consumers' obligations.

The new rules continue the requirement that advertising contain a single "bottom line" price so that purchasing consumers will be provided with meaningful disclosure as to the actual price to be paid for the vehicle as well as establishing a clear reference point for the purpose of comparing prices among competitors. The term "advertised selling price" now describes the "bottom line" price and must appear in type at least twice the size of any other price relative to an advertised motor vehicle. The new rules also continue the exception for "general availability" advertisements where an advertiser merely wishes to communicate the fact that a general class of vehicles is available for sale, such as a model or series for a new year, or statements involving the general qualities or virtues of a vehicle series or line. Where, however, the advertisement intends to convey the availability for sale of a particular vehicle as distinguished from an announcement of general availability or quality, the disclosure requirements become operative.

The new rules, in order to assure that advertisements claiming price reductions are both bona fide and substantial, continue the requirement that a claimed price reduction be at least five percent less than the usual price at which the vehicle has been previously sold or offered for sale. The rules also require that if an advertisement is a price reduction advertisement, the price from which the reduction is advertised must be the advertiser's usual selling price. Since the motor vehicle seller is in the position of knowing the usual selling price of a vehicle offered for sale to the consuming public over a period of time and since the data necessary to establish prior selling prices is found primarily in the books and records of the seller, a record keeping requirement has been added whereby records establishing the usual selling price must be maintained for a period of 90 days from the date on which the advertisement is placed. Furthermore, to clearly establish an operative guidepost for defining the usual price from which a price reduction may be advertised and thereby guard against claimed price reductions which in fact are fictitious, the rules require a showing of not less than three sales or offering of the advertised vehicle or its substantial equivalent during the 90 days preceding the date of advertisement.

The term "advertisement" has been amended to specifically mention leases. The definition of "advertiser" has been amended to delete reference to financing or rental of motor vehicles. The treatment of advertising agents and newspapers has been replaced with the wording from the New Jersey Rule governing Merchandise Advertising.

Among the additional revisions in the regulations are: the requirement that the last six numbers of the vehicle identification number be included in any advertisement for a new or used car; the prices of each extra cost item included in the manufacturer's suggested list price must be set forth; misleading or fictitious discounts are prohibited; disclaimers or qualifying phrases must appear in at least 10 point type; misuse of such terms as "public notice" are prohibited; and the statement "price(s) include(s) freight and dealer prep" must now appear and be set forth in at least 10 point type. The rules contain a new requirement (parallel to that in the Division's General Merchandise Advertising Regulations) that the current advertisement be conspicuously posted on the premises.

The rules also contain a section dealing with warranties. The proposal distinguishes between warranties in the amount of disclosure required. First if a warranty is a manufacturer's or factory warranty or guaranty and the advertisement states it is such a warranty, the disclosure requirements of the section do not apply. Secondly if the actual warranty contains, at minimum, certain provisions the amount of disclosure required is not as extensive as when the warranty does not contain the minimum provisions. The rules do not require that a warranty contain any specific provisions, but require different amounts of disclosure depending on the provisions of the actual warranty.

It is intended that the proposed new rules be construed and applied consistent with the purpose of preventing the evils engendered by deceptive and misleading advertising, thereby affording the consuming public forthright and honest presentations of motor vehicle information as well as promoting a truly competitive climate within the marketplace.

#### **Social Impact**

By refining definitional and disclosure requirements, the regulations will enhance consumer confidence and ability to meaningfully compare motor vehicle advertisements. Motor vehicle advertisers will benefit by the enhanced clarity in defi-

inition phrasing, as well as by the prohibition of specifically identified deceptive practices. Both consumers and advertisers will benefit by more complete, standardized disclosure requirements. Such requirements will serve to further minimize the ability of the unscrupulous minority of motor vehicle advertisers who would seek to gain unfair advantage over both their legitimate competitors as well as over consumers.

#### **Economic Impact**

The new rules require 10 point type disclosure and clarification of certain terms and explanations, in order to curtail potential deceptive advertising.

A copy of the advertisement will have to be posted, and applicable disclosure requirements will be extended to radio and television advertising.

Dealers will be required to have in stock advertised vehicles, so as to curtail abuses in "bait and switch" advertising.

The economic impact on motor vehicle advertisers will be minimal, in terms of the several additional requirements. Advertisers and sellers will benefit economically by virtue of the curtailment of unfair advantage to the unscrupulous advertising minority. Consumers will benefit by clearer and more precise comparative disclosure requirements, as well as a saving in time and money not wasted in response to deceptive advertising.

**Full text** of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:45A-2.

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

## **SUBCHAPTER 2. MOTOR VEHICLE ADVERTISING PRACTICES**

### **13:45A-2.1 Scope**

Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. the rules contained in this subchapter set forth motor vehicle advertising practices which are prohibited as unlawful under the Consumer Fraud Act.

### **13:45A-2.2 Application**

(a) These rules shall apply to the following advertisements:

1. Any advertisement, including radio and television broadcasts, uttered, issued, printed, disseminated, published, circulated or distributed within this State concerning motor vehicles advertised as available at locations exclusively within this State; and

2. Any advertisement, including radio and television broadcasts, uttered, issued, printed, disseminated, published, circulated or distributed to any substantial extent within this State concerning motor vehicles advertised as available at locations within this State and outside this State, or at locations exclusively outside this State.

### **13:45A-2.3 Definitions**

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

"Advertised motor vehicle" means any new or used motor vehicle offered for sale or lease in an advertisement in which the motor vehicle is specifically identified by either:

1. Stating the advertised selling price or the manufacturer's suggested retail price; or
2. Stating the amount of any payment or the deferred payment price; or

3. Listing information relating to essential elements or components of a particular motor vehicle, such as transmission type, brakes, steering or extra cost options so as to make clear to a consumer that a specific motor vehicle is being offered for sale.

With respect to an advertisement which offers a group of new motor vehicles for sale covering a specified price range (for example "1984 Escorts for sale—\$5,000 to \$6,000") the least expensive and most expensive motor vehicles are considered to be advertised motor vehicles.

"Advertised selling price" means a single specific dollar figure indicating the amount of money the advertiser expects to receive or will accept for the sale or lease of an advertised motor vehicle.

"Advertisement" means any advertisement as defined by N.J.S.A. 56:8-1(a) of any motor vehicle including any statement appearing in a newspaper, periodical, pamphlet, circular, or other publication, paper, sign or radio or television broadcast which offers or in any way indicates the availability of a motor vehicle for sale or lease at retail.

"Advertiser" means any person as defined by N.J.S.A. 56:8-1(d) who in the ordinary course of business is engaged in the sale or leasing of motor vehicles at retail or who in the course of any 12 month period offers more than three motor vehicles for sale or lease or who is engaged in the brokerage of motor vehicles whether for sale or lease and who directly or indirectly initiates, requests or causes an advertisement to be made for the retail sale or lease of motor vehicles. An advertising agency and the owner or publisher of a newspaper, magazine, periodical, circular, billboard or radio or television station acting on behalf of an advertiser shall be deemed an advertiser within the meaning of this regulation, when such entity prepares or places an advertisement for publication. No such entity shall be liable for a violation of this rule when the entity reasonably relies upon data, information or material supplied by an advertiser for whom the advertisement is prepared or placed or when the violation is caused by an act, error or omission beyond the entity's control, including but not limited to, the post-publication performance of the advertiser on whose behalf such advertisement was placed. Notwithstanding that an advertisement has been prepared or placed for publication by one of the aforementioned entities, the advertiser on whose behalf such advertisement was placed may be liable for any violation of this regulation.

"Dealer" means any person who in the ordinary course of business is engaged in the sale or leasing of motor vehicles or retail or who in the course of any 12-month period offers more than three motor vehicles for sale or lease at retail.

"Extra cost option" means optional equipment, regardless of its place of installation, on the motor vehicle, the price of which would not be included in the manufacturer's suggested retail price for the basic vehicle.

"Motor vehicle" means any vehicle driven otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks.

"Price reduction advertisement" means any advertisement which in any way states or suggests directly or indirectly that the advertised motor vehicle is being offered or made available for sale at a price less than that at which it has been usually sold or offered for sale.

"Rebate" means a sum of money given to the purchaser or lessee of a motor vehicle by the manufacturer at the time of purchase or shortly thereafter.

"Sale" means a sale as defined by N.J.S.A. 56:8-1(e) of any motor vehicle.

"Warranty advertisement" means any advertisement in which any warranty or guaranty for any motor vehicle or part thereof is offered in connection with the sale of such motor vehicle.

#### 13:45A-2.4 Bait and switch

(a) The following motor vehicle advertising "bait and switch" practices shall be unlawful:

1. The use of an advertisement as part of a plan or scheme not to sell the motor vehicle advertised or not to sell the same at the advertised price;

2. Without limiting other means of proof, the following shall be prima facie evidence of a plan or scheme not to sell a motor vehicle as advertised or not to sell the same at the advertised price:

i. Refusal to show, display or sell the motor vehicle advertised in accordance with the terms of the advertisement, except that an advertiser shall not be required to provide a road test of a motor vehicle unless so stated in the advertisement;

ii. The disparagement by act or word, either before or after the sale of the advertised motor vehicle, or of the guaranty, warranty, credit terms, availability of service, repairs or parts or of anything in any other respect a material fact connected with the advertised motor vehicle. However, disparagement shall not include an accurate factual description of the difference or differences between the advertised motor vehicle and other motor vehicles when and where the customer requests such information;

iii. The refusal to take orders for advertised motor vehicles or the taking of orders at a price greater than the advertised selling price;

iv. The failure to submit orders to the manufacturer or other source used in the ordinary course of business for the advertised motor vehicles;

v. The showing, demonstrating or delivery of any advertised motor vehicle which is known to be or should have been known to be defective, unuseable or unsuitable for the purpose represented or implied in the advertisement;

vi. Accepting a deposit for an advertised motor vehicle, then switching the purchaser to a higher-priced motor vehicle, except when the purchaser has initiated the switch as evidence by a writing to that effect signed by the purchaser;

vii. The failure to make a delivery of the advertised motor vehicle within the promised delivery period, unless such failure is caused by reasons beyond the control of the advertiser;

viii. The use of a sales plan or method of compensating or penalizing salesmen, designed to prevent or discourage them from selling the advertised motor vehicle or from selling the same at the advertised selling price. However, this provision shall not apply to a sales plan or method of compensation whereby a salesman realizes a fixed percentage rate of the gross amount of his sales made within a specified time period nor to salesman bonus plans designed primarily to encourage or reward salesmen for selling motor vehicles other than the advertised motor vehicle.

#### 13:45A-2.5 Advertisements; general requirements for disclosure

(a) With respect to any advertisements offering or making available for sale or lease a new or used motor vehicle other than an advertisement indicating the general availability of a make, model or series of new motor vehicles, the following motor vehicle advertising practices shall be unlawful:

1. The failure to state the advertiser's true name and business address or the word "dealer;"

2. The failure to state a single specific dollar amount indicating the advertised selling price in type size at least twice the size of any other dollar figure pertaining to the advertised motor vehicle;

3. The failure to set forth in at least 10 point type a statement that "Price(s) include(s) freight and dealer prep; exclude(s) licensing costs and taxes;"

4. The setting forth of any advertised selling price which does not include transportation, freight, shipping, dealer preparation and any other additional costs to be borne by a consumer, except for licensing costs and taxes;

5. The setting forth of an advertised selling price which has been calculated by deducting a down payment, trade-in allowance, rebate or any other dollar figure which does not represent a reduction in the amount of money the dealer will accept for the advertised motor vehicle;

6. The setting forth of an advertised selling price which is effective only if another thing of value is purchased;

7. The failure to list all disclaimers, qualifiers or other such related information in no less than 10 point type immediately adjacent to any stated special offer, price, discount or savings;

8. The offering of equipment free or at a discount and failing to state its retail value or show it as a dollar deduction with regard to the specific advertised motor vehicles to which such offering applies;

9. The setting forth of more than one cash discount when in fact the total dollar amount represents merely a reduction in the price the dealer will accept for the sale of the motor vehicle;

10. The setting forth of a dollar figure representing a discount which is applicable to only a limited group of consumers but incorporating it in the advertised selling price;

11. The failure to state the manufacturer's suggested retail price, if any, as it appears on the Monroney label clearly denominated as such and without qualifying adjectives and terms in any advertisement relating to a new motor vehicle;

12. The failure to state the bona fide manufacturer's suggested retail price clearly denominated as such and without qualifying adjectives and terms in any advertisement relating to a new vehicle which is not required to have a Monroney label but for which the manufacturer does suggest a retail price. The motor vehicle dealer shall retain such records as may be necessary to establish the above noted bona fide manufacturer's suggested retail price;

13. The statement of a price as the manufacturer's suggested retail price when the manufacturer does not provide a suggested retail price in any advertisement relating to a new motor vehicle;

14. The failure to set forth the original manufacturer's suggested retail price for any basic vehicle which has been converted at additional cost by someone other than the original manufacturer in any advertisement relating to a new motor vehicle;

15. The failure to clearly indicate that the manufacturer's suggested retail price is identical, when applicable, to the advertised selling price;

16. The failure to list each extra cost option installed by the dealer or any one other than the original manufacturer clearly denominated as such together with the retail price of each as determined by the dealer whether or not that price is included on the Monroney label in an advertisement relative to a new motor vehicle;

17. The failure to state the following information:

i. The number of engine cylinders;

ii. Whether the transmission is automatic or manual, and, if manual, the number of forward gears;

iii. Whether the brakes and steering mechanism are power or manual;

18. The failure to state the actual odometer reading as of the date of placing an advertisement of any advertised motor vehicle described as "demonstrator" or "executive" vehicle or in such other similar terms; or any advertised motor vehicle described as a "leftover" which possesses an odometer reading in excess of 500 miles;

19. The failure to state the year, make, model and the series where the advertised motor vehicle has a designated series or model;

20. The failure to set forth the last six digits of the vehicle identification number of an advertised motor vehicle; the six digit number shall be preceded by the letters "VIN;"

21. The failure to state the exact number of identical models of advertised motor vehicles in stock on the date of placing the advertisement;

22. With respect to advertisements that are contracted to run once, the failure to have an advertised motor vehicle on premises on the date the advertisement runs;

23. With respect to advertisements that are contracted to run without change more than once, such contracted period not to exceed four consecutive days:

i. The failure to have an advertised motor vehicle on the premises on the first day the advertisement runs;

ii. In the event the advertised motor vehicle is sold before the contracted advertising schedule has been completed, the dealer must show a copy of the sales agreement to any consumer who responds to the advertisement and notify any consumer who inquires by telephone of the sale.

24. The failure to state that the motor vehicle has been previously used as a demonstrator or executive vehicle; a police or fire vehicle; a passenger vehicle for lease, rental or hire; or as a taxi when such prior use is known or should have been known by the advertiser or the person for whom he acts;

25. With respect to an advertisement offering a used motor vehicle, the failure to state the actual odometer reading as of the date of placing the advertisement for publication. Any vehicle possessing an odometer reading of greater than 1,000 miles shall be deemed used.

#### 13:45A-2.6 Certain credit and installment sale advertisements

(a) The following motor vehicle advertising practices concerning credit and installment sale advertisement shall be unlawful:

1. The advertising of credit, including but not limited to such terms as easy credit or one-day credit, other than that actually transacted by the advertiser on a regular basis in the ordinary course of business;

2. The failure to state the following information in any advertisement offering to sell a motor vehicle on an installment basis:

i. The total deferred payment price;

ii. The annual percentage rate;

iii. The monthly payment, calculated on the basis of the total deferred payment price.

iv. The disclosures in i. through iii. above shall be placed adjacent to the description of the advertised motor vehicle and shall not be contained in a footnote.

3. The use or statement of an installment payment on any basis other than a monthly basis.

## 13:45A-2.7 Price reduction advertisements

(a) In any advertisement wherein a reduction from the usual selling price is stated or indicated either directly or by implication, the following motor vehicle advertising practices shall be unlawful:

1. The use or statement of any price from which a reduction is indicated either directly or by implication where such price is not the usual selling price;

2. The placement of a price reduction advertisement where the price reduction is less than five percent of the usual selling price.

(b) For the purpose of this section a usual selling price is the price at which the advertiser has sold or offered for sale the advertised motor vehicle or a substitute equivalent on not less than three occasions during the 90 day period immediately preceding the date of publication of the advertisement. The use of the terms "sale," "discount," "savings," "price cut," "bargain," "reduction," "special savings," "prices slashed," "clearance," "buys" and such other terms of similar import shall be deemed to indicate a price reduction advertisement.

(c) In the event that an advertiser places a price reduction advertisement, the motor vehicle dealer in whose name the advertisement is placed shall retain such records as may be necessary to establish the usual selling prices. Such records shall be maintained for a period of 90 days following the date of publication of the advertisement and shall be made available for inspection by the Division of Consumer Affairs.

## 13:45A-2.8 Warranty advertisements

(a) Unless the warranty advertised states that it is a manufacturer's or factory warranty or guaranty, or complies with the requirements of (b) below, advertising a warranty or guaranty shall be an unlawful motor vehicle advertising practice if the actual warranty does not at a minimum include the following provisions:

1. Duration: The warranty must start on the vehicle's purchase date and extend at least 30 days thereafter or 1,000 miles beyond the odometer reading at the time of purchase, whichever occurs first;

2. Coverage: The following parts of the vehicle must be covered thereunder:

i. Engine: the following internal lubricated parts: pistons, piston rings, piston pins, crankshaft and main bearings, connecting rods and rod bearings, camshaft and camshaft bearings, timing chain and timing gears, intake and exhaust valves, intake manifold, valve springs, guides, oil pump, push rods, rocker arms, hydraulic lifters, rocker arm shaft and cylinder heads. The engine block is covered if damaged by a defect or malfunction of one or more of the above listed internal lubricated parts;

ii. Transmission: all internal lubricated parts contained within the transmission case and torque converter case. The transmission case and torque converter case are covered if damaged by a defect or malfunction of one or more of these internal lubricated parts;

iii. Drive axle assembly: the following parts: drive shaft and universal joints and all internal lubricated parts contained within the drive axle housing; the drive axle housing is covered if damaged by a defect or malfunction of one or more of these internal lubricated parts;

iv. Water pump impeller, shaft bearings and bushings.

3. Purchaser's obligation to contribute toward warranty repairs or replacement costs shall be no greater than fifty percent of the selling dealer's regular retail charges for all parts and labor furnished in the repairs or replacements performed under the warranty.

(b) Where the warranty or guaranty being offered in an advertisement conforms to the minimum standards as noted in (a) above, failure to include the following minimum disclosures in the advertisement shall be an unlawful motor vehicle advertising practice: actual duration (for example, "60 day/2,000 miles"); as well as the purchaser's proportional obligation toward warranty repairs or replacement costs (for example, "50/50 on repair parts and labor," or "dealer covers 75% parts and labor").

(c) Where the warranty or guaranty being offered in an advertisement does not conform to the minimum standards of (a) above, failure to include the following disclosures in the actual advertisement shall be an unlawful motor vehicle advertising practice:

1. Limitation of warranty or guaranty as to duration, inclusion or exclusion of service or labor charges, and characteristics or properties of the motor vehicle or part thereof included or excluded by the warranty or guaranty;

2. Whether the warranty or guaranty will be performed by repair, replacement, refund or any other means and whether such manner of performance is at the option of the advertiser.

## 13:45A-2.9 Lease

(a) In any advertisement offering a motor vehicle for lease the following motor vehicle advertising practices shall be unlawful:

1. The failure to clearly and conspicuously identify the advertised transaction with the term "lease;"

2. The failure to state the amount of the monthly payment and the number of required payments;

3. The failure to state the total cost of the lease, including all non-refundable payments;

4. The failure to state the total amount of any payment, such as security deposit, down payment or capitalized cost reduction required at the beginning of the lease, or a statement that no such payment is required;

5. The failure to state whether the customer has the option to purchase the leased motor vehicle and at what time and price;

6. The failure to state the amount of any liabilities the lease imposes upon the customer at end of the term; and, if the customer has such liability, a statement that the customer shall be liable for any difference between the estimated value of the leased motor vehicle and its realized value at the end of the lease term;

7. The use or statement of any lease payment on any basis other than a monthly basis.

## 13:45A-2.10 Guaranteed satisfaction, discount and quality claims

(a) The following motor vehicle advertising practices concerning guaranteed satisfaction, discount and quality claims shall be unlawful:

1. The use of the term guaranteed discount, guaranteed lowest prices, or any other similar term unless the advertiser clearly and conspicuously discloses the manner in which such guaranty will be performed and any conditions or limitations controlling such performance;

2. The use of any guaranty, warranty or any other representation regarding the quality of a motor vehicle or part thereof which creates a false impression of the quality, durability, maintenance needs or any other material fact concerning any motor vehicle or part thereof.

## 13:45A-2.11 General prohibitions

(a) The following motor vehicle advertising practices shall be unlawful:

1. The use of any type, size, location, lighting, illustration, graphic depiction or color as to obscure or make misleading any material fact in any advertisement;

2. In any advertisement the use of deception, fraud, false pretense, false promise or misrepresentation as to the size, inventory or nature of the advertiser's business; as to the expertise of the advertiser, his agents or employees; or as to the ability or capacity of the advertiser to offer price reductions or price savings;

3. In an advertisement, the use of the term low prices, lowest prices, lower than anyone else or of any other term suggesting that the prices offered are lower than those usually offered in the business area of the advertiser when in fact the prices offered are not reasonably below those usually offered in the business area of the advertiser or any other term which is in any respect misleading;

4. The use in any advertisement, directly or indirectly, of a comparison to the dealer's cost, inventory price, factory invoice, invoice, wholesale, at no profit, floor plan balance, dealer issue or terms of similar import;

5. The use of the terms "Public Notice," "Public Sale" or words or terms of similar meaning in any advertisement offering motor vehicles for sale, where such sale is not required by court order or by operation of law;

6. The failure to conspicuously post notice of advertised motor vehicles on the business premises to which the advertisement applies, in proximity to the advertised motor vehicles and at all entrances to the business premises. Such notice may consist of a copy of the advertisement or may take the form of a tag attached to the motor vehicles stating the advertised selling price as well as any other substantive disclosures required herein;

7. The use in any advertisement of the terms rebate, or any other terms indicative of cash payment or something of value (for example, savings bond, gift certificate or vacation trip), to describe anything other than the giving of such consideration to the purchaser or lessee of a motor vehicle by the manufacturer at the time of purchase or shortly thereafter. The term rebate (or other consideration as specified above) shall not be used to describe a bonus, give back or credit offered to the dealer by the manufacturer which may or may not be passed on to the purchaser.

(a)

## Sale of Grey Market Merchandise

### Proposed New Rules: N.J.A.C. 13:45A-24

Authorized By: Irwin I. Kimmelman, Attorney General of New Jersey.

Authority: N.J.S.A. 56:8-4.

Proposal Number: PRN 1985-659.

The agency proposal follows:

#### Summary

In recent years there has been an increase of imported consumer goods which are sold or offered for sale in the State of New Jersey. In many instances, such merchandise was not

originally intended for sale or distribution in the continental United States. Accordingly, this merchandise may not be accompanied by a manufacturer's warranty valid in the continental United States and may be nonconforming with regard to other important features ordinarily associated with such merchandise. Such merchandise is commonly referred to as "grey market merchandise."

The sellers of grey market merchandise are required to disclose variations in warranty coverage and other significant features by point of sale signs as well as in the various forms of advertising. Advertising disclosure is required of retail sellers and mail order sellers. Additionally, disclosure is required for grey market merchandise with substantive variations such as instructions which are not written in English, conditions or limitations relating to rebates or discounts and incompatible electrical current or broadcast frequency.

#### Social Impact

Accurate disclosure requirements will benefit the consumer who wishes to comparatively shop for consumer goods. The disclosure requirements will enable the consumer to compare warranty provisions and other significant features in merchandise intended for sale in the United States with that which is provided in merchandise intended for sale outside of this country.

Likewise, the manufacturers, the distributors and sellers of such merchandise will benefit by virtue of more accurate and fair disclosure requirements in the offering of consumer goods sold in the marketplace.

#### Economic Impact

Consumers will be in a better position to reasonably assess the economic advantages and disadvantages of purchasing grey market merchandise. Retailers and others involved in the acquisition, distribution and sale of consumer goods will also benefit by virtue of clear-cut guidelines which will minimize the potential for unfair competitive advantage in the marketplace.

Full text of the proposed new rules follows.

## SUBCHAPTER 24. REQUIREMENTS FOR THE SALE OF GREY MARKET MERCHANDISE

### 13:45A-24.1 Definitions

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

"Grey market merchandise" shall mean any brand name product manufactured abroad which is imported into the United States through channels other than the foreign manufacturer's authorized United States distributor, and which may lack an express written manufacturer's warranty valid in the United States. Grey market merchandise shall be limited to any electronic, mechanical or thermal product offered for sale to consumers in this state for personal or household purposes.

"Seller" shall mean any retail or mail order dealer who in the ordinary course of business is engaged in the sale or lease of grey market consumer merchandise.

### 13:45A-24.2 Disclosure requirements

(a) Any seller who advertises, sells or offers to sell any grey market merchandise shall disclose the following restrictions, limitations or conditions if applicable thereto:

1. The seller shall disclose that such grey market merchandise is not accompanied by a manufacturer's warranty valid in the continental United States or that such grey market merchandise is accompanied by a manufacturer's warranty which had restrictions or less protection than a warranty which is offered with similar merchandise manufactured for sale in the continental United States;

2. The seller shall disclose that the grey market merchandise is not accompanied by instructions written in English;

3. The seller shall disclose that the grey market merchandise is not eligible for rebates, discounts or other considerations of value which may be provided by the manufacturer or the seller for similar merchandise manufactured for sale in the continental United States;

4. The seller shall disclose that the grey market merchandise requires an electrical current or broadcast frequency which is incompatible with the electrical current or broadcast frequency utilized in the continental United States:

13:45A-24.3 Notice requirements

(a) Any seller who advertises, sells or offers to sell any grey market merchandise which is subject to any of the restrictions, limitations or conditions set forth in N.J.A.C. 13:45A-24.2 shall conspicuously post the information required by N.J.A.C. 13:45A-24.2 in the following manner:

1. In print advertising, disclosure shall be proximate to the consumer product to which it refers;

2. In electronic media advertising, sufficient verbal and/or written explanation shall be provided to inform the consumer of any restrictions, limitations or conditions;

3. For in-store offerings, any restrictions, limitations or conditions shall be prominently displayed on a conspicuous sign at the point of sale and/or proximate to the merchandise being offered for sale.

**TRANSPORTATION**

**(a)**

**THE COMMISSIONER**

**Rules on Practices and Procedures before the Office of Regulatory Affairs**

**Notice of Pre-Proposal for a Rule: N.J.A.C. 16:51.**

Authorized By: Roger A. Bodman, Commissioner, Department of Transportation.  
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 52:14B-3.  
 Pre-Proposal Number: PPR 1985-8.

Submit comments by January 2, 1986 to:  
 Charles L. Meyers  
 Administrative Practice Officer  
 Department of Transportation  
 1035 Parkway Avenue  
 CN 600  
 Trenton, New Jersey 08625

This is a Notice of Pre-Proposal for a rule (see N.J.A.C. 1:30-3.2). Any rule concerning the subject of this pre-proposal must still comply with the rulemaking provisions of the Ad-

ministrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as implemented by the Office of Administrative Law's Rules for Agency Rulemaking, N.J.A.C. 1:30.

The agency pre-proposal follows:

The Department of Transportation intends to propose new rules as N.J.A.C. 16:51 which shall govern practices and procedures before the Department's Office of Regulatory Affairs, unless otherwise ordered by the Office or the Department in any proceeding.

The provisions of Title 14 (Public Utilities) of the New Jersey Administrative Code applicable to the regulation of autobuses, street railways and railroads shall be supplemental to the rules of the proposed new subchapter and shall be superseded by this subchapter to the extent that overlap exists between them.

These new rules will establish new guidelines for the filing of petitions for Certificates of Public Convenience and Necessity and provide general operational procedures and practices to be followed in transactions with the Office of Regulatory Affairs, New Jersey Department of Transportation.

Subchapter 1, provides the general provisions of the rule outlining hours of operations, definitions of terms and office locations.

Subchapter 2, outlines the procedure to be followed in pleadings.

Subchapter 3, outlines the general requirements concerning petitions for the granting of a certificate of public convenience and necessity to conduct autobus operations.

Subchapter 4, provides guidelines pertaining to motions and methods to intervene generally.

The Department solicits comments on this pre-proposal with a view toward selecting and refining rules which will be consolidated and are non-burdensome to autobus companies.

Interested persons may obtain copies of the draft proposal from the Administrative Practice Officer at the above address or from:

Department of Transportation  
 Office of Regulatory Affairs  
 McArthur Highway and Market Street  
 P.O. Box 10000  
 Newark, New Jersey 07101

**(b)**

**NEW JERSEY TRANSIT CORPORATION**

**Methods of Procurement**

**Proposed Amendment: N.J.A.C. 16:72-1.6**

Authorized By: New Jersey Transit Corporation, Jerome C. Premo, Executive Director.  
 Authority: N.J.S.A. 27:25-5(e).  
 Proposal Number: PRN 1985-650.

Submit comments by January 2, 1986 to:  
 Albert R. Hasbrouck, III  
 Assistant Executive Director  
 New Jersey Transit Corporation  
 (NJ TRANSIT)  
 P.O. Box 10009  
 Newark, NJ 07101

**Summary**

The existing regulations of the New Jersey Transit Corporation (NJ TRANSIT) Procurement Policies and Procedures allow staff to make small purchases for an amount greater than \$500.00 but not in excess of \$7,500 by obtaining quotes from at least three potential contractors. Written quotations are required for purchases in excess of \$2,000. A review of the regulations has resulted in a recommendation to propose that: 1. Written quotations be required only for purchases in excess of \$5,000; 2. The no-quote limit be raised to \$2,000; and 3. The number of quotes required be reduced from three to two.

**Social Impact**

It is not anticipated that the proposed amendment will have significant social impact. It simply modifies existing procedures governing small purchases at NJ TRANSIT. However, because of the need for less quotations, NJ TRANSIT hopes to be able to increase its purchases from disadvantaged and women-owned firms.

**Economic Impact**

It is not anticipated that the proposed amendment will have significant economic impact on NJ TRANSIT or its vendors. It simply will allow NJ TRANSIT buyers to process small purchases in a more efficient and timely fashion.

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

16:72-1.6 Methods of procurement

(a) (No change.)

(b) Quotation: Except as provided in (c) and (d) below, purchases for an amount greater than [\$500.00] **\$2,000.00** but not in excess of \$7,500 shall be made after quotes have been obtained from at least [three] **two** qualified and responsible prospective contractors. Written quotations are required for purchases in excess of [\$2,000.00] **\$5,000.00**.

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

**TREASURY-GENERAL**

**(a)**

**STATE HEALTH BENEFITS COMMISSION**

**State Health Benefits Program Interest Charges**

**Proposed Amendment: N.J.A.C. 17:9-5.3**

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

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

Proposal Number: PRN 1985-656.

Submit comments by January 2, 1986 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 establishes interest penalties of 15 percent per annum upon participants in the State Health Benefits Program for failure to send the prompt transmittal of reports and payment of charges when due to the Division of Pensions.

**Social Impact**

The proposed amendment will only affect present and future participants in the health benefits programs who are tardy in forwarding the required reports and payments when due.

**Economic Impact**

Although participants who are tardy in forwarding the required reports and payments to the Division of Pensions will be adversely affected by the proposed amendment, the intent of the proposal is to encourage all participants to submit timely reports and payments so that all participants and the taxpayers who ultimately pay the costs of such programs will not endure additional costs due to late reporting and payments.

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

17:9-5.3 Advance charges; **interest charges**

(a) For the purpose of local coverage, in the traditional program, the employer must remit to the Division of Pensions charges covering a one-month period in advance of the coverage date whereas charges for HMO coverage are remitted directly to the HMO in which the employee is enrolled.

(b) **If the transmittal report and full payment of health benefits charges are not received within 15 days of the due date, as cited on the monthly transmittal mailed from the Division of Pensions, the interest penalty of 15 percent per annum shall be applied to the total transmittal of health benefits charges from the 16th day until the payment is received. The interest penalty will also be applied if payment is received by the Health Benefits Bureau but without the transmittal report for proper distribution.**

**OTHER AGENCIES**

**(b)**

**ELECTION LAW ENFORCEMENT COMMISSION**

**Public Financing; General Elections for the Office of Governor**

**Proposed Readoption: N.J.A.C. 19:25-15**

Authorized By: Election Law Enforcement Commission, Frederick M. Herrmann, Executive Director.

Authority: N.J.S.A. 19:44A-38.

Proposal Number: PRN 1985-653.

Submit comments by January 2, 1986 to:  
Gregory E. Nagy  
Staff Counsel  
Election Law Enforcement Commission  
National State Bank Building, Suite 1215  
28 West State Street  
Trenton, NJ 08608

The agency proposal follows:

**Summary**

In accordance with the sunset provisions of Executive Order No. 66(1978), the Election Law Enforcement Commission (hereafter, the Commission) proposes to readopt N.J.A.C. 19:25-15.1 through 19:25-15.47, Public Financing; General Elections for the Office of Governor.

This subchapter was effective prior to the implementation of Executive Order No. 66 in 1978. However, the subchapter was substantially amended on February 13, 1981 and the scheduled expiration date of February 13, 1986 was therefore established. The sunset provisions of Executive Order No. 66 require the Commission to review periodically the present regulations to determine their continuing usefulness. Accordingly, the Commission has reviewed this subchapter and has found them to be reasonable, proper and necessary.

Title 19, Chapter 25, Subchapter 15 contains the regulations governing administration of the public financing of qualified candidates for Governor in the general election. In order to qualify for partial public financing, a gubernatorial candidate's name must appear on the general election ballot and the candidate must deposit and spend \$50,000 pursuant to N.J.S.A. 19:44A-32; see N.J.A.C. 19:25-15.3, defining "Qualified candidate." Most of the sections address the requirements candidates must meet to receive matching public funds for contributions received. For example, no contribution in excess of \$800.00 can be accepted from a single contributor (N.J.A.C. 19:25-15.6); candidates must appoint campaign treasurers and maintain certain bank accounts (N.J.A.C. 19:25-15.4, 19:25-15.5, 19:25-15.7); candidates are subject to various limits on the amount of their own money they may spend and limits on their total overall campaign expenditures (N.J.A.C. 19:25-15.11); candidates must comply with various administrative procedures to receive public funds to match the con-

tributions they have received (N.J.A.C. 19:25-15.17, 19:25-15.18, 19:25-15.19, 19:25-15.21); and candidates are limited on the purposes for which public funds may be spent (N.J.A.C. 19:25-15.24).

The role of the State Committees of the political parties in accepting contributions on behalf of gubernatorial candidates is regulated (N.J.A.C. 19:25-15.31 through 19:25-15.37). Also, county and municipal political party committees are limited in the amounts they may spend for gubernatorial candidates receiving public financing (N.J.A.C. 19:25-15.38 through 19:25-15.40). Other sections include postelection contributions (N.J.A.C. 19:25-15.44); repayment to the State of campaign funds remaining unspent at the termination of a candidacy (N.J.A.C. 19:25-15.46) and the inaugural event contribution limit (N.J.A.C. 19:25-15.47).

**Social Impact**

The regulations proposed for readoption have and will continue to affect gubernatorial candidates and political party committees active in raising or spending funds on behalf of gubernatorial candidates. The Commission believes that its ability to administer the public financing program in the November 1985 general election would be jeopardized if these regulations were permitted to lapse, particularly in regard to regulations of postelection contributions, return of unspent campaign funds and inaugural event contribution limits and reporting.

**Economic Impact**

Since the proposed readoption of the regulations would only promulgate the existing regulatory program, the Commission foresees no additional economic impact. However, the present economic impact on regulated parties will be continued by the readoption. The regulated parties are chiefly the campaign committees of gubernatorial general election candidates who accept public funds and the State, county and municipal political party committees spending money on behalf of such candidates. The public benefit acquired by these disclosure and accountability requirements far exceed the economic impact.

**Full text** of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 19:25-15.

# RULE ADOPTIONS

## COMMUNITY AFFAIRS

### (a)

#### DIVISION OF HOUSING AND DEVELOPMENT

#### Uniform Fire Code; Fire Code Enforcement; High Level Alarms

**Adopted Amendments: N.J.A.C. 5:18-1.1, 1.3, 1.4, 1.5, 2.4, 2.5, 2.7, 2.8, 2.12, 3.1, and 3.2; 5:18A-2.1, 2.2, 2.3, 2.4, 2.6, 3.2, 3.3, 4.1, 4.3, and 4.4; 5:18B-3.2**

Proposed: May 6, 1985 at 17 N.J.R. 1015(b).

Adopted: November 4, 1985 by John P. Renna, Commissioner, Department of Community Affairs.

Filed: November 6, 1985 as R.1985 d.611, **with substantive and technical change** not requiring additional public notice and comments (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:27D-198 and -219.

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): February 1, 1990.

#### Summary of Public Comments and Agency Responses:

In addition to changes of a purely technical nature, the following substantive changes are made upon adoption which do not impose any obligations not already existing.

5:18-2.4(b): Specific reference is made to residential child care facilities as a life hazard use. These facilities, however, are already within the statutory definition of "boarding house" (N.J.S.A. 55:13B-3) and the inclusion is for clarification only.

5:18-2.7(h): The new wording clarifies the intent that a permit issued pursuant to the Code would have a maximum duration of one year.

5:18-3.2(a)3: Several comments were received concerning the lack of provisions concerning fire drills in the regulations, despite the fact the Uniform Fire Safety Act calls for such a provision. This issue cannot be addressed in the adoption but will be addressed in a future proposal.

5:18-3.2(a)26: Several additions have been made to this section upon the request of the State Department of Labor in order to bring this section into conformity with existing Department of Labor rules on the same subject. Language taken from the Labor rules which was inadvertently not included in the proposal is included in the adoption, however, in as much as it comes from existing requirements, no new burden will be imposed.

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

5:18-1.1 Title; division into subchapters

(a) (No change.)

(b) The Code is divided into four parts:

1.-2. (No change.)

3. Subchapter 3 is entitled "Fire Prevention Code," and may be cited throughout the code as N.J.A.C. 5:18-3 and when referred to in subchapter 3 of this chapter, may be referred to as this subchapter. Subchapter 3 consists of the 1984 edition of the Basic/National Fire Prevention Code, as prepared and recommended by the Building Officials and Code Administrators International (BOCA) which is adopted and incorporated herein by reference with amendments.

4. (No change.)

5:18-1.3 Intent and purpose

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

(c) Whenever in the Fire Prevention Code adopted in subchapter 3 of this chapter, reference is made to the Appendix, the provisions in the Appendix shall not apply unless specifically adopted herein.

5:18-1.4 Applicability

(a) (No change.)

(b) The provisions contained in this code shall not be construed as applying to the transportation of any article or substance shipped under the jurisdiction of and in compliance with the regulations prescribed by the military forces of the United States or the transportation of flammable or combustible liquids or hazardous materials or chemicals subject to the regulation and control of the United States Department of Transportation or other Federal agency having jurisdiction.

1. (No change.)

2. The right of any local government to adopt ordinances governing the routing of vehicles transporting flammable or combustible liquids or hazardous materials or chemicals shall not be deemed to be limited by anything contained in this section.

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

5:18-1.5 Definitions

...

...

"Common areas," when used with reference to a covered mall building, shall include all areas not included within any retail establishment and shall also include the required means of egress from all retail establishments.

...

...

5:18-2.4 Life hazard uses defined

(a) (No change.)

(b) The following are type A life hazard uses:

1.-3. (No change.)

4. Rooming and Boarding Houses, including halfway houses, group homes, community residences, **\*residential child care facilities\*** and residential health care facilities;

5.-9. (No change.)

- (c) The following are type B life hazard uses:
- 1.-11. (No change.)
  12. Industrial and commercial uses which incorporate any of the following materials or processes:
    - i.-ix. (No change.)
    - x. The manufacture of fireworks, explosives or blasting agents;
      - xi.-xii. (No change.)
    - 13.-15. (No change.)
  - (d) The following are type C life hazard uses:
    1. Theaters incorporating a raised stage, platform or thrust stage, proscenium curtain, fixed or portable scenery loft, lights, mechanical appliances or other theatrical accessories and equipment;
      - 2.-3. (No change.)
    4. Institutional and similar facilities, including hospitals, long-term care facilities and intermediate-care facilities, which house people suffering from physical limitation due to age, health or handicaps.
      - (e) (No change.)
- 5:18-2.5 Required inspections
- (a) (No change.)
  - (b) Where a life hazard use is operated on a seasonal basis, the number of required annual inspections shall not be reduced. Inspections of type C and type D life hazard uses which are in operation for only a portion of the year shall be conducted immediately prior to opening and closing and twice during operation of the use.
    1. Inspections of covered mall buildings shall be limited to the common areas unless there appears to be good reason to inspect individual retail establishments.
      - (c) (No change.)
- 5:18-2.7 Permits required
- (a) (No change.)
  - (b) Permits shall be obtained from the fire official for any of the following listed activities or uses. Permits shall at all times be kept in the premises designated therein and shall at all times be subject to inspection by the fire official.
    1. (No change.)
    2. Type 1 permit:
      - i.-vi. (No change.)
      - vii. The possession or use of fireworks, explosives or blasting agents, other than model rocketry engines regulated under N.J.A.C. 12:194;
        - viii.-ix. (No change.)
      3. Type 2 permit:
        - i.-iii. (No change.)
        - iv. Carnivals and circuses employing mobile enclosed structures used for human occupancy;
          - v. (No change.)
        - 4.-6. (No change.)
      - (c)-(d) (No change.)
      - (e) A permit shall constitute permission to maintain, store or handle materials, or to install equipment used in connection with such activities in accordance with the provisions of this Code. Such permissions shall not be construed as authority to violate, cancel or set aside any of the provisions of this Code.
        - (f)-(g) (No change.)
        - (h) A permit shall remain in effect until revoked, or for one year unless **\*a shorter period of time is\*** otherwise specified. Permits are not transferable and any change in use, operation or tenancy shall require a new permit.

1. Exception: A type 1 permit for welding or cutting shall be for various locations within the jurisdiction of a local enforcing agency and shall be issued on an annual basis.

Renumber (h) and (i) and (i) and (j)

(k) A permit issued under a pre-existing local fire prevention code shall remain valid for no more than one year from the date it was issued.

#### 5:18-2.8 Fees, registration and permit

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

(d) A municipality having a local enforcing agency may establish by ordinance a different permit fee schedule based on the actual cost anticipated or incurred for the enforcement of this Code.

#### 5:18-2.12 Penalties

(a) (No change.)

(b) A person who violates or causes to be violated a provision of (a) above shall be liable to a penalty of not more than \$5,000 for each violation. If a violation of (a) above is of a continuing nature, each day during which the violation remains unabated after the date fixed in the order or notice for the correction or termination of the continuing violation shall constitute an additional and separate violation, except while an appeal from the order is pending.

1. A violation shall be deemed to be of a continuing nature if notice of the violation is served within two years of the date of service of a previous notice and where violation, premises and person cited in both notices are substantially identical.

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

#### 5:18-3.1 Code adopted

(a) Pursuant to authority of the Uniform Fire Safety Act, P.L. 1983, c.383, N.J.S.A. 52:27D-192 et seq.), the Commissioner hereby adopts the model code of the Building Officials and Code Administrators, Inc., known as "the BOCA Basic/National Fire Prevention Code/1984." This code is hereby adopted by reference as the State Fire Prevention Code, subject to the modifications set forth in N.J.A.C. 5:18-3.2.

(b) (No change.)

#### 5:18-3.2 Modifications

(a) The following articles or sections of the State Fire Prevention Code are modified as follows:

1. (No change.)

2. Article 2 ("Definitions") is amended as follows:

i. Section F-200.3 is amended to delete "building, plumbing or mechanical code listed in Appendix A" and replace with "New Jersey Uniform Construction Code."

ii. Section F-200.0—"General Definitions") is amended as follows:

Renumber i.-ii. as (1)-(2).

(3) The term "building code" is added and is defined as "the New Jersey Uniform Construction Code, including all of its component subcodes."

Renumber iv.-v. as (4)-(5).

3. Article 3 ("General Precautions Against Fire") is amended as follows:

i. The words "any air pollution laws adopted by the jurisdiction" are deleted **\*from Section F-301.1\*** and the words **\*\*[subject to]\*** the prior approval of the New Jersey Department of Environmental Protection" substituted in lieu thereof.

ii. Sections F-301.2, F-303.2, F-305.2, F-307.3 and F-307.3.1 are deleted.

iii. The words "listed in appendix A" are deleted from section F-308.1, where this refers to building and mechanical codes, and the words "in effect at time of first occupancy" are substituted in lieu thereof.

iv. The word "misdemeanor" is deleted from section F-308.2.1 and the words "a violation of this Code" are substituted in lieu thereof.

v. Section F-311.0 (Fire Lanes) is deleted and the following is substituted in lieu thereof:

**Section F-311.0 Fire Lanes on Private Property**

**Section F-311.1 Designation:** The fire official, with the approval of the chief executive officer of the fire department and the Chief of Police of the jurisdiction, may designate fire lanes of private property to which the public is invited or which is devoted to public use, if it is necessary to provide safety for the public or to provide proper access for Fire Department operations in the event of an emergency.

**Section F-311.2 Notification:** Whenever a determination has been made for the fire lane designation, pursuant to section F-311.1, the fire official shall notify the owner of the property in writing by registered or certified mail, or by hand delivering such notice, specifically describing the area designated and the reason for making the designation.

**Section F-311.3 Marking of fire lanes:** The marking of fire lanes shall be the responsibility of, and at the expense of, the property owner and shall be accomplished within 30 days of the receipt of the notification.

**Section F-311.4 Obstructions:** It shall be a violation of this Code for any person to park a motor vehicle in or otherwise to obstruct a fire lane.

vi. The words "the building code listed in Appendix A" are deleted from section F-314.1 and the words "Subchapter 4 of this Code" substituted in lieu thereof.

vii. The following new sections F-315.0, F-315.1, F-315.1.1, F-315.1.2, F-315.1.3, F-315.2, F-315.3 and F-315.4 are added:

**F-315.0 Fire Safety and Evacuation Plan**

**F-315.1 General:** A fire safety and evacuation plan shall be prepared as set forth in this section where required by Sections F-315.1 through F-315.1.3.

**F-315.1.1 Use Group R-1:** All Use Group R-1 buildings.

**F-315.1.2 Use Group I:** All Use Group I buildings.

**F-315.1.3 High rise buildings:** All high rise buildings as defined in the building code.

**F-315.2 Fire safety plan:** The fire safety plan shall be approved by the fire official and shall be distributed by the owner to all tenants and employees. The plan shall contain the following:

- (1) The location of the nearest exits and fire alarms;
- (2) The procedures to be followed when a smoke or fire alarm sounds; and
- (3) The procedures to be followed in the event of fire or smoke.

**F-315.3 Evacuation plan:** The evacuation plan shall be conspicuously posted on every floor for the occupants' use.

**Exception:** In R-1 Use Groups the evacuation plan shall be posted on the inside of each guest room door other than a door opening directly to the outside at grade level.

**F-315.4 Maintenance:** The fire safety and evacuation plan shall be maintained to reflect changes in the use and physical arrangement of the building.

viii. The following new sections F-316.0, F-316.1, F-316.2, F-316.2.1 and F-316.2.2 and F-316.3 are added:

**F-316.0 Portable Kerosene Fired and Solid Fuel Fired Heaters**

**F-316.1 Clearances:** Portable kerosene fired and solid fuel fired heaters shall be operated and installed with the minimum clearance to combustibles for which the appliance has been tested.

**Exception:** Clearances may be reduced in accordance with the mechanical subcode of the New Jersey Uniform Construction Code.

**F-316.2 Portable kerosene fired heaters:** Portable kerosene fired heaters shall be tested in accordance with UL 647 and bear the label of an approved testing agency complying with the criteria for labeling specified in the mechanical subcode of the Uniform Construction Code.

**F-316.2.1 Sale:** Portable kerosene fired heaters shall not be offered for sale unless a conspicuous sign is posted at the point of sale and display indicating that the use of portable kerosene fired heaters is prohibited in all buildings except one and two family dwellings and is prohibited by ordinance in some municipalities in all dwellings.

**F-316.2.2 Containers:** Containers for kerosene shall be either of a plastic or metal construction with fill and vent openings. The container shall be blue with white lettering. The word "Kerosene" shall be displayed around the perimeter of the container.

**F-316.2.3 Prohibited use:** The use of portable kerosene fired heaters is prohibited in all Use Groups except F-3 as defined by the New Jersey Uniform Construction Code.

**F-316.3 Chimneys:** Chimneys connected to solid-fuel fired heaters shall be inspected annually and maintained free of significant deposits of creosote and soot.

**Exceptions to inspection requirements:**

1. Use Group R-3 single family dwellings.
2. Chimneys serving fireplaces which are not equipped with fireplace stoves or inserts.

Renumber v. as ix.

4. Article 4 ("Fire Protection Systems") is amended as follows:

i. The words "new and" are deleted from the first sentence of section F-400.1.

ii. Section F-400.2 is amended to read as follows:

"Installations: Before any fire alarm, detection or fire suppression system is installed, enlarged or extended, a construction permit shall be secured from the construction official."

iii. Section F-400.3 is deleted.

Renumber ii. as iv.

v. Section F-404.6 is deleted and the following new sections F-404.6, F-404.6.1, F-404.6.2 and F-404.6.3 substituted in lieu thereof:

**F-404.6 Fire Alarm Systems:** Automatic and manual fire alarm systems and each of their components shall be tested annually in accordance with sections F-404.6.1 through F-404.6.3.

**F-404.6.1 Alarm Test:** An alarm shall be simulated for each zone of the system and shall cause the alarm to be audibly and/or visually received throughout the entire building and at the control panel and at any other location at which the alarm signal is required to be received.

**F-404.6.2 Supervision:** The supervisory circuits of each zone shall be tested in accordance with the manufacturer's instructions and cause a trouble signal to be received both audibly and visually at the control panel.

**F-404.6.3 Power Failure:** A failure of the main power supply to the fire alarm system shall be simulated. The emergency power supply shall then be capable of indicating, both audibly and visually, trouble and alarm signals at the control panel.

Renumber iv. as vi.

vii. Section F-404.8 is deleted and the following new sections F-404.8.1, F-404.8.1.1, F-404.8.1.2, F-404.8.1.3, F-404.8.1.4, F-404.8.2, F-404.8.2.1, F-404.8.2.2, F-404.8(2).3.1, and F-404.8.3.2 substituted in lieu thereof.

F-404.8.1.1 Smoke Detection System: Smoke detection systems utilized to activate smoke control systems shall be tested in accordance with Section F-404.6.

F-404.8.1.2 Equipment Controls: Smoke control systems shall be placed into operation by manual and automatic means.

The proper sequence and operation of system components shall be kept in writing on the premises, shall be available to the fire official and shall be verified when the system is activated.

F-404.8.1.3 Pressurization Systems: For pressurization systems, pressure readings shall be taken with all doors closed to verify that the system continues to meet the standards of its approval under the Uniform Construction Code, including maintaining the exhaust capacity.

F-404.8.1.4 Smoke Removal Systems: For smoke removal systems, exhaust discharge readings shall be taken to verify that the system maintains the exhaust capacity required by the building code.

F-404.8.2 Emergency Generators: Tests shall be performed on emergency and standby power generation systems in accordance with Sections F-404.8.2.1 through F-404.8.2.2.

F-404.8.2.1 Simulated Power Failure: The main power supply shall be interrupted and cause the generator to start automatically under full load.

F-404.8.2.2 Time Limits: Emergency power shall be supplied by the generator in 10 seconds or less under full load. Standby power shall be supplied by the generator in 60 seconds or less under full load.

F-404.8.3 Emergency Elevator Operation: Elevators shall be tested in accordance with Section F-404.8.3.1 through F-404.8.3.2.

F-404.8.3.1 Emergency Recall Operation: Upon simulated activation of an elevator lobby detector, the elevator controller shall cause all elevator cars that serve that lobby to return nonstop to the designated lobby, and prevent further operation of the elevators without the use of an emergency service key.

F-404.8.3.2 Emergency Car Operation: The emergency service keys shall be utilized to place the recalled elevators into emergency operation and to verify proper functioning of the elevator for fire service operation.

viii. The words "(Acceptance test)" are deleted from the title of Section F-405.0.

ix. In Section F-405.1, the word "subcode" is added between "fire" and "official".

x. Section F-406.0 is deleted in its entirety.

xi. Section F-407.0 is deleted in its entirety.

xii. Section F-408.4.1 is amended to read as follows: Plans and specifications: Plans and specifications for the installation, extension, modification, alteration or removal from service of any automatic fire suppression system shall be submitted to the construction officials and a permit shall be secured prior to the commencement of any work.

xiii. Section F-408.5 is amended to read as follows: Permit: Upon approval of plans and specifications, a construction permit shall be issued by the construction official. Each system installed, extended, modified, altered or removed from service shall require a separate permit.

xiv. Section F-409.2.4 is deleted.

Renumber viii.-ix. as xv.-xvi.

5. Article 5 ("Means of Egress") is amended as follows:  
i. (No change.)

ii. Sections F-501.1, F-502.1, F-501.3, and F-501.4 are deleted and the following new sections F-501.1, F-501.2, F-501.3 and F-501.4 substituted in lieu thereof.

F-501.1 Maintenance: All means of egress elements such as egress doors and their hardware, corridors, stairways, fire escapes, and similar egress components shall be maintained in a safe and operable condition at all times, and be available for immediate use. The fire official may require a load test on any exterior stairway or fire escape to determine structural stability.

F-501.2 Obstructions: A person shall not at any time place any encumbrance within or upon any element of a means of egress which reduces its width to less than that required by the building code. Draperies or similar decorative hangings shall not obstruct the view of, nor access through, any element of a means of egress. Mirrors shall not be placed in or adjacent to a means of egress in any manner which may confuse the direction of egress.

F-501.3 Exits: Exits shall not be used for any purpose than a means of egress. Spaces within a stairway enclosure shall not be utilized for storage or location of any materials or items. Exterior spaces below and within ten feet horizontally of fire escapes and exterior stairs shall not be utilized for the storage of combustible materials or location of refuse containers.

F-501.4 Exit Access Corridors: Enclosed exit access corridors shall be maintained free of accumulations of flammable or combustible materials at all times.

Exceptions:

1. Decorative items affixed directly to walls or ceilings.  
2. Furniture located within seating or waiting areas which is fixed in place and which does not reduce the required width of the corridor.

iii. In Section F-505.1, the words "listed in Appendix A" are deleted, **\*where they refer to the building code\***.

6. Article 6 (Airports, Heliports and Helistops) is amended as follows:

i. Section F-600.2 is deleted in its entirety.

ii. In section \*[F-501.3]\* **\*F-601.3\*** the words "listed in Appendix A" are deleted.

7. Article 7 (Application of Flammable Finishes) is amended as follows:

i. Section F-700.2 is deleted in its entirety.

ii. In section F-701.1, the words "listed in Appendix A" are deleted, **\*where they refer to the building code,\*** and the words "in effect at the time of first occupancy" substituted in lieu thereof.

iii. In section F-702.2 the words "listed in Appendix A" are deleted.

8. Article 8 (Bowling Establishments) is amended as follows:

i. (No change.)

ii. The words "listed in Appendix A" are deleted from sections F-801.1 and F-802.3 and the words "in effect at the time of first occupancy" substituted in lieu thereof.

9. Article 9 (Dry Cleaning Plants) is amended as follows:

i. The words "listed in Appendix A" are deleted from section F-900.1 and the words "in effect at the time of first occupancy" substituted in lieu thereof.

ii. Section F-900.2 is deleted.

Renumber ii.-iii. as iii.-iv.

v. The words "listed in Appendix A" are deleted from sections F-904.4, F-905.4 and F-907.5 and the words "in effect

at the time of first occupancy" substituted in lieu thereof.

10. Article 10 (Dust Explosion Hazards) is amended as follows:

i. Section F-1000.2 is deleted.

ii. The words "listed in Appendix A" are deleted from Section \*[F-100.1]\* \*F-1000.1\* and the words "in effect at the time of first occupancy" substituted in lieu thereof.

11. (No change.)

12. Article 12 (Fumigation and Thermal Insecticidal Fogging) is amended as follows:

i. Section F-1200.2 is deleted.

13. Article 13 (Lumber Yards and Woodworking Plants) is amended as follows:

i.-ii. (No change.)

iii. The first sentence of section F-1301.7 is deleted.

iv. The words "listed in Appendix A" are deleted from section F-1301.7 and the words "in effect at the time of first occupancy" substituted in lieu thereof.

14. (No change.)

15. Article 15 (Places of Assembly and Education) is amended as follows:

i.-iv. (No change.)

v. Section F-1502.1 is amended to delete the words "listed in Appendix A" **\*where they refer to the building code.\***

vi. The words "listed in Appendix A" are deleted from section F-1505.1 and the words "in effect at the time of first occupancy" substituted in lieu thereof.

16. Article 16 (Service Stations and Garages) is amended as follows:

i.-iii. (No change.)

iv. The words "listed in Appendix A" are deleted from section F-1604.2 and the words "in effect at the time of first occupancy" substituted in lieu thereof.

v. The words "plumbing code listed in Appendix A" are deleted from Section F-1604.3 and the words "building code" substituted in lieu thereof.

vi. Section F-1604.5 is amended to delete the words "listed in Appendix A".

17. Article 17 (Tents, Air-supported, and other Temporary Structures) is amended as follows:

i.-iii. (No change.)

iv. The words "listed in Appendix A" are deleted from section F-1701.1 and the words "in effect at the time of first occupancy" substituted in lieu thereof.

v. The word "tents" is deleted from the introductory sentence of section F-1702.1 and the word "membrane" substituted in lieu thereof.

vi. The words "listed in Appendix A" are deleted from subsection F-1702.1.4 and the words "in effect at the time of first occupancy" substituted in lieu thereof.

18.-19. (No change.)

20. Article 20 (Welding or Cutting, Calcium Carbide and Acetylene Generators) is amended as follows:

i.-iii. (No change.)

iv. The words "listed in Appendix A" are deleted from Section F-2005.3.2 and the words "in effect at the time of first occupancy" substituted in lieu thereof.

v. The words "listed in Appendix A" are deleted from Section F-2006.4 and the words "in effect at the time of first occupancy" substituted in lieu thereof.

21. (No change.)

22. Article 22 (Cellulose Nitrate (Pyroxylin) Plastics) is amended as follows:

i.-ii. (No change.)

iii. The words "listed in Appendix A" are deleted from sections F-2201.1, F-2201.2 and F-2201.3 and the words "in effect at the time of first occupancy" substituted in lieu thereof.

23. Article 23 (Combustible Fibers) is amended as follows:

i. (No change.)

ii. The words "listed in Appendix A" are deleted from sections F-2301.1 and F-2301.2.2 and the words "in effect at the time of first occupancy" substituted in lieu thereof.

iii. (No change.)

24.-25. (No change.)

26. Article 26 (Explosives, Ammunition and Blasting Agents) is amended as follows:

i. Section F-2600.1.1.6 is deleted.

ii. Section F-2600.2 is deleted.

iii. The introductory line of Section F-2600.2.1 is amended to read as follows: "Prohibited explosives: The following explosives shall not be permitted:"

iv. Section F-2600.3 is deleted and the following sections F-2600.3, F-2600.3.1, F-2600.3.2, and F-2600.3.3 are substituted in lieu thereof: F-2600.3: Insurance: Any self-employed person in possession of a valid permit to use explosives for blasting purposes, issued by the New Jersey Department of Labor pursuant to N.J.A.C. 12:190.3.11, shall have an insurance coverage for blasting damage not less than \$500,000 for property damage including explosion, collapse, and underground utility damage and \$500,000 to \$1,000,000 for personal injury.

F-2600.3.1 Any person in possession of a valid permit to use explosives for blasting purposes, as outlined in section F-2600.3 above, and who is not self-employed, shall not use explosives unless the employer is insured as specified in that section.

F-2600.3.2: Proof of the possession of a valid insurance policy covering blasting damage shall be readily available for inspection at the site.

F-2600.3.3: Nothing shall be construed as preventing greater insurance coverage for damage from blasting when requested by any person for whom blasting is being performed.

v. Section F-2600.4 (Definitions) is amended to delete the definition of "Magazine" and to substitute in lieu thereof the following:

"Magazine": Any building, structure or other enclosure or container other than an explosives manufacturing building, used for the storage of explosives. Magazines shall be of five types as follows:

A Type 1 magazine means a permanent outdoor magazine used for the storage of high explosives or other classes of explosives;

A Type 2 magazine means an indoor or outdoor magazine that is portable or mobile; such as a skid magazine or a trailer or semi-trailer used for the temporary storage of high explosives or other \*[types]\* \*classes\* of explosives;

**\*A Type 3 magazine means a portable outdoor magazine; such as a "day-box" or a magazine on skids used, while attended, for the temporary storage of high explosives or other classes of explosives;**

**A Type 4 magazine means an indoor or outdoor magazine used for the storage of low explosives, smokeless powder, or blasting agents. Detonators that will not mass detonate may also be stored in Type 4 magazines;**

**A Type UG magazine means a magazine for the permanent storage of explosives in underground operations.**

vi. Add the following subsection to Section F-2601.4:

**F-2601.4.1 Sale or Use:** No person shall sell or use explosives without obtaining a permit for that purpose from the Commissioner of Labor, pursuant to the applicable provisions of N.J.A.C. 12:190.

vii. Section F-2602.1 is deleted and the following substituted in lieu thereof:

**F-2602.1 General:** The layout, arrangement and construction of buildings and structures in which explosives, ammunition and blasting agents are permitted shall comply with the applicable provisions of this Code. Buildings and structures and their service equipment shall be maintained in a safe and sound condition as required by this Code.

viii. Section F-2603.2 (Control in wholesale and retail stores) is deleted and the following new sections F-2603.2 and F-2603.2.1 as follows are substituted in lieu thereof:

**Section F-2603.2 control in wholesale and retail stores:** The fire official may authorize the storage of up to 50 pounds (227 kg) of explosives and 5,000 blasting caps in wholesale and retail hardware stores or other approved establishments. Explosives and blasting caps shall be stored in separate Type 2 or Type 4 indoor magazines at approved locations on the first floor not more than 10 feet (3048 mm) from an entrance. A distance of 10 feet shall be maintained between the magazines. Their location shall not be changed without approval of the fire official. Two such magazines may be located in the same building provided one magazine is used for the storage of not more than 5,000 detonators and when a distance of ten feet is maintained between magazines.

**Section F-2603.2.1 Smokeless powder:** Smokeless powder not exceeding 400 pounds intended for resale shall be stored in a warehouse or storage room which is not accessible to unauthorized personnel. It shall be stored in non-portable cabinets as follows:

(1) Not more than two cabinets in a building and not more than 200 pounds of smokeless powder in a single cabinet.

(2) Cabinets shall be located against the walls of the warehouse or storage room with a minimum separation of 10 feet between cabinets.

(3) A cabinet for smokeless powder shall have walls at least one inch thick with an interior of non-sparking material. Shelves shall not exceed a three foot separation. The cabinet shall have at least one lock and hinges and hasps that cannot be removed when the door is closed and locked.

ix. Section F-2603.3 (magazine clearances) is deleted and the following\* new sections F-2603.3, F-2603.3.1, F-2603.3.2, F-2603.3.3, \*[and]\* F-2603.3.4, \*and F-2603.3.5\* as follows are substituted in lieu thereof.

**Section F-2603.3 (Magazine Clearances):** Magazines shall be located \*as provided in this section, except as specifically provided\* in Section F-2603.2 for Type 2 indoor magazines:

**Section F-2603.3.1 location of Type 1 magazines and Type 2 outdoor magazines:** Type 1 magazines and Type 2 outdoor magazines shall be located outside of buildings. When used for the storage of high explosives they shall be located no closer to inhabited buildings, passenger railways, public highways, or other magazines in which high explosives are stored than the distance specified in table F-2603.

**Section F-2603.3.2 Location of Type 3 magazines:** The location, either outside or inside buildings, of Type 3 magazines, shall be as far as practicable from neighboring inhabited buildings, railways, highways, and any other magazine, and shall be closely attended when in a use location.

**Section F-2603.3.3 Location of Type 4 outdoor magazines:**

Type 4 outdoor magazines shall be located outside of buildings and, when used for the storage of low explosives, shall be located no closer to inhabited buildings, passenger railways, public highways, or other magazines in which explosives are stored than the distances specified in table \*[F-2603.1,]\* \*F-2603.1\* whether barricaded or unbarricaded. \*When a type 4 outdoor magazine is used for storage of blasting agents, table F-2603 shall be used.\*

**Section F-2603.3.4 Location of \*Type 2 indoor and\* Type 4 indoor magazines:**

\*Type 2 indoor and\* Type 4 indoor magazines shall be located as provided in section F-2603.2.

\*Section F-2603.3.5 Location of ammonium nitrate and blasting agents from high explosives or blasting agents shall be as follows:

(1) Ammonium nitrate and ammonium nitrate based blasting agents shall be separated from nearby stores of high explosives or blasting agents referred to as the "donor" by the distances provided in Table F-2603.2;

(2) If storage of ammonium nitrate is located within the sympathetic detonation distance of explosives or blasting agents, one-half the mass of the donor when calculating separation distances;

(3) When ammonium nitrate or a blasting agent, or both, is not barricaded, the distances shown in Table F-2603.2 shall be multiplied by six. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers and the like which may enclose the "donor". Where storage is in bullet-resistant magazines recommended for explosives or where the storage is protected by a bullet-resistant wall, the distances and barricade thickness need not exceed those prescribed in Table F-2603;

(4) Table F-2603.3 shall apply to blasting agents which pass the insensitivity test prescribed in the definition of blasting agent;

(5) Earthen dikes, sand dikes or enclosures filled with the required minimum thickness of earth or sand shall be acceptable artificial barricades. Hills of timber of sufficient density shall be acceptable natural barricades;

(6) For determining the distances to be kept from inhabited buildings, passenger railways, and public highways, Table F-2603 shall apply. Ammonium nitrate, when stored with blasting agents or explosives, may be counted at one-half its actual weight.\*

\*[vi.]\*x.\* Table F-2603 (Distances for Storage of Explosives) is deleted and the following tables F-2603, F-2603.1, and F-2603.2 \*and the note thereto\* substituted in lieu thereof:

(1) If any two or more Type 1 or Type 2 magazines are separated from each other by less than the distances specified in the column reading "Separation of Magazines", the two or more magazines, as a group, shall be considered as one magazine. The total quantity of explosives stored in that group shall then be treated as if stored in a single magazine and shall comply with the distances from other magazines, inhabited buildings, railways, or highways of Table F-2603.

(2) For quantity and distance purposes; the following shall apply to blasting caps and detonating cord:

(1) All type of blasting caps in strengths through No. 8 cap shall be rated at one and one-half pound of explosives per 1000 caps. For strengths higher than No. 8 caps, consult the manufacturer.

(B) Detonating cord of 50 to 60 grains shall be calculated as equivalent to nine pounds of explosives per 1000 feet. Heavier or lighter core loads shall be rated proportionately.\*

TABLE F-2603  
HIGH EXPLOSIVES

DISTANCES IN FEET									
Quantity of Explosives		Inhabited Buildings		Public Highways with Traffic Volume of 3,000 or less Vehicles/Day		Passenger Railways—Public Highways with Traffic Volume of More Than 3,000 Veniches/Day		Separation of Magazines	
Pounds Over	Pounds Not Over	Barri-caded*	Unbarri-caded	Barri-caded	Unbarri-caded	Barri-caded	Unbarri-caded	Barri-caded	Unbarri-caded
2	5	70	140	30	60	51	102	6	12
5	10	90	180	35	70	64	128	8	16
10	20	110	220	45	90	81	162	10	20
20	30	125	250	50	100	93	186	11	22
30	40	140	280	55	110	103	206	12	24
40	50	150	300	60	120	110	220	14	28
50	75	170	340	70	130	127	254	15	30
75	100	190	380	75	150	139	278	16	32
100	125	200	400	80	160	150	300	18	36
125	150	215	430	85	170	159	318	19	38
150	200	235	470	95	190	175	350	21	42
200	250	255	510	105	210	189	378	23	46
250	300	270	540	110	220	201	402	24	48
300	400	295	590	120	240	221	442	27	54
400	500	320	640	130	260	238	476	29	58
500	600	340	680	135	270	253	506	31	62
600	700	355	710	145	290	266	532	32	64
700	800	375	750	150	300	278	556	33	66
800	900	390	780	155	310	289	578	35	70
900	1,000	400	800	160	320	300	600	36	72
1,000	1,200	425	850	165	330	318	636	39	78
1,200	1,400	450	900	170	340	336	672	41	82
1,400	1,600	470	940	175	350	351	702	43	86
1,600	1,800	490	980	180	360	366	732	44	88
1,800	2,000	505	1,010	185	370	378	756	45	90
2,000	2,500	545	1,090	190	380	408	816	49	98
2,500	3,000	580	1,160	195	390	432	864	52	104
3,000	4,000	635	1,270	210	420	474	948	58	116
4,000	5,000	685	1,370	225	450	513	1,026	61	122
5,000	6,000	730	1,460	235	470	546	1,092	65	130
6,000	7,000	770	1,540	245	490	573	1,146	68	136
7,000	8,000	800	1,600	250	500	600	1,200	72	144
8,000	9,000	835	1,670	255	510	624	1,248	75	150
9,000	10,000	865	1,730	260	520	645	1,290	78	156
10,000	12,000	875	1,750	270	540	687	1,374	82	164
12,000	14,000	885	1,770	275	550	723	1,446	87	174
14,000	16,000	900	1,800	280	560	756	1,512	90	180
16,000	18,000	940	1,880	285	570	786	1,572	94	188
18,000	20,000	975	1,950	290	580	813	1,626	98	196
20,000	25,000	1,055	2,000	315	630	876	1,752	105	210
25,000	30,000	1,130	2,000	340	680	933	1,866	112	224
30,000	35,000	1,205	2,000	360	720	981	1,962	119	238
35,000	40,000	1,275	2,000	380	760	1,026	2,000	124	248
40,000	45,000	1,340	2,000	400	800	1,068	2,000	129	258
45,000	50,000	1,400	2,000	420	840	1,104	2,000	135	270
50,000	55,000	1,460	2,000	440	880	1,140	2,000	148	280
55,000	60,000	1,515	2,000	455	910	1,173	2,000	145	290
60,000	65,000	1,565	2,000	470	940	1,206	2,000	150	300
65,000	70,000	1,610	2,000	485	970	1,236	2,000	155	310
70,000	75,000	1,655	2,000	500	1,000	1,263	2,000	160	320
75,000	80,000	1,695	2,000	510	1,020	1,293	2,000	165	330
80,000	85,000	1,730	2,000	520	1,040	1,317	2,000	170	340
85,000	90,000	1,760	2,000	530	1,060	1,344	2,000	175	350
90,000	95,000	1,790	2,000	540	1,080	1,368	2,000	180	360
95,000	100,000	1,815	2,000	545	1,090	1,392	2,000	185	370
100,000	110,000	1,835	2,000	550	1,100	1,437	2,000	195	390
110,000	120,000	1,855	2,000	555	1,110	1,479	2,000	205	410
120,000	130,000	1,875	2,000	560	1,120	1,521	2,000	215	430
130,000	140,000	1,890	2,000	565	1,130	1,557	2,000	225	450
140,000	150,000	1,900	2,000	570	1,140	1,593	2,000	235	470
150,000	160,000	1,935	2,000	580	1,160	1,629	2,000	245	490
160,000	170,000	1,965	2,000	590	1,180	1,662	2,000	255	510
170,000	180,000	1,990	2,000	600	1,200	1,695	2,000	265	530
180,000	190,000	2,010	2,010	605	1,210	1,725	2,000	275	550
190,000	200,000	2,030	2,030	610	1,220	1,755	2,000	285	570

200,000	210,000	2,055	2,055	620	1,240	1,782	2,000	295	590
210,000	230,000	2,100	2,100	635	1,270	1,836	2,000	315	630
230,000	250,000	2,155	2,155	650	1,300	1,890	2,000	335	670
250,000	275,000	2,215	2,215	670	1,340	1,950	2,000	360	720
275,000	300,000	2,275	2,275	690	1,380	2,000	2,000	385	770

Note to Table

\*\*\*Barricaded\*\* means a natural barricade or an artificial barricade of a minimum thickness of three feet.

TABLE F-2603.1  
LOW EXPLOSIVES

Low Explosives		Distance in Feet from Public		
pounds over	pounds not over	Inhabited Building	Railroad and Highway	Above-ground Magazine
0	1,000	75	75	50
1,000	5,000	115	115	75
5,000	10,000	150	150	100
10,000	20,000	190	190	125
20,000	30,000	215	215	145
30,000	40,000	235	235	155
40,000	50,000	250	250	165
50,000	60,000	260	260	175
60,000	70,000	270	270	185
70,000	80,000	280	280	190
80,000	90,000	295	295	195
90,000	100,000	300	300	200
100,000	200,000	275	275	250
200,000	300,000	450	450	300

25,000	30,000	19	68	30
30,000	35,000	20	72	30
35,000	40,000	21	76	30
40,000	45,000	22	79	35
45,000	50,000	23	83	35
50,000	55,000	24	86	35
55,000	60,000	25	90	35
60,000	70,000	26	94	40
70,000	80,000	28	101	40
80,000	90,000	30	108	40
90,000	100,000	32	115	40
100,000	120,000	34	122	50
120,000	140,000	37	133	50
140,000	160,000	40	144	50
160,000	180,000	44	158	50
180,000	200,000	48	173	50
200,000	220,000	52	187	60
220,000	250,000	56	202	60
250,000	275,000	60	216	60
275,000	300,000	64	230	60

Notes to Table

\*High explosives and blasting agents are donors. Ammonium nitrate, by itself, is not considered to be a donor.

\*\*Ammonium nitrate and blasting agents are acceptors.

TABLE F-2603.2

LOCATION OF AMMONIUM NITRATE AND BLASTING AGENTS FROM HIGH EXPLOSIVES OR BLASTING AGENTS

Donor* pounds over	Weight pounds not over	Minimum Separation Distance of Acceptor** When Barricaded (feet)		Minimum Thick- ness of Artificial Barricades (inches)
		Ammonium Nitrate	Blasting Agent	
0	100	3	11	12
100	300	4	14	12
300	600	5	18	12
600	1,000	6	22	12
1,000	1,600	7	25	12
1,600	2,000	8	29	12
2,000	3,000	9	32	15
3,000	4,000	10	36	15
4,000	6,000	11	40	15
6,000	8,000	12	43	20
8,000	10,000	13	47	20
10,000	12,000	14	50	20
12,000	16,000	15	54	25
16,000	20,000	16	58	25
20,000	25,000	18	65	25

\*[vii]\*\*xi\*. Section F-2603.4 (Magazine construction) is deleted and the following sections F-2603.4, F-2603.4.1, F-2603.4.2, F-2603.4.3, F-2603.4.4, F-2603.4.5, F-2603.4.6, F-2603.4.7 and F-2603.4.8 substituted in lieu thereof:

F-2603.4 Construction of Type 1 magazines: A Type 1 magazine shall be a permanent structure, a building, an igloo, a tunnel, or a dugout. It shall be resistant to fire, theft, bullets, and the weather, and shall have no openings except for entrances and ventilation. Materials and methods of construction shall be as follows:

(1) Masonry wall construction shall consist of at least 6 inches of brick, concrete, tile, cement block, or cinder block. Hollow masonry units shall have all hollow spaces filled with well-tamped, coarse dry sand or weak concrete (at least a mixture of one part cement and eight parts sand with enough water to dampen the mixture while tamping in place).

(2) Fabricated metal wall construction shall consist of sectional sheets of steel or aluminum not less than No. 14 gauge, securely fastened to a metal framework. Metal wall construction shall be either lined inside with brick, solid cement blocks, or hardwood not less than four inches thick, or shall have at least a six inch sand fill between interior and exterior walls.

(3) In wood frame wall construction, the exterior of outer wood walls shall be covered with iron or aluminum not less than No. 26 gauge. The interior wall shall be constructed so as to provide a space of not less than six inches between the

outer and inner walls. The space shall be filled with coarse, dry sand or weak concrete.

(4) Interior walls shall be constructed of or covered with a non-sparking material.

(5) Floor shall be constructed of or covered with any suitable non-sparking material and shall be strong enough to bear the weight of the maximum quantity of explosives to be stored.

(6) Foundations shall be constructed of brick, concrete, cement block, stone, or metal or wood posts. If piers or posts are used in lieu of a continuous foundation, the spaces thus created under the building shall be enclosed with fire-resistant material.

(7) Outer roofs shall be constructed of fabricated metal, tile, non-friable asbestos, concrete, or other fire-resistant material. Where it is possible for a bullet to be fired directly through the roof and into the magazine at such an angle that the bullet would strike the explosives stored within, the magazine shall be protected by one of the following methods:

(A) A sand tray lined with a layer of building paper, plastic or other non-porous material, and filled with not less than four inches of coarse, dry sand located at the tops of inner walls covering the entire ceiling area, except that portion necessary for ventilation, or

(B) A fabricated metal roof constructed of 3/16 inch plate steel lined with four inches of hardwood. For each additional 1/16 inch of plate steel, the hardwood lining may be decreased one inch.

(8) No sparking material shall be exposed to contact with stored explosive materials. All ferrous nails in the floor and side walls which might be so exposed shall be blind-nailed or counter-sunk on the floor and side walls covered with a lattice work or other non-sparking material.

(9) Igloo, tunnel, and dugout magazines shall be constructed or reinforced concrete, masonry, metal or a combination of these materials. They shall have an earth mound covering of not less than 24 inches on top, sides and rear unless the magazine complies with F-2603.4.7 above.

(10) Exterior doors shall be constructed of 1/4 inch plate steel and lined on the interior with two inches of hardwood.

(11) Hinges and hasps shall be attached to the doors by welding, riveting, or bolting with nuts on the inside of the door. The hinges and hasps shall be installed in such a manner that they cannot be removed when the door is closed and locked.

(12) Each door shall be equipped with one or more of the following:

(A) Two mortise locks;

(b) Two padlocks fastened in separate hasps and staples. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 3/8 inch diameter. Outdoor padlocks shall be protected with 1/4 inch steel hoods constructed so as to prevent sawing or lever action on the locks or hasps;

(C) A combination of a mortise lock and a padlock;

(D) A mortise lock that requires two keys to open;

(E) A three-point lock; or

(F) A bolt, lock or bar that cannot be actuated from the outside.

F-2603.4.1 Construction of Type 2 outdoor magazines: A Type 2 outdoor magazine shall be a box, trailer, semi-trailer, or other mobile facility. It shall be resistant to fire, theft, bullets and the weather and shall be supported in such a manner as to prevent direct contact with the ground. If less than one cubic yard in size, it shall be securely fastened to a fixed object to prevent theft of the entire magazine. Materials and methods of construction shall be as follows:

(1) The exterior and covers or doors shall be constructed of 1/4 inch steel and shall be lined with two inches of hardwood. Magazines with top openings shall have lids with water-resistant seals or the lids shall overlap the side by at least one inch when in a closed position.

(2) Hinges and hasps, locks, padlocks, padlock protection, and sparking materials shall comply with the applicable provisions of sections F-2603.4 above.

F-2603.4.2 Construction of Type 2 indoor magazines: A Type 2 indoor magazine shall be a portable or mobile magazine which is resistant to fire and theft. It need not be bullet- or weather-resistant if the building in which it is stored provides protection from the weather and from bullet penetration. Materials and methods of construction shall be as follows:

(1) Wood magazines shall have sides, bottoms, and covers or doors constructed of two inches of hardwood and shall be well braced at corner. They shall be covered with sheet metal of not less than No. 20 gauge. Nails exposed to the interior of magazines shall be counter-sunk.

(2) Metal magazines shall have sides, bottoms, and covers or doors constructed of No. 12 gauge metal and shall be lined inside with a non-sparking material. Edges of metal covers shall overlap the sides at least one inch.

(3) Magazines for blasting caps (cap boxes) in quantities of 100 or less shall have sides, bottoms, and covers or doors constructed of No. 12 gauge metal and shall be lined with a non-sparking material.

(4) Hinges, hasps, locks, padlocks, padlock protection, and sparking materials shall comply with the applicable provisions of Section F-2603.4 above; except that only one padlock shall be required on a type 2 indoor magazine that is located in a room that is also secured by a lock.

F-2603.4.3 Construction of Type 3 magazines: A type 3 magazine shall be a "day-box" or other portable magazine which is resistant to fire, weather and theft. Materials and methods of construction shall be as follows:

(1) A type 3 magazine shall be constructed of not less than No. 12 gauge steel lined with at least 1/2 inch plywood or 1/2 inch Masonite-type hardboard.

(2) No sparking material shall be exposed to contact with stored explosive materials.

(3) Doors or covers shall overlap sides of type 3 magazines by not less than one inch.

(4) Hinges and hasps shall be attached by welding or riveting by bolting with nuts on the inside.

(5) One steel padlock which need not be protected by a steel hood, having at least five tumblers and a case-hardened shackle of not less than 3/8 inch diameter shall be provided for locking purposes.

F-2603.4.4 Construction of Type 4 outdoor magazines: A type 4 outdoor magazine shall be a building, igloo, tunnel, dugout, box, trailer, semi-trailer or other mobile magazine which is resistant to fire, weather, and theft. Materials and methods of construction shall be as follows:

(1) A type 4 outdoor magazine shall be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials.

(2) The walls and floors shall be constructed of, or covered with a non-sparking material, or lattice work.

(3) Foundations shall be constructed of brick, concrete, cement, block, stone or metal or wood posts. If piers or posts are used in lieu of a continuous foundation, the spaces thus created under the building shall be enclosed with fire-resistive material.

(4) The doors or covers shall be metal or solid wood covered with metal.

(5) Hinges and hasps, locks, padlocks, padlock protection and sparking materials shall comply with the applicable provisions of section F-2603.4 above.

F-2603.4.5 Construction of Type 4 indoor magazines: A Type 4 indoor magazine shall be fire and theft resistant. It need not be bullet- or weather-resistant if the building in which it is stored provides protection from the weather and from bullet penetration. Materials and methods of construction shall be as follows:

(1) Wood magazines shall have sides, bottoms, and covers or doors constructed of not less than one inch of hardwood and shall be well braced at corners. They shall be covered with sheet metal of not less than No. 26 gauge. Ferrous nails exposed to the interior of magazines shall be counter-sunk.

(2) Metal magazines shall have sides, bottoms, and covers or doors constructed of not less than No. \*[26]\*\*16\* gauge metal and shall be lined inside with a non-sparking material.

(3) Hinges and hasps, locks, padlocks, padlock protection, and sparking materials shall comply with the applicable provisions of Section F-2603.4 above, except that only one padlock shall be required on a type 4 indoor magazine that is located in a room that is also secured by a lock.

F-2603.4.6 Construction and location of Type UG magazine: A Type UG magazine shall be used for the storage of not more than 5000 pounds of explosives underground in underground mining operations and shall not be permitted unless the mining has progressed to a point where the magazine is at least 300 feet from any shaft, is at least 15 feet from any haulage way or travel way, has a travel way to the nearest means of egress with at least two sharp turns, could not impede evacuation of all persons in the event of detonation of the explosives in the magazine, and is at least 50 feet from any magazine containing blasting caps.

A type UG magazine shall be constructed in accordance with the following:

(1) In solid rock with the front opening constructed in accordance with the applicable provisions of section F-2603.4 for type 1 magazines, unless otherwise specified in this section.

(2) Doors shall have at least 16 gauge metal outer covering or equivalent fire resistance protection and be lined with at least two inches of hardwood.

(3) Doors shall be provided with one padlock complying with the provisions of Section F-2603.4.12.(b).

(4) Floors shall be wood lined or covered with wooden slats.

(5) Provisions shall be made so that water will drain away.

(6) Adequate ventilation shall be provided.

(7) A conspicuous marking, reading "EXPLOSIVES" shall be provided.

Section F-2603.4.7 Magazine heat and light: Magazines shall not be provided with artificial heat and light, except that if artificial lighting is necessary, approved electric safety battery lamps or approved electric lights, wiring and equipment of a type designed for the hazardous location may be used.

Section F-2603.4.8 Repair of magazines: Magazines shall be maintained in good repair. Before repairing the interior of magazines, all explosive materials shall be removed and the interior shall be cleaned. Before repairing the exterior of magazines, all explosive materials shall be removed if there exists any possibility that repairs may produce sparks or flame. Any explosive material removed from magazines under repair shall be:

(1) Placed in other magazines appropriate for the storage

of those materials in accordance with this article, or

(2) Placed a safe distance from the magazine under repair, where they shall be properly guarded and protected until the repairs have been completed.

xii. Section F-2603.5 is amended to change the 50 feet distance for sources of ignition to 100'.

xiii. Section F-2603.5.1 is amended to change the 25 feet distance to 50 feet.

**\*xiv. Section F-2603.5.4 is deleted and the following substituted in lieu thereof:**

**Section F-2603.5.4 Separating of detonators and explosives: Detonators shall not be stored in the same magazine with other explosives, except as follows:**

(1) Detonators that will not mass detonate may be stored with electric squibs, safety fuses, igniters and igniter cords in a Type 1 or Type 2 magazine.

(2) Detonators may be stored with delay devices, electric squibs, safety fuses, igniter cores and igniters in a Type 1 or Type 2 magazine.

(3) Detonators are defined as any device containing a detonating charge that is used for initiating detonation in an explosive. The term includes but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating-cord delay connectors, and non-electric instantaneous or delay blasting caps\*.

xv. Section F-2603.5.5 is deleted and the following substituted in lieu thereof:

Section F-2603.5.5 Explosive unpacking: Except with respect to fiberboard or other nonmetal containers, containers of explosive materials shall not be unpacked or repacked inside a magazine or within 50 feet of a magazine. Containers of explosive materials shall be securely closed while being stored.

xvi. Sections F-2603.7 and F-2603.8 are deleted and the following substituted in lieu thereof:

Section F-2603.8 Signs:

(1) On the premises where a Type 1 magazine, a Type 2 outdoor magazine or a Type 4 outdoor magazine is located, the holder of a "permit to store" explosives shall post a conspicuous sign reading "EXPLOSIVES—KEEP OFF" in letters at least three inches in height on a contrasting background, and so located that a bullet passing through the face of the sign will not strike the magazine.

(2) Type 2 and Type 4 indoor magazines shall be labeled "EXPLOSIVES—KEEP FIRE AWAY".

(3) All type 3 magazines shall bear the word "EXPLOSIVES" in letters at least 3 inches in height and legible on a contrasting background.

(4) The provisions of 1. above shall not apply when it is deemed by the fire official that a warning sign would have counter-productive results.

xvii. Section F-2604.0 (Transportation of Explosives) is deleted.

xviii. Section F-2606.0 (Transportation of Blasting Agents) is deleted.

xvix. Section F-2607.4 is amended to change the 50 feet distance for sources of ignition to 100 feet.

xx. Section F-2608.2 is amended to delete from the first sentence all words following the word "permit" and to substitute in lieu thereof the following:

"issued by the New Jersey Department of Labor pursuant to N.J.A.C. 12:190 to use explosives or by employees under that person's direct supervision who are at least 18 years old."

xxi. Add a new subsection F-2608.2.4 as follows:

**\*[4.]\*\*Section F-2608.3.4:\* A permit to blast does not con-**

fer any right or privilege to conduct business or perform any operation including storage or handling of explosives which is contrary to or in conflict with provisions of any law of the State of New Jersey or any Federal law.

xxii. Amend Section F-2608.3 to delete the words "Class II" and to add to the section the following provision:

"When site restriction are such that the distance specified herein cannot be met, then the magazine shall be moved from the site the required distance when the blasting is actually to be performed."

xxiii. Delete the words "in the vicinity of" from Section F-2608.4 and substitute the words "within 50 feet" in lieu thereof.

xxiv. Delete subsection F-2608.6.3 and substitute in lieu thereof:

Section F-2608.6.3: The blaster shall comply with the Safety Guide for the Prevention of Radio Frequency Radiation Hazards, IME No. 20-1981 (ANSI C-95-4).

27. Article 27 (Fireworks) is amended as follows:

i.-ii. (No change.)

iii. Section F-2700.4 (Definition) is deleted and the following substituted in lieu thereof:

"Dangerous fireworks" means and includes the following:

(1) Toy torpedoes containing more than[.] 5 grain of an explosive composition.

(2) Paper caps containing more than .35 grain of explosive composition.

(3) Firecrackers or salutes exceeding 5 inches in length or 3/4 inch in diameter.

(4) Cannons, canes, pistols, or other devices designed for use otherwise than with paper caps.

(5) Any fireworks containing a compound or mixture of yellow or white phosphorous or mercury.

(6) Any fireworks that contain a detonator or blasting cap.

(7) Fireworks compositions that ignite spontaneously or undergo marked decomposition when subjected for 48 consecutive hours to a temperature of 167° Fahrenheit.

(8) Fireworks that can be exploded en masse by a blasting cap placed in one of the units or by impact of a rifle bullet or otherwise.

(9) Fireworks, such as sparklers or fuses, containing a match tip, or head, or similar igniting point or surface, unless each individual tip, head or igniting point or surface is thoroughly covered and securely protected from accidental contact or friction with any other surface.

(10) Fireworks containing an ammonium salt and a chlorate. "Fireworks" include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation.

"Fireworks factory building" means any building or other structure in which the manufacturer of fireworks, other than sparklers, is carried on.

"Fireworks plant" means and includes all lands, with buildings thereon, used on connection with the manufacturing or processing of fireworks, as well as storehouses located thereon for the storage of finished fireworks.

"Highway" means any public street, public alley, public road, or navigable stream.

"Navigable streams" means streams susceptible of being used, in their ordinary condition, as highways of commerce, over which trade or travel are or may be conducted in the customary modes, but shall not include streams which are not

capable of navigation by barges, tugboats and other large vessels.

"Railroad" means any steam, electric or other railroad which carries passengers for hire, but shall not include sidings or spur tracks installed primarily for the use of the fireworks plant.

iv. Sections F-2701.1 and F-2701.2 are deleted and the following new sections F-2701.1 and F-2701.2 substituted in lieu thereof:

Section F-2701.1 General: It shall be a violation of this Code for any person to store, to offer for sale, expose for sale, sell at retail, or use or explode any fireworks, except as provided for by the fire official when granting a permit for supervised displays of fireworks by the jurisdiction, fair association, amusement park, or other organization. Every such display shall be handled by a competent operator approved by the fire official. The fireworks shall be arranged, located, discharged or fired in a manner that, in the opinion of the fire official, will not be a hazard to property or endanger any person.

In matters not specifically covered by this article, the provisions of N.Fi.P.A. Standard 1123-82 (Standard for Fireworks, Public Display of) and N.Fi.P.A. 1124-84 (Code for Fireworks; Manufacture, Transportation, and Storage of) shall be deemed to provide adequate protection.

Section F-2701.2 Public Display: The governing body of any municipality may, upon application in writing accompanied by proof of proper insurance coverage, grant a permit for the public display of fireworks by municipalities, religious, fraternal or civic organizations, fair associations, amusement parks, or other organizations or groups of individuals, approved by the governing body of such municipality to whom the application is made. The governing body is authorized to grant such permission by resolution. After such permission shall have been granted, and a permit shall have been issued by the fire official, pursuant to section 5:18-2.7(b)2.vii. of this Code, the possession and use of fireworks for such display shall be lawful for that purpose only.

v. The following new sections F-2701.2.2 and F-2701.2.3 are added:

Section F-2701.2.2 Contents of Application for Permit; approval of storage space: All applications for permits shall set forth the date, the hour, the place of making such display, and the place for storing of fireworks prior to the display. The application shall also contain the names of the person, persons, firm, partnership, corporation, association, or group of individuals making the display; the name of the person or persons in charge of the igniting, firing, setting-off, exploding or causing to be exploded such fireworks. The location of the storage place shall be subject to the approval of the fire official of the jurisdiction.

Section F-2701.2.3 Surety by licensee: The governing body of the municipality shall require insurance in a sum of not less than \$500,000, conditioned for the payment of all damages, which may be caused either to a person or persons or to property, by reason of the display so as aforesaid licensed, and arising from any acts of the licensee, his agents, employees, or subcontractors. Such surety shall run to the municipality in which the license is granted, and shall be for the use and benefit of any person, persons, or the owner or owners of any property so damaged, who is or are authorized to maintain an action thereon, or his or their heirs, executors, administrators, successors, or assigns.

vi. The following new sections F-2701.5 and F-2701.6 are added:

Section F-2701.5 Fireworks showers in theaters or public halls. The use of what are technically known as fireworks showers, or of any composition containing potassium and sulphur, in theaters or public halls shall be subject to prior approval by the fire official and the following conditions shall apply:

(1) Fireworks shall be discharged at a height no greater than 4' above the stage floor.

(2) Fireworks shall be discharged and operated in accordance with manufacturers directions and specifications.

(3) The owner/operator shall provide a full demonstration to the fire official prior to final operation.

(4) Fireworks shall be discharged so as not to endanger the public by escape of any hot particles from the stage area.

(5) A fire watch, with proper extinguishing equipment as approved by the fire official, shall be maintained during the operation at both sides of the stage area.

Section F-2701.6 Prohibited fireworks: It shall be unlawful to manufacture, sell, transport or use dangerous fireworks within the State.

vii. The following new sections F-2702.0, F-2702.1, F-2702.2, F-2702.3, F-2702.4, F-2702.5, F-2702.6, F-2702.7, F-2702.8, F-2702.9, F-2702.10, F-2702.11, F-2702.12, F-2702.13, F-2702.14, F-2702.15, and F-2702.16, are added:

Section F-2702.0 Manufacturing:

Section F-2702.1 Factory buildings; location of: No factory building shall be situated nearer than two hundred feet from any inhabited building or to any highway or to any railroad, nor nearer than fifty feet from any building used for the storage of explosives or fireworks, nor nearer than twenty-five feet to any other factory building. This section shall not apply to factory buildings existing on March twenty-fifth, one thousand nine hundred and thirty, in fireworks plants then in operation.

Section F-2702.2 Storage buildings; location of: No building in a fireworks plant used for the storage of finished fireworks, other than those containing only sparklers, shall be situated nearer than three hundred feet from any building not used in connection with the manufacture of fireworks, nor from any highway, railroad or navigable stream, nor within three hundred feet of the property line of the fireworks plant. This section shall not apply to such storehouses existing on March twenty-fifth, one thousand nine hundred and thirty.

Section F-2702.3 Fences, gates, and watchmen: All fireworks plants shall be inclosed on all sides by substantial fences and all openings to such inclosures shall be fitted with suitable gates, which, when not locked, shall be in charge of a competent watchman who shall have charge of the fireworks plant when it is not in operation.

Section F-2702.4 Fire protection: Fireworks plants and all buildings situated within fireworks plant inclosures, shall be equipped with suitable fire protection, commensurate with the hazard involved, to protect life and property from direct burning and exposure. Such fire protection shall be installed as directed by the fire official.

Section F-2702.5 Precautions against fire: No stoves, exposed flame or electrical heating devices shall be used in any part of any fireworks plant, except in the boiler room or machine shop. No fireworks or chemicals are to be stored in those rooms. All parts of the buildings in fireworks plants shall be kept clean, orderly, and free from accumulations of dust or rubbish.

Section F-2702.6 Storage in factory buildings prohibited: Fireworks in the finished state shall not be stored in buildings where fireworks are in process of manufacture.

Section F-2702.7 Character of fireworks which may be manufactured: No fireworks may be manufactured except such as shall be approved for transportation by the regulations of U.S. Department of Transportation.

Section F-2702.8 Marking packages: Each outside package of fireworks shall bear upon the outside thereof the words "Fireworks—Handle Carefully—Keep Fire Away" in letters not less than 7/16 inch in height, and in addition shall show the name of the fireworks manufacturer.

Section F-2702.10 Matches, liquor, and narcotics: No employee or other person shall enter or attempt to enter any fireworks plant with matches or other flame-producing devices, nor with liquor or narcotics in his or her possession or control, nor which under the influence of liquor or narcotics, nor partake of intoxicants or narcotics while in the plant.

Section F-2702.11 Smoking and carrying matches in fireworks plant: No person shall smoke nor carry matches, a lighted cigar, cigarette, or pipe within any room or inclosed place or upon any part of a fireworks plant.

Section F-2702.12 Warning signs: All fireworks plants shall be properly posted with "Warning" and "No Smoking" signs.

Section F-2702.13 Containers for matches at entrances: It shall be the duty of the superintendent, foreman or other person in charge of any fireworks plant to provide safety containers for matches at all main entrances of the plant, where all matches in the possession of all persons shall be deposited before entering the plant inclosure.

Section F-2702.14 Inspection: On receipt of an application to operate a fireworks plant, the fire official shall cause an inspection to be made of the premises described in the application for the purpose of determining whether they conform to the provisions of this chapter, and applicable sections of the Uniform Construction Code and Subchapter 4 of this Code.

Section F-2702.15 Records and duplicate of certificates: A record of the certificates of registration issued and revoked shall be kept on file in the office of the Commissioner, and a notice sent to the fire official of each community, in which a fireworks plant is located.

Section F-2702.16 Indemnity bond: The owner or operator of any fireworks plant, within sixty days after demand therefor in writing by the Commissioner of Community Affairs, shall file and keep on file with the Department of Insurance of the State, an indemnity bond payable to the State of New Jersey in such sums as may be determined by the Commissioner and set forth in such demand, not in excess of \$1,000,000 nor less than \$500,000, with surety or sureties satisfactory to such department, conditioned for the payment of all final judgments that may be rendered against such owner or operator for damages caused to persons and property by reason of any explosion at such fireworks plant of the product or component part of parts thereof there manufactured, processed or handled.

28. Article 28 (Flammable and Combustible Liquids) is amended as follows:

i.-ii. (No change.)

iii. Section F-2800.3.1 is deleted.

iv. The words "listed in Appendix A" are deleted and the words "in effect at the time of first occupancy" substituted in lieu thereof in sections F-2801.1, F-2801.7, and F-2805.3.

v. The following subsections are added to section F-2801.2:

F-2801.2.2 Color of containers: Portable containers intended to hold 10 gallons or less and to be used for gasoline or other flammable liquid shall be red in color. The name of

the flammable liquid shall be prominently displayed on the container in bold letters of a contrasting color. The containers shall be of metal or approved plastic with a spring-loaded or screw cap. Containers for kerosene shall be blue.

F-2801.2.3 Sign: Wherever flammable liquids or kerosene are dispensed into or offered for sale in containers, there shall be a prominent sign located in a conspicuous location indicating the required color and construction of this container for each product sold. The sign shall not be less than 12 inches in the least dimension.

vi. Section F-2804.0 is deleted except for Section F-2804.5.5 which is amended in vii. below.

vii. Paragraph 5 of section F-2804.5 is amended to read as follows:

Periodic tests of underground tank storage systems may be required by the fire officials to determine that leakage has not occurred.

viii. Section F-2807.1.1 is amended to delete the word "buildings" and change "F.Fi.P.A. 30" to read N.Fi.P.A. 385".

29. (No change.)

30. Article 30 (Liquified Petroleum Gases) is amended as follows:

i.-iii. (No change.)

iv. The following new sections, F-3006.0, F-3006.1, F-3006.2, F-3006.3, and F-3006.4 are added:

Section F-3006.0 Container and Site Requirements

F-3006.1 Container labeling: Containers of 125 gallons or more water capacity shall be legibly marked with a warning followed by the name of the gas contained. The warning label shall read "Flammable Gas" followed by the name of the gas, such as "Propane" or "Butane".

F-3006.2 Storage site posting: Storage areas having containers exceeding 125 gallons aggregate water capacity shall be posted with adequate "NO SMOKING" and "FLAMMABLE GAS" signs legibly marked. The warning "FLAMMABLE GAS" shall be followed by the name of the gas stored on the site, such as "PROPANE" or "BUTANE".

F-3006.3 Reporting emergency situation: All LP-gas installations exceeding 250 gallons individual or aggregate water capacity shall be provided with a marker plate or sign indicating who should be called in the even of an emergency involving the LP-gas installation. The marker or sign shall include the following:

(1) The name of the gas supplier, plant installer, owner, or operator who will respond to the emergency.

(2) The telephone number of that person.

The LP-gas supplier, plant installer, owner or operator indicated on the marker plate or sign shall respond when notified to all LP-gas emergencies occurring at this installation and shall maintain a 24-hour phone service.

F-3006.4 Reporting of fires, explosions, or accidents:

Whenever there is a fire or explosion or accident involving serious injury or loss of life as a result of an incident \*[at]\* **\*involving\*** an LP-gas installation, the fire official shall be notified within 24 hours of its occurrence.

31.-33. (No change.)

34. Appendix A (Referenced standards) N.Fi.P.A. (National Fire Protection Association) is amended as follows:

i. Standard reference numbers 56A-78, 56B-82, 56D-82, and 56E-82 are deleted and the number 99-84 (Standard for Health Care Facilities) substituted in lieu thereof.

ii. Standard reference number 66-73 is deleted and the number 650-84 (Standard for Pneumatic Conveying Systems for Handling Combustible Materials) substituted in lieu thereof.

iii. Standard reference number 86A-77 is deleted and the number 86-85 (Standard for Industrial Furnace Design, Location and Equipment) substituted in lieu thereof.

iv. Standard reference number 653-71 is deleted and the number 120-84 (Dust Explosions in Coal Preparation Plants, Prevention of) substituted in lieu thereof.

v. Amend the following reference standard numbers, with no change in title of standard, as follows:

delete	substitute	delete	substitute	delete	substitute
80-81	80-83	59-79	59-84	303-75	303-84
91-73	91-83	61A-73	61A-84	10-81	10-85
22-81	22-84	61C-73	61C-84	12-80	12-85
24-81	24-84	72E-81	72E-84	13-83	13-85
30-81	30-84	74-80	74-84	15-82	15-85
50A-78	50A-84	96-80	96-84	17-80	17-85
54-80	54-84	211-80	211-84	32-79	32-85

5:18A-2.1 Scope; intent  
Renumber (b)-(c) as (a)-(b).

5:18A-2.2 Matter covered; jurisdictions; exceptions

(a) (No change.)

(b) Jurisdictional responsibilities for enforcing the Code are as follows:

1. (No change.)

2. County enforcing agencies, where established, shall be responsible for enforcement of the Code for:

i.-ii. (No change.)

iii. All property owned by a municipality or municipal authority, by the county or by any county or regional authority, this responsibility being concurrent with that of the local enforcing agency having jurisdiction in the area; and

iv. (No change.)

3.-4. (No change.)

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

5:18A-2.3 Local enforcing agencies; establishment

(a) (No change.)

(b) An ordinance creating one or more local enforcing agencies shall include at least the following provisions:

1.-7. (No change.)

9.-12. Renumber as 8.-11.

(c) Effective date of establishment of enforcing agency shall be as follows:

1. (No change.)

2. If no local enforcing agency has been established by August 18, 1985, or a local enforcing agency has been established but no election has been made by that date to enforce the Code in life hazard uses, the Bureau shall enforce the Code in life hazard uses within the municipality, or within such portion of the municipality as is not served by a local enforcing agency which enforces the Code in life hazard uses.

3. When, at any time after August 18, 1985 a municipality adopts an ordinance creating a local enforcing agency authorized to enforce the Code in life hazard uses, or the municipality or county, as the case may be, adopts an ordinance or resolution authorizing an existing local enforcing agency to enforce the Code in life hazard uses, and a copy of the ordinance or resolution as the case may be, has been filed with the Bureau, the effective date of the assumption by the local enforcing agency of enforcement responsibility in life hazard uses shall be the date of the next quarterly publication of the Registry of Enforcing Agencies.

4.-6. (No change.)

## 5:18A-2.4 County enforcing agency; establishment

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

(c) The ordinance or resolution shall specify whether the county enforcing agency shall:

1.-3. (No change.)

4. Establish, where desired, additional periodic inspections, permits, and/or fees beyond those specified in the Code for areas within its jurisdiction.

## 5:18A-2.6 Collection of and accounting for fees and penalties

(a) State collection of registration fees.

1. The Bureau of Fire Safety shall annually bill for and take such steps as may be necessary to collect the annual registration fees provided for by the Code.

2. The Bureau of Fire Safety shall remit 80 percent of the amount collected to the local enforcing agency established for the inspection of life hazard uses. This payment shall be disbursed by the end of the quarter next succeeding the one in which the fees were collected.

3. (No change.)

(c)-(e) Renumber as (b)-(d).

(e) The Bureau of Fire Safety shall have no obligation to a local enforcing agency in respect of fees due but not collected in any given quarter.

## 5:18A-3.2 Local enforcing agencies; organization

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

(c) The local enforcing agency shall be subject to direction from the appointing authority and such subordinate officers as may be designated in the adopting ordinance.

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

## 5:18A-3.3 Duties of fire officials

(a) The fire official shall enforce the Code and the regulations and shall endeavor to:

1.-24. (No change.)

25. Investigate, or cause to be investigated, every reported fire or explosion occurring within the jurisdiction that involves the loss of life or serious injury or causes destruction or damage to property. Such investigation shall be initiated immediately upon the occurrence of such fire or explosion; and if it appears that such an occurrence is of a suspicious nature, the fire official shall take charge immediately of the physical evidence, and in order to preserve any physical evidence relating to the cause or origin of such fire or explosion, take means to prevent access by any person or persons to such building, structure or premises until such persons designated by law to pursue investigations into such matters become involved and shall further cooperate with such authorities in the collection of evidence and prosecution of the case.

\*[(b) The fire official shall keep a record of all reported fires in life hazard uses and all facts concerning the same, including investigative findings and information as to the cause, origin and the extent of such fires and the deaths, injuries, and damage caused thereby.]\*

## 5:18A-3.4 Records

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

\***(c) The fire official shall keep a record of all reported fires in life hazard uses and all facts concerning the same, including investigative findings and information as to the cause, origin and the extent of such fires and the deaths, injuries, and damage caused thereby.\***

## 5:18A-4.1 Scope; intent

Renumber (c) as (a).

(b) (No change.)

Renumber (d) as (c).

## 5:18A-4.3 Certification required

(a) After July 1, 1986 no person shall carry out the duties of fire official or fire inspector unless that person is certified pursuant to this subchapter. The term "carry out the duties" shall mean and include representing oneself as authorized to carry out inspection of life hazard uses on behalf of the Commissioner, issuing orders pursuant to the act, and assessing or imposing any of the penalties provided for by the act.

(b) After July 1, 1986 no local enforcing agency shall employ any person to enforce the provisions of the Uniform Fire Code at a life hazard use, unless that person shall be certified in accordance with the provisions of this subchapter.

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

## 5:18A-4.4 Requirements for certification

(a) (No change.)

(b) A certification shall be issued to any applicant who meets any one of the following four standards:

1. A person who served as a fire inspector in the fire service for all of the period between February 19, 1984 and February 19, 1985. Such person shall have been appointed to the position of an inspector, whether full- or part-time, and shall have been vested with authority to enforce a validly adopted fire prevention or fire safety code. Such appointments shall be verified by a letter signed by the appointing authority. The performance of inspections which are supplementary to the primary duty of a fire fighter shall not be considered experience as a fire inspector.

2. A person who has received a certificate of completion for a course in Fire Prevention and Control administered by the Building Official and Code Administrators International (BOCA) after January 1, 1978. A certificate of completion for the BOCA correspondence course in Fire Prevention and Control shall be valid only if issued prior to February 19, 1985.

3.-4. (No change.)

(c) (No change.)

## 5:18B-3.2 High level alarm systems

(a) (No change.)

(b) In addition to the requirements specified in (a) above, each attended terminal at which a tank filled by pipeline is located shall comply with the following requirements:

1. The high level alarm system at the terminal shall provide a visual signal and an audible sound alarm device. The audible sound shall be of sufficient decibels above ambient noise levels to alert personnel responsible for taking corrective action. The audible signal shall be a distinctive signal readily distinguishable from all other signals at the terminal. The visual signal shall be of an approved type which is of a distinctive color and candlepower to affect personnel action.

2. (No change.)

(c) (No change.)

# EDUCATION

## (a)

### STATE BOARD OF EDUCATION

#### Standards for State Approval of Teacher Preparation

##### Adopted Amendments: N.J.A.C. 6:11-7

Proposed: July 15, 1985 at 17 N.J.R. 1708(a).

Adopted: November 6, 1985 by State Board of Education, Saul Cooperman, Secretary.

Filed: November 7, 1985 as R.1985 d.613 **without change.**

Authority: N.J.S.A. 18A:4-15 and 18A:6-38.

Effective Date: December 2, 1985.

Expiration Date Pursuant to Executive Order No. 66 (1978): July 1, 1987.

##### Summary of Public Comments and Agency Responses:

The Department received seven letters and testimony from two individuals at a hearing of the State Board of Education. One letter was in support of all the changes and the following specific suggestions were received.

1. A public hearing should be conducted before final adoption of the rule.

2. A proposed rule requiring all teacher candidates to complete a liberal arts/science/technology major should be deleted because it would:

- a. prevent majors in education;
- b. make it difficult for transfer students to complete certification requirements;
- c. dilute the subject preparation of elementary and other teachers; and
- d. greatly expand the number of credits required for a degree in education.

The Department responded to these suggestions in the following manner:

1. A public hearing was held on October 23 at which only two persons testified.

2. The proposal to require a liberal arts/science major was retained. This rule will not prevent students from taking majors in education also, nor will it necessarily inflate the number of credits needed for a degree. Rather than diluting the subject preparation, the rules in combination greatly strengthen the subject education of teachers, including elementary teachers. With careful articulation, colleges should be able to accommodate the needs of transfer students in most cases.

Full text of the adoption follows:

6:11-7.1 Procedures for accreditation or approval

(a) (No change.)

6:11-7.2 Admission, retention, and graduation of students

(a) Teacher preparation programs are those curricula which lead to a recommendation for a New Jersey instructional certificate irrespective of the organizational unit of the college

by which the curriculum is offered. Formal admission to teacher preparation programs shall be reviewed at the beginning of the junior year and shall be granted only to those students who have:

1. Maintained a cumulative grade point average (GPA) of at least 2.5 (4 equals A) for the first two years of college. It is the intent of this and other standards which refer to minimum grade point average to insure that institutions determine the intellectual competence of those recommended for certification. The required average of 2.5 should be viewed as only a minimal means of achieving this goal; the variability of the GPA among institutions should also be recognized. Therefore, institutions are encouraged to exceed this standard when appropriate and to develop additional criteria for insuring that prospective teachers are intellectually capable.

2. Achieved acceptable levels of proficiency in the use of English language (oral and written) and mathematics. Students with deficiencies in these areas upon admission to college shall be required to demonstrate the elimination of such deficiencies through an oral or written assessment by the beginning of the junior year.

3. Demonstrated aptitude for the profession of teaching through successful completion of an appropriate practical experience in an elementary or secondary school. This requirement would normally have to be met before the student is granted status as a junior in the program.

(b) Each student shall be evaluated at the end of the semester prior to student teaching by college faculty (both education and subject matter) and confirmed as a candidate for certification on the basis of a comprehensive assessment of relevant indicators which shall include:

1. Having maintained a cumulative grade point average of at least 2.5 (4 equals A);

2. Having demonstrated acceptable levels of teaching proficiency in junior field experience as indicated by the evaluation reports of college and school faculty. Such evaluations shall be communicated to the student and shall be included in the student's permanent file.

(c) Only students who have been confirmed as candidates for certification shall be assigned to student teaching.

(d) Colleges shall recommend for certification to the Department of Education only those students who have completed the certification program and have:

1. Maintained a cumulative grade point average of 2.5 (4 equals A);

2. Demonstrated continued competence, aptitude, motivation, and potential for outstanding success in teaching as indicated by assessments of student teaching performance by college and school supervisors. Such assessments shall be communicated to the student and shall be a part of the student's file.

(e) All standards are to be applied equitably to all students, including transfer students, and without discrimination based upon legally prohibited criteria. All admissions and retention processes are to be consistent with State and institutional affirmative action policies and goals.

(f) Colleges shall develop appropriate procedures for placing on probation and dismissing from the program students who fall below minimum requirements before graduation, and shall incorporate into these procedures methods for appeals by students.

(g) Students completing an approved program must be recommended for a certificate by their college or university before one will be issued by the State Board of Examiners.

## 6:11-7.3 Curriculum

(a) Each approved undergraduate teacher preparation program shall provide approximately 60 semester credit hours of general education including electives. General education courses shall be distributed among the arts, humanities, mathematics, science, technology and the social sciences. There must be some study in each area. The inclusion of technology as an aspect of general education is intended to allow for the inclusion of courses and topics (such as computer literacy, the history of technology and the sociological impact of technological advancement) which would contribute to the general technical literacy of students. The purpose of general education is to develop the prospective teacher as an educated person rather than to provide professional preparation. This component of the program shall exclude courses which are clearly professional or vocational in nature.

(b) Each approved teacher preparation program shall require its students to complete a major in the arts, humanities, social science, mathematics, science or technology disciplines. The inclusion of technology as a potential academic area is intended to provide for those candidates who will be certified to teach one of the technical disciplines such as distributive occupations or industrial technology.

(c) At least 96 credits of the total program must be distributed among the general education, academic major, and behavioral/social science aspects of the program.

(d) For purposes of certification, a central focus of the undergraduate teacher education program is the professional component. This component must meet all standards and study requirements of the National Association of State Directors of Teacher Education and Certification. In addition, each approved undergraduate teacher preparation program shall provide study in the essential behavioral/social science and professional education areas listed in N.J.A.C. 6:11-8.2(a). Approximately 30 credit hours of instruction shall be devoted to professional preparation; a minimum of nine credits must be devoted to study in the behavioral/social sciences, and may be included in the professional or liberal arts components of the program. The professional component of the undergraduate program shall provide students, normally beginning in the sophomore year, with practical experiences in an elementary or secondary school setting; these opportunities shall increase in intensity and duration as the student advances through the program and culminate with a student teaching experience.

(e) The student teaching experience of each approved undergraduate program shall be the equivalent of a full-time experience of one semester's duration and shall be included within the professional component.

## 6:11-7.4 Supervision of practicum students

(a) Collegiate faculty assigned to supervise students shall:

1. Have had experience supervising, consulting or otherwise working in an elementary/secondary school in contact with classroom teachers within the previous two years;

2. Be full-time faculty members or part-time faculty with demonstrated expertise in the field they are supervising.

(b) College supervisors of student teachers shall be assigned supervisory loads which permit observation of each student once every other week.

(c) In accordance with the provisions of N.J.S.A. 18A:26-8 students must take an examination in physiology and hygiene, including the effects of narcotics and alcohol.

## 6:11-7.5 Exception to standards

Exceptions to one or more of the rules in this subchapter may be granted by the Commissioner of Education in cases where an institution is able to document the qualitative equivalency of an alternative approach.

## ENVIRONMENTAL PROTECTION

### (a)

#### DIVISION OF WASTE MANAGEMENT

##### Hazardous Waste Short-Term Tank Storage Permitting Exemption

##### Adopted Amendments: N.J.A.C. 7:26-1.4 and 9.3

Proposed: June 17, 1985 at 17 N.J.R. 1501(a).

Adopted: November 8, 1985 by Robert E. Hughey,  
Commissioner, Department of Environmental  
Protection.

Filed: November 12, 1985 as R.1985 d.620, with a  
**technical change** not requiring additional public notice  
and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order No.

66(1978): For N.J.A.C. 7:26-1.4, February 21, 1989;  
for N.J.A.C. 7:26-9.3, October 8, 1986.

DEP Docket No. 028-85-05.

##### Summary of Public Comments and Agency Responses:

The Department of Environmental Protection (Department) held a public hearing on this proposal on July 16, 1985 at which no oral comments were received. Several written comments were received prior to the close of the comment period on July 17, 1985.

Comment: The short term hazardous waste storage tank exemption should be extended to underground storage tanks.

Response: The Department believes that, because of the potential for leakage and resulting ground water pollution, full regulatory scrutiny should apply to underground storage of hazardous wastes. Indeed, the Department has prohibited the new use, installation or replacement of underground tanks for hazardous waste storage since 1981 (N.J.A.C. 7:26-9.2).

Comment: Written exemption approval from the Department should not be required.

Response: The proposed exemption includes a number of design standards which the Department believes are necessary in order to adequately protect human health and the environment. The Department has determined that written approval must be obtained in order for the Department to be sure that the tank is constructed in compliance with the applicable safety equipment and design standards. The expense of obtaining this written approval should be small in comparison to that associated with obtaining a full hazardous waste facility permit.

Comment: Exempted storage tanks should not be required to be equipped with controls to prevent overfilling.

Response: Tanks that qualify for the exemption will not have to be permitted as hazardous waste storage tanks. Therefore, the Department has included a number of required safety features in the design of the tanks to protect the environment in cases of operator failure. One of these features is tank overfilling control equipment. The Department believes that this is a necessary feature in order to prevent contamination of ground, air or water resulting from tank overfilling.

Comment: The rules should contain specific standards for establishing minimum tank shell thickness.

Response: The Department will be using acceptable industrial standards in order to develop minimum shell thicknesses. The two standards which are presently being used are the standards published by the "American Petroleum Institute" and "Underwriters Laboratory". Since these standards are generally accepted by the chemical industry, the Department foresees no difficulty in obtaining compliance.

Comment: The empty tank definition (N.J.A.C. 7:26-1.4) should be revised to 2.5 percent of the volume or two hundred gallons, whichever is greater.

Response: The Department believes that the proposed one percent maximum for a tank to be considered empty is practical and achievable and is, therefore, an appropriate level at which to set the regulatory standard.

Comment: The tank storage exemption should not be extended to the storage of explosive and flammable wastes and wastes which are toxic through inhalation.

Response: The standards applicable to tank design provide adequate protection from hazards associated with storage of explosive, flammable and toxic wastes. Such materials, be they wastes or raw materials, are routinely stored in tanks and, if properly managed, pose no exceptional hazard sufficient to justify their different treatment under the rules.

Comment: Factors such as size of the tank and nature of the product being stored should be taken into consideration when establishing minimum shell thicknesses.

Response: The Department will be using published industrial standards for setting minimum shell thicknesses. These standards take into consideration volume of the tank and dimensions of the tank, as well as the nature of the materials being stored.

Comment: An impermeable base should be required to be placed beneath the tank to prevent ground water contamination caused by a puncture in the bottom of the tank.

Response: The proposed regulations require that the tanks have adequate secondary containment in accordance with N.J.A.C. 7:26-10.5(d). Under N.J.A.C. 7:26-10.5(d)1i, the containment system must have a base underlying the tank which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills and accumulated rainfall until the collected material is detected and removed.

Comment: Tests should be required periodically on all aboveground tanks to ensure tank integrity.

Response: The proposal requires that the owner and operator of exempted tanks maintain minimum shell thickness during the life of the tank. Facility owners or operators are required to document this to the Department during inspections by testing the tanks for shell thickness on a periodic basis.

Comment: A requirement should be added which states that "pipes leading to and from aboveground tanks which enter the tank below the liquid level, shall be equipped with valves sufficiently close to the tank so that they can prevent the

contents of the tank from escaping outside the secondary containment area in the event of a pipe rupture outside the containment area".

Response: The rule as proposed is sufficiently broad to include such a requirement. Without change, the Department's containment requirements in N.J.A.C. 7:26-10.5(d) protect against the concern raised here.

Comment: All exempted storage tanks should be inspected by an authorized representative of the Department on an annual basis.

Response: The Department will be inspecting these facilities, though on less than an annual basis. The environmental hazards of this type of facility do not justify an annual inspection. However, where a periodic inspection reveals mismanagement or other increased threat of environmental pollution, more frequent inspections and possible loss of exemption will result.

Comment: The cross-reference to the secondary containment provision in proposed N.J.A.C. 7:26-9.3(b)3 is in error. The cross-reference should be N.J.A.C. 7:26-10.5(d) rather than (f) as proposed.

Response: The cross-reference has been changed to correct this error.

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

#### 7:26-1.4 Definitions

...

"Empty tank" means a tank that meets the following criteria:

1. All wastes have been removed that can be removed by direct pumping or drainage; and
2. The quantity of residue remaining in the tank after waste removal is no more than one percent of the volume of the tank.

...

#### 7:26-9.3 Accumulation of hazardous waste for 90 days or less

(a) (No change.)

(b) A generator may accumulate hazardous waste on-site in an above-ground tank, for 90 days or less without a permit, after obtaining written approval from the Department, provided that the following requirements are met:

1. Each tank shall have sufficient shell thickness to ensure that the tank will not collapse or rupture. The Department shall specify a minimum shell thickness to be maintained as part of the approval;
2. Each tank shall be equipped with controls to prevent overfilling in accordance with N.J.A.C. 7:26-10.5(c);
3. Each tank or tank storage area shall have adequate secondary containment in accordance with N.J.A.C. 7:26-10.5\*~~(f)~~\*\***(d)**\*;
4. Each tank shall be designed so that at least 99 percent of the volume of each tank can be readily emptied by direct pumping or drainage;
5. Each tank is rendered empty, as defined at N.J.A.C. 7:26-1.4, every 90 days or less;
6. All waste removed from the tank(s) shall be shipped off-site to an authorized facility or placed in an on-site, authorized facility, as defined at N.J.A.C. 7:26-1.4; and
7. The generator shall comply with the requirements for owners or operators of hazardous waste facilities under N.J.A.C. 7:26-9.4(g) concerning personnel training, and under

N.J.A.C. 7:26-9.6 and 9.7 concerning preparedness and prevention, contingency plans and emergency procedures.

8. No part of the tank(s) is below grade unless the tank(s) is constructed to allow visual inspection of the tank, comparable to a totally above-ground tank, and to provide secondary containment for the below-grade part of the tank.

(c) (No change in text.)

(a)

## DIVISION OF ENVIRONMENTAL QUALITY

### Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles Control and Prohibition of Air Pollution from Gasoline-Fueled Motor Vehicles

#### Adopted New Rules: N.J.A.C. 7:27-14.3 and 7:27-15.6

Proposed: November 5, 1984 at 16 N.J.R. 2886(a) and 2889.

Adopted: November 4, 1985 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: November 4, 1985 as R.1985 d.610, with **substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: December 2, 1985.

Operative Date: May 5, 1986.

DEP Docket No. 067-84-10 and 065-84-10.

Expiration Date pursuant to Executive Order No. 66(1978): Exempt under 42 U.S.C. 7401 et seq.

#### Summary of Public Comments and Agency Responses:

COMMENT: The trucking industry, the motorcoach industry and the Department of Transportation stated that while they supported an idling standard, the idling standard proposed at N.J.A.C. 7:27-14.3 and N.J.A.C. 7:27-15.6 was too restrictive because it did not take into account the need to idle for safe operation of the vehicle and the climate control regulatory requirements of the Department of Transportation, N.J.A.C. 16:53.

RESPONSE: In the Department's original response to this comment in the January 21, 1985 New Jersey Register at 17 N.J.R. 190 (see previous Notices of Adoption concerning these rules at 17 N.J.R. 188(a) and 190(a)), the Department stated that in light of the comments it received concerning the idling standard, it was not going to adopt the standard at that time. The Department stated it was going to reexamine the idling standard to determine if a practically enforceable standard could be adopted which would also satisfy the safety and regulatory concerns of the commenters. The Department has finished this study and is now adopting an idling standard which satisfies the requirements for climate control, the safety concerns for proper pressure of air brakes, and the safety concerns for stability of compressed air suspension systems.

The Department has not found any reason to allow motor vehicles to idle for more than three minutes during normal operations. Therefore, it is adopting a three minute idling limitation for motor vehicles during normal operation. However, as a result of the study, the Department has determined that two exceptions to this limitation are needed. The first exception allows idling for up to 30 consecutive minutes at the vehicle operator's place of business where the motor vehicle is permanently assigned. The reason for this exception is to allow the vehicle operator sufficient time to warm-up a cold engine so that the vehicle may be operated safely and in accordance with New Jersey DOT climate control requirements for public transit buses. The second exception allows idling for up to 15 consecutive minutes when a vehicle engine has been stopped for three or more hours. The reason for this exception is the Department's determination that vehicles which are idled for fifteen minutes at the end of a three hour period will perform as well as cold vehicles which are permitted to idle for thirty minutes. Consequently, the Department has determined that these standards allow for the safe operation of motor vehicles and the fulfillment of the climate control regulatory requirements of the Department of Transportation, N.J.A.C. 16:53.

COMMENT: One commenter suggested that the idling standard should not apply to motor vehicles being or waiting to be inspected, motor vehicles which are attaching or detaching trailers, and motor vehicles during repairs.

RESPONSE: Based upon the information it has received, the Department has excluded motor vehicles being or waiting to be inspected, motor vehicles which are attaching or detaching trailers, and motor vehicles being repaired from the provisions of this section.

COMMENT: The commenters suggested that vehicles with sleepers be excluded from the idling standard so that the vehicle engine is permitted to power the vehicle air conditioner and heater.

RESPONSE: The Department recognizes the fact that under certain circumstances a driver may find himself fatigued and in need of rest. Therefore, the engine of a motor vehicle with a sleeper berth may be idled to allow the driver adequate and comfortable rest, provided the vehicle is not stopped in a residentially zoned area (N.J.A.C. 7:27-14.3(b)8 and N.J.A.C. 7:27-15.6(b)8).

COMMENT: The commenters questioned where the idling standards would be enforced.

RESPONSE: The standards will be enforced at all locations throughout New Jersey, including public highways, terminals, and parking lots.

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

#### SUBCHAPTER 14. CONTROL AND PROHIBITION OF AIR POLLUTION FROM DIESEL-POWERED MOTOR VEHICLES

##### 7:27-14.1 Definitions

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

...

"Department" means the Department of Environmental Protection.

...  
 "Diesel-powered motor vehicle" means a vehicle which is self-propelled by a compression ignition type of internal combustion engine and which is designed primarily for transporting persons or property on a public street or highway; for purposes of this Subchapter, passenger automobiles and motorcycles are excluded.

...  
 "Idle" means the motor vehicle operating mode consisting of a non-loaded, throttled engine speed at the revolutions per minute specified by the manufacturer.

"Motor vehicle" means all vehicles propelled otherwise than by muscular power, excepting motorized bicycles and such vehicles as run only upon rails or tracks.

7:27-14.2 Inspection standard

(a) Any motor vehicle propelled by a diesel-powered engine which is subject to inspection by the owner or lessee at the premises or places of business of the owner or lessee as required by the Division of Motor Vehicles as a condition of compliance with said inspection shall not emit smoke in the exhaust emissions in excess of the 20 percent smoke opacity standard as determined according to the inspection procedure established at N.J.A.C. 7:27B-4.3.

(b) Any diesel-powered autobus which is subject to the inspection rules and regulations of the New Jersey Department of Transportation (reference N.J.S.A. 48:4, and N.J.A.C. 16:53) as a condition of compliance with said inspection shall not emit smoke in the exhaust emissions in excess of the 12 percent smoke opacity standards as determined according to the inspection procedure established at N.J.A.C. 7:27B-4.4.

7:27-14.3 Idle standard

(a) No person shall cause, suffer, allow, or permit the engine of a diesel-powered motor vehicle to **\*[be in operation]\* \*idle\*** for more than three consecutive minutes if the vehicle is not in motion, except **\*[,]\* \*\***

**\*[1. Where the ambient temperature is 32° (0°C) or less, the permitted period of operation shall not exceed five consecutive minutes.]\***

**\*1. A motor vehicle at the vehicle operator's place of business where the motor vehicle is permanently assigned may idle for 30 consecutive minutes; or**

**2. A motor vehicle may idle for 15 consecutive minutes when the vehicle engine has been stopped for three or more hours.\***

(b) The provisions of (a) above shall not apply to:

1. Autobuses while discharging or picking up passengers; **\*[or]\***

2. Motor vehicles stopped in a line of traffic; **\*[or]\***

3. **\*Motor\*** Vehicles whose primary and/or secondary power source is utilized in whole or in part for necessary and definitively prescribed mechanical operation other than propulsion, passenger compartment heating or air conditioning; **\*[or]\***

4. Motor vehicles **\*being or\*** waiting **\*[on line]\*** to be **\*[inspected at State motor vehicle inspection facilities]\* \*examined by State or Federal motor vehicle inspectors\*;\*[or]\***

5. Emergency motor vehicles in an emergency situation **\*[.]\* \*\***

**\*6. Motor vehicles while being repaired;**

**7. Motor vehicles while engaged in the process of connection, detachment or exchange of trailers; or**

**8. Motor vehicles manufactured with a sleeper berth while being used, in a non residentially zoned area, by the vehicle's operator for sleeping or resting.\***

SUBCHAPTER 15. CONTROL AND PROHIBITION OF AIR POLLUTION FROM GASOLINE-FUELED MOTOR VEHICLES

7:27-15.1 Definitions

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

"Approved exhaust gas analytical system" means a device for sensing the amount of air contaminants in the exhaust emissions of a motor vehicle. For purposes of this Subchapter, this shall mean analyzing devices of the nondispersive infrared type sensitized to measure carbon monoxide at the 4.74 micron band expressed as percent carbon monoxide in air and to measure hydrocarbons as hexane at the 3.41 micron band expressed as parts per million of hydrocarbons (hexane) in air. The device shall be approved by the Department as one which is in accordance with specifications contained in "Specifications For Exhaust Gas Analytical System For Use By New Jersey Division of Motor Vehicles Private Inspection Centers (PIC)" or "Specifications For Exhaust Gas Analytical System For Use By New Jersey Division of Motor Vehicles Operated Official Inspection Stations" and shall be used in accordance with the manufacturer's recommended procedures for calibration and maintenance.

"Carbon monoxide (CO)" means colorless, odorless, tasteless gas at standard conditions having a molecular composition of one carbon atom and one oxygen atom.

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

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

"Emission control apparatus" means any device employed by the vehicle manufacturer which prevents or controls the emission of any air contaminant, including associated components which monitor the function and maintenance of these devices.

...  
 "Gasoline-fueled motor vehicle" means any motor vehicle equipped to be powered by a hydrocarbon fuel other than diesel fuel, but including alcohol fuels and hydrocarbon-alcohol fuel blends.

"Heavy-duty motor vehicle" means any motor vehicle designed primarily for transportation of persons or property and registered as exceeding 6,000 pounds gross weight.

"Hydrocarbons (HC)" means compounds whose molecules consist of atoms of hydrogen and carbon only.

"Light-duty motor vehicle" means any motor vehicle designed primarily for transportations of property and registered at 6,000 pounds gross weight or less.

...  
 "Motor vehicle" means all vehicles propelled otherwise than by muscular power, excepting motorized bicycles and such vehicles as run only upon rails or tracks.

"Motorized bicycle" means a pedal bicycle having a helper motor characterized in that either the maximum piston displacement is less than 50 cubic centimeters or said motor is rated at no more than 1.5 brake horsepower and said bicycle is capable of a maximum speed of no more than 25 miles per hour on a flat surface.

...

"New motor vehicle dealer" means any person licensed pursuant to N.J.S.A. 39:10-19 to sell new motor vehicles.

...

7:27-15.2 Public highway standard

(a) No person shall cause, suffer, allow or permit the operation of any gasoline-fueled motor vehicle upon the public highways of the State if the vehicle emits visible smoke in the exhaust emissions or in the crankcase emissions for a period in excess of three consecutive seconds.

(b) No person shall cause, suffer, allow or permit the operation of any gasoline-fueled motor vehicle upon the public highways of the State if the vehicle emits hydrocarbons (HC) or carbon monoxide (CO) in the exhaust emissions in excess of standards as set forth in Table 1 when measured using an approved exhaust gas analytical system and the inspection test procedure established at N.J.A.C. 7:27B-4.5.

7:27-15.3 New motor vehicle dealer inspection compliance standard

(a) Any gasoline-fueled new motor vehicle subject to inspection by any new motor vehicle dealer in accordance with regulations promulgated by the New Jersey Division of Motor Vehicles shall, prior to delivery by the new motor vehicle dealer to the ultimate purchaser, conform to the emission specifications prescribed by the manufacturer and/or such specifications as may be prescribed by the manufacturer in the new motor vehicle predelivery checklist to assure proper functioning of the vehicle emission control apparatus.

(b) Whenever emission specifications are not prescribed, the inspection standards as set forth in N.J.A.C. 7:27-15.4(b) shall apply to such new motor vehicles.

(c) Any new motor vehicle dealer, upon the sale of each new gasoline-fueled motor vehicle, shall furnish to the ultimate purchaser a written summary of Federal warranty regulations and their significance to the vehicle owner.

7:27-15.4 Motor vehicle inspection standards

(a) Any light-duty or heavy-duty gasoline-fueled motor vehicle which is subject to inspection by the State of New Jersey in accordance with the provisions of N.J.S.A. 39:8, as a condition of compliance with said inspection, shall not emit visible smoke in the exhaust emissions or in the crankcase emissions for a period in excess of three consecutive seconds when undergoing the inspection test procedure established at N.J.A.C. 7:27B-4.5.

(b) Any light-duty or heavy-duty, gasoline-fueled motor vehicle which is subject to inspection by the State of New Jersey in accordance with the provisions of N.J.S.A. 39:8, as a condition of compliance with said inspection, shall not emit carbon monoxide (CO) or hydrocarbons (HC) in the exhaust emissions in excess of standards set forth in Table 1, when measured using an approved exhaust gas analytical system and the inspection test procedure established at N.J.A.C. 7:27B-4.5.

(c) Any light-duty, gasoline-fueled motor vehicle which is subject to inspection by the State of New Jersey in accordance with the provisions of N.J.S.A. 39:8, as a condition of compliance with said inspection, shall have properly functioning and properly maintained emission control apparatus as determined according to the inspection test procedure established at N.J.A.C. 7:27B-4.6.

TABLE 1  
EXHAUST EMISSION STANDARDS FOR  
GASOLINE-FUELED MOTOR VEHICLES  
SUBJECT TO INSPECTION BY THE  
STATE OF NEW JERSEY

Light-Duty, Gasoline-Fueled Motor Vehicles		
MODEL YEAR	IDLE CO(%)	IDLE HC (ppm as hexane)
Pre-1968	8.5	1400
1968-1970	7.0	700
1971-1974	5.0	500
1975-1980	3.0	300
1981 & Later	1.2	220
Heavy-Duty, Gasoline-Fueled Motor Vehicles		
MODEL YEAR	IDLE CO(%)	IDLE HC (ppm as hexane)
Pre-1968	8.5	1400
1968-1970	8.5	1200
1971-1974	6.0	700
1975-1978	4.0	500
1979 & Later	3.0	300

7:27-15.5 Operation of emission control apparatus

(a) No person shall cause, suffer, allow or permit any emission control apparatus installed on any motor vehicle to be disconnected, detached, deactivated, or in any other way rendered inoperable or less effective than designed by the original equipment manufacturer (except temporarily for the purpose of diagnosis, maintenance, repair or replacement).

(b) No person shall cause, suffer, allow or permit the operation on the public highways of any motor vehicle in which emission control apparatus installed on such vehicle has been disconnected, detached, deactivated, or in any other way rendered inoperable or less effective than designed by the original equipment manufacturer.

(c) No person shall cause, suffer, allow or permit the sale of any motor vehicle in which emission control apparatus installed on such vehicle has been disconnected, detached, deactivated, or in any other way rendered inoperable or less effective than designed by the original equipment manufacturer.

7:27-15.6 Idle standard

(a) No person shall cause, suffer, allow, or permit the engine of a diesel-powered motor vehicle to **\*[be in operation]\* \*idle\*** for more than three consecutive minutes if the vehicle is not in motion, except:

**\*[1. Where the ambient temperature is 32°F (0°C) or less, the permitted period of operation shall not exceed five consecutive minutes.]\***

**\*1. A motor vehicle at the vehicle operator's place of business where the motor vehicle is permanently assigned may idle for 30 consecutive minutes; or**

**2. A motor vehicle may idle for 15 consecutive minutes when the vehicle engine has been stopped for three or more hours.\***

(b) The provisions of (a) above shall not apply to:

1. Autobuses while discharging or picking up passengers; **\*[or]\***

2. Motor vehicles stopped in a line of traffic; **\*[or]\***

3. **\*Motor\*** vehicles whose primary and/or secondary power source is utilized in whole or in part for necessary and definitively prescribed mechanical operation other than propulsion, passenger compartment heating or air conditioning; **\*[or]\***

4. Motor vehicles **\*being or\* waiting** **\*[on line]\*** to be **\*[inspected at State motor vehicle inspection facilities]\*** **\*examined by State or Federal motor vehicle inspectors\*;** **\*[or]\***

5. Emergency motor vehicles in an emergency situation **\*[.]\* \*;**

**\*6. Motor vehicles while being repaired;**

7. **Motor vehicles while engaged in the process of connection, detachment or exchange of trailers; or**

8. **Motor vehicles manufactured with a sleeper berth while being used, in a non-residentially zoned area, by the vehicles operator for sleeping or resting.\***

#### 7:27-15.7 Exceptions

(a) This Subchapter shall not apply to motorcycles or to motor vehicles with an engine displacement of less than 50 cubic inches (819 cubic centimeters).

(b) Nothing in this Subchapter is intended to limit or deny the inspection of motor vehicles for exhaust systems in accordance with regulations established pursuant to N.J.S.A. 39:8-2, 39:3-70, 39:3-76, and 39:10-26.

#### 7:27-15.8 Variances

Whenever either the Commissioner or the Director, Division of Motor Vehicles, has reason to believe that any vehicle or any vehicle class cannot comply with the provisions of N.J.A.C. 7:27-15.4(b), the Director, with the concurrence of the Commissioner, may prescribe alternative emission inspections standards for such vehicle or vehicle class.

## HEALTH

### (a)

#### NARCOTIC AND DRUG ABUSE CONTROL

##### Controlled Dangerous Substances Records and Reports of Registrants

##### Adopted New Rule: N.J.A.C. 8:65-5

Proposed: March 4, 1985 at 17 N.J.R. 524(a).

Adopted: November 1, 1985 by Charles F. Pierce, Acting Commissioner, Department of Health.

Filed: November 4, 1985 as R.1985 d.606, with **substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 24:21-3.

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): December 2, 1990.

##### Summary of Public Comments and Agency Responses:

Only one comment was received by telephone from the Bergen Brunswick Drug Company, Pine Brook, New Jersey. It was pointed out that the Federal Drug Enforcement Administration had changed their forms, numbered DEA234 and DEA235 to DEA333.

The Department was not aware of this change in Form numbers and responded that the correct Form numbers would

be used upon adoption of the new rule. Those changes are reflected in the respective parts of the proposal.

**Full text** of the adoption appears in the New Jersey Administrative Code at N.J.A.C. 8:65-5.

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

#### 8:65-5.3 Persons required to keep records and full reports

(a) (No change.)

(b) A registered individual practitioner is not required to keep records with respect to narcotic controlled substances listed in schedule II through V which he prescribes in the lawful course of his professional practice; he shall keep records, however, with respect to such substances that he administers and dispenses.

(c) A registered individual practitioner is required to keep records with respect to nonnarcotic controlled substances listed in schedules II through V which he dispenses or administers.

(d) (No change.)

(e) A registered person using any controlled substance in preclinical research or in teaching at a registered establishment which maintains records with respect to such substances is not required to keep records if he notifies the Bureau and the Department of Health of the name, address, and registration number of the establishment maintaining such records.

#### 8:65-5.4 Maintenance of record and inventories

(a) Every inventory and other record required to be kept under this subchapter shall be kept by the registrant and be available, for at least two years from the date of such inventory of records, for inspecting and copying by authorized employees of the Administration and the Department of Health, except that financial and shipping records (such as invoices and packing slips but not executed order forms subject to N.J.A.C. 8:65-6.13) may be kept at a central location, rather than at the registered location, if the registrant has notified the Administration and the Department of Health of his intentions to keep central records. Written notification must be submitted by registered or certified mail, return receipt requested to the Special Agent in Charge in the region in which the registrant is located and the State Department of Health. Unless the registrant is informed by the Special Agent in Charge or the State Department of Health that permission to keep central records is denied, the registrant may maintain central records commencing 14 days after receipt of his notification by the Special Agent in Charge and the Department of Health. Registrants who desire to continue maintaining central record keeping will make notification to the local Special Agent in Charge and the Department of Health as provided in this section. All notifications shall include the following:

1.-2. (No change.)

3. The registrant agrees to deliver all or any part of such records to the registered location within two business days upon receipt of a request from the Administration or the Department of Health for such records, and if the Administration or the Department of Health chooses to do so in lieu of requiring delivery of such records to the registered location, to allow authorized employees of the Administration or the Department of Health to inspect such records at central lo-

cation upon request by such employees without a warrant of any kind; and

4. In the event that a registrant fails to comply with these conditions, the Special Agent in Charge or the Department of Health may cancel such central record keeping authorization, and all other central record keeping authorizations held by the registrant without a hearing or other procedures. In the event of a cancellation of central record keeping authorization under this subparagraph the registrant shall within the time specified by the Special Agent in Charge, of the Department of Health, comply with the requirements of this section that all records be kept at the registered location.

5. Registrants need not notify the Special Agent in Charge or the Department of Health or obtain central record keeping in order to maintain records on an in-house computer system.

(b)-(e) (No change.)

#### 8:65-5.5 General requirements for inventories

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

(d) A registrant may take an inventory on a date that is within four days of his biennial inventory date pursuant to section 7 of this subchapter if he notifies in advance the Special Agent in Charge of the Bureau in his region and the Department of Health of the date on which he will take the inventory. A registrant may take an inventory either as of the opening of business or as of the close of business on the inventory date. The registrant shall indicate on the inventory records whether the inventory is taken as of the opening or as of the close of business and the date the inventory was taken.

(e) (No change.)

#### 8:65-5.7 Biennial inventory date

Every two years following the date on which the initial inventory is taken by a registrant pursuant to section 6 of this subchapter, the registrant shall take a new inventory of all stocks of controlled substances on hand. The biennial inventory may be taken on the day of the year on which the initial inventory was taken or on the registrant's regular general physical inventory date, if any, which is nearest to and does not vary by more than six months from the biennial date that would otherwise apply. If the registrant elects to take the biennial inventory on his regular general physical inventory date or another fixed date, he shall notify the Bureau and the Department of Health of this election and of the date on which the biennial inventory will be taken.

#### 8:65-5.8 Inventory date for newly-controlled substances

On the effective date of a rule by the Administrator pursuant to 308.48, 308.49 or 308.50 of the Act or the Department of Health pursuant to N.J.S.A. 24:21-3 adding a substance to any schedule of controlled substances, which substance was, immediately prior to that date, not listed on any such schedule, every registrant required to keep records who possesses that substance shall take an inventory of all stocks of the substance on hand. Thereafter such substances shall be included in each inventory made by the registrant pursuant to section 7 of this subchapter.

#### 8:65-5.9 Inventories of manufacturer

(a) Each person registered or authorized (by 301.22(b) of the Act) or N.J.A.C. 8:65-1.3(a) to manufacture controlled substances shall include the following information to his inventory:

1.-4. (No change.)

#### 8:65-5.10 Inventories of distributors

Each person registered or authorized (by 301.22(b) of the Act) or N.J.A.C. 8:65-1.3(a) to distribute controlled substances shall include in his inventory the same information of manufacturers pursuant to N.J.A.C. 8:65-5.9(a)3 and 4.

#### 8:65-5.11 Inventories of dispensers and researchers

(a) Each person registered or authorized (by 301.22(b) of the Act) or N.J.A.C. 8:65-1.3(d) to dispense or conduct research with controlled substances and required to keep records pursuant to N.J.A.C. 8:65-5.3 shall include in his inventory the same information required of manufacturers pursuant to N.J.A.C. 8:65-5.9(a)3 and 4. In determining the number of units of each finished form of a controlled substance in a commercial container which has been opened, the dispenser shall do as follows:

1.-2. (No change.)

(b) (No change.)

#### 8:65-5.13 Inventories for chemical analysts

(a) Each person registered or authorized (by 301.22(b) of the Act) and N.J.A.C. 8:65-1.3 to conduct chemical analysis with controlled substances shall include in his inventory the same information required of manufacturers pursuant to N.J.A.C. 8:65-5.9(a) 1, 3 and 4, as to substances which have been manufactured, imported or received by such person.

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

#### 8:65-5.15 Records of manufacturers

(a) Each person registered or authorized (by 301.22(b) of 307.15 of the Act) and N.J.A.C. 8:65-1.3(a) to manufacture controlled substances shall maintain records with the following information:

1.-4. (No change.)

#### 8:65-5.16 Records for distributors

(a) Each person registered or authorized (by 301.22(b) or 307.11-307.14 of the Act) and N.J.A.C. 8:65-1.3(a) to distribute controlled substances shall maintain records with the following information for each controlled substance:

1.-7. (No change.)

#### 8:65-5.17 Records for dispensers and researchers

(a) Each person registered or authorized (by 301.22(b) of the Act) and N.J.A.C. 8:65-1.3(e) to dispense or conduct research with controlled substances and required to keep records pursuant to Section 3 of this subchapter shall maintain records with the following information for each controlled substance:

1.-5. (No change.)

(b) (No change.)

#### 8:65-5.21 Reports from manufacturers and importers

(a) Each registered manufacturer and registered importer shall submit a quarterly report (D.E.A. Form \*[234]\* \*333\*) accounting for all stocks of narcotic controlled substances listed in schedules I, II and III on hand at the beginning and end of the quarter, and for all receipts (D.E.A. Form \*[234a]\* \*333\*), dispositions (D.E.A. Form \*[234b]\* \*333\*), manufacturing (D.E.A. Form \*[234c]\* \*333\*) and packaging (D.E.A. Form \*[234d]\* \*333\*), of such substances \*on the appropriate Federal forms.\* The returns shall be obtained from and submitted to the Distribution Audit Branch, Department of Justice, Drug Enforcement Administration, Washington, D.C. 20537, on or before the 15th day of the month succeeding the period for which it is submitted.

(b) All narcotic controlled substances listed in schedules I, II, and III received by a manufacturer or importer, shall be

recorded on **D.E.A. Form [234a] \*333\* [D.E.A.]** in order and at the time of receipt. Where record on **D.E.A. Form [234a] \*333\* [D.E.A.]** cannot, for any good and sufficient reason, be made immediately, the manufacturer or importer shall have available for inspection such invoices, delivery or duplicate sales slips, or other papers or records as may be required to evidence any unrecorded purchase or receipt.

(c) All dispositions of narcotic controlled substances listed in schedules I, II, and III by a manufacturer or importer, including exporters, **[distributions] \*distributors\***, and losses shall be recorded on **D.E.A. Form [234b] \*333\***.

1. A separate sheet, properly headed in the space provided, shall be used for each different type of transaction. On each sheet, separate entries shall be used to report dispositions of each substance and of each different type and size of container or unit involved. All losses reported shall be fully explained.

2. The details of all exports and all domestic distribution **[or] \*of\*** narcotic controlled substances shall be reported in full on **D.E.A. Form [234b] \*333\***, except that the details of distribution of narcotic controlled substances listed in schedule III sold to dispensers shall be included in summarized entries on **D.E.A. Form [234b] \*333\***.

3. For all such distributions not reported on detail, the manufacturer shall have available for inspection original sales orders, delivery slips, or other papers or records sufficient to fully evidence and explain the dispositions.

(d) All narcotic controlled substances listed in schedules I, II and III used in the production of other drugs or preparations, with the exception of transactions involving original manufacture from raw opium or coca leaves, shall be entered on **D.E.A. Form [234c] \*333\*** in the order and at the time they are placed into the process of manufacturer. All narcotic controlled substances listed in schedules I, II, and III and preparations produced therefrom shall be entered on the same form, at the time of production, which entry shall be clearly identified with the entry of substances used in their production.

1. Where record of "Used for Production" or "Production" cannot be made immediately, the manufacturer shall have available such batch tags, production orders, or other papers as may be required to evidence any unrecorded quantity used or produced.

2. Any loss in manufacturer, and any recoverable wastes salvaged from the manufacturer shall be reported. All wastes shall be returned to raw stock and included in the report of raw materials on hand at the end of the month.

3. Any narcotic controlled substances listed in schedules I, II, and III actively in process of manufacture at the end of the month shall be so reported. Where substances are placed in process during one quarter and a portion of the production is removed from process as finished goods during the same quarter, the portion thus removed from process shall be reported "Produced" and the remainder reported as "In process" at the close of the period.

4. Narcotic controlled substances listed in schedules I, II, and III placed in process for the manufacture or narcotic controlled substances listed in schedule V shall be reported on a separate **D.E.A. Form [234c] \*333\***, on which the kind and quantity of narcotic used and the name of the substance to be produced therefrom shall be stated.

(e) All narcotic controlled substances listed in schedules I, II, and III, either bulk finished goods or goods already packaged, which are used during the quarter for packaging or repackaging into commercial containers shall be reported as

credit entries in **D.E.A. Form [234d] \*333\***, and in each instance clearly identified with the entry of the substance used in such packaging. A separate entry shall be made for each different size of commercial container produced, but all entries representing a single packaging lot shall be grouped together.

1. The number of commercial containers of a given size produced, the size of the commercial container (indicating the number of pills, tablets, ounces, and so forth) **\*,\*** the narcotic controlled substance contained in each unit in the commercial container, the total narcotic controlled substance content of each container, and the aggregate narcotic controlled substance content of all commercial containers, represented by the entry shall be indicated.

2. The recoverable wastes salvaged from the packaging operation and the losses in packaging shall be shown as credit entries on the form. All recoverable wastes reported during the quarter shall be returned to raw stock and further accounted for as raw materials.

3. Any goods actively in process of packaging at the close of the quarter shall be so reported. Where substances are placed in process of packaging during one quarter and a portion thereof are removed as commercial containers, produced during the same quarter, the portion thus removed shall be reported as commercial containers produced and the remainder reported as in process at the end of the quarter.

(f) Each manufacturer and imported shall submit as a part of his fourth quarterly report (**D.E.A. Form [234] \*333\***) an inventory (**D.E.A. Form [234e] \*333\***) of narcotic controlled substances listed in schedules I, II, and III which are in possession on December 31 of each year. The substances shall be classified as follows:

1. Raw materials
2. Goods in process;
3. Finished bulk stock;
4. Finished goods in marketable commercial containers;
5. Miscellaneous stock.

#### 8:65-5.22 Reports of distributors and exporters

(a) Every registered distributor except any officer or agency of the Veteran's Administration or who or which is exempted from registration pursuant to 301.25 of the Act and N.J.A.C. 8:65-1.3 and registered exporter shall submit a monthly report on **D.E.A. Form [235] \*333\*** and its supplement **[235a and 235b] \*** accounting for all transactions involving narcotic controlled substances listed in schedules I and II, including all receipts (**D.E.A. [235a] \*333\***) and dispositions (**D.E.A. Form [235b] \*333\***). The report shall be submitted to the Distribution Audit Branch, Department of Justice, Drug Enforcement Administration, Washington, DC 25037, on or before the 15th day of the month succeeding that for which the return is submitted.

(b) All narcotic controlled substances listed in schedules I and II received by a distributor or exporter shall be recorded on **D.E.A. Form [235a] \*333\*** in order and at the time of receipt. Where a record of **D.E.A. Form [235a] \*333\***, such form cannot, for any good and sufficient reason, be made immediately, the distributor or exporter shall have available for inspection such invoices, delivery or duplicate sales slips, or other papers or records as may be required to evidence any unrecorded purchase or receipt.

(c) All dispositions of narcotic controlled substances listed in schedules I and II, including distributions, exports, losses shall be reported on **D.E.A. Form [235b] \*333\***. A separate sheet, properly headed in the space provided, shall be used for each different type of transaction. On each sheet, separate

entries shall be made of dispositions of each substance and of each different type and size of container or unit involved. All losses reported shall be fully explained.

(d) Each distributor and exporter shall submit, as part of his December 31 month report on D.E.A. Form \*[235]\* \*333\* and its supplements, any inventory on D.E.A. Form \*[235c]\* \*333\* of the narcotic controlled substances listed in schedules I and II which are in his possession on December 31 of each year. A separate entry shall be made for each narcotic substance as follows:

1. The name, quantity, and narcotic content of the drug or preparation;
2. The size of each commercial container; and
3. The number of commercial containers.

(e) The distributor and exporter shall report on D.E.A. Form \*[235a]\* \*333\* complete summary of transactions for the month.

#### 8:65-5.23 Reports from manufacturers importing opium

(a) Every manufacturer importing crude opium shall submit, in addition to the report on D.E.A. Form \*[234]\* \*333\* and its supplements, D.E.A. Form 247 and its supplements 247a and 247b, accounting for the importation and the production in bulk of finished marketable products, standardized in accordance with the U.S. Pharmacopeia, National Formulary, U.S. Pharmacopoeia/National Formulary, or other recognized medical standards. Subsequent manufacture from such products, including bottling or packaging operations shall be accounted for in the quarterly returns on D.E.A. Form \*[234]\* \*333\* and its supplements, \*[forms,]\* D.E.A. Form 247 and its supplements shall be submitted to the Distribution Audit Branch, Department of Justice, Drug Enforcement Administration, Washington, DC 20537 on or before the 15th day of the month immediately following the period for which it is submitted.

(b) The report of manufacture from crude opium shall consist of summaries (D.E.A. Forms 247 and 247a) with supporting detail sheets (D.E.A. Form 247b) accounting for original manufacture from crude opium, production from morphine for further manufacture and production from manufacturing opium, and also accounting for stocks of crude opium, manufacturing opium, morphine for further manufacture and other crude alkaloids.

(c) The detail sheets (D.E.A. Form 247b) supporting the summary of original manufacture from crude opium shall show separately the crude opium used for the manufacture of opium tinctures and extracts, crude opium used for the extraction of alkaloids, crude opium used for the manufacturing of controlled substances listed in schedule V, and crude opium used for the production of manufacturing opium; \*[and shall show separately the crude opium used for the manufacturing of opium tinctures and extracts, crude opium used for the extraction of alkaloids, crude opium used for the manufacture of controlled substances listed in schedule V, and crude opium used for the production of manufacturing opium;]\* and shall show separately the medicinal opium, alkaloids and salts, opium tinctures and extracts, controlled substances listed in schedule V, and manufacturing opium produced.

(d) Importation of opium shall be reported in summarized entries in the debit summary of quarterly report (D.E.A. Form \*[234]\* \*333\*) and shall be immediately reported by similar summarized entries in the credit summary of the quarterly report (D.E.A. Form \*[234]\* \*333\*) as transferred to importing manufacturing report. Such importations shall be further reported in summary (D.E.A. Form 247) and supporting detail

sheets (D.E.A. Form 247b). Products manufactured therefrom shall be reported as produced in accordance with subsections (b) and (c) of this Section\*,\* and, with the exception of manufacturing opium, morphine for further manufacture, and other crude or unfinished alkaloids, shall be transferred to the quarterly report (D.E.A. Form \*[234]\* \*333\*) required when reported produced.

(e)-(j) (No change.)

#### 8:65-5.24 Reports of manufacturer importing medicinal coca leaves

(a) Every manufacturer importing raw coca leaves for the manufacture of medicinal products shall submit, in addition to the report on \*[()\* D.E.A. \*[234]\* \*333\* \*()\*]\* and its supplements, additional forms and their supplements required for accounting for the importation and for all manufacturing operations performed between importation and the manufacture of bulk or finished products standardized in accordance with the U.S. Pharmacopoeia\*/\*\*[n]\*\*N\*ational Formulary, or other recognized standards. Subsequent manufacture from such products, including bottling or packaging operations, shall be accounted for in quarterly reports on \*[()\* D.E.A. Form \*[234]\* \*333\* \*()\*]\* and its supplements. Reports on \*[()\* D.E.A. Form 168 \*()\*]\* and its supplements shall be submitted quarterly to the Distribution Audit Branch, Department of Justice, Drug Enforcement Administration, Washington, DC 20537, on or before the 15th day of the month immediately following the period for which it is submitted.

(b) The report of manufacture from medicinal coca leaves shall consist of summaries (D.E.A. Form 168 and 168a) with supporting detail sheets (D.E.A. Form 168b) accounting for original manufacture from such leaves, conversions or production from manufacturing coca extracts, and also accounting for stocks of raw coca leaves, manufacturing coca extracts, and other crude coca alkaloids.

(c) The detail sheets (D.E.A. Form 168b) supporting the summary of original manufacture from medical coca leaves, shall show separately the coca leaves used for the manufacture of manufacturing coca tinctures and extracts, and coca leaves used for the extraction of alkaloids, and shall show separately the coca alkaloids and salts, coca tinctures and extracts, and manufacturing coca extracts produced.

(d) Importation of medicinal coca leaves shall be reported in summarized entries in the debit summary of the quarterly report (D.E.A. Form \*[234]\* \*333\* and shall be immediately reported by similar summarized entries in the credit summary of the quarterly report (D.E.A. Form \*[234]\* \*333\*) as transferred to importing manufacturer's report. Such importation shall be further reported in summary (D.E.A. Form 168) and supporting detail sheets (D.E.A. Form 168b). Products manufactured therefrom shall be reported as produced in accordance with subsection (h) of this section and, with the exception of manufacturing coca extracts, residues or bases for further manufacture, and other crude or unfinished alkaloids, shall be transferred to the quarterly report (D.E.A. Form \*[234]\* \*333\*) when reported produced.

(f)-(j) (No change.)

#### 8:65-5.25 Reports from manufacturers importing special coca leaves

(a) Every manufacturer using special coca leaves imported into the United States shall submit a quarterly report (DEA Form 249) accounting for all transactions involving such leaves or substances derived therefrom which contain cocaine or ecgonine, or any salts, derivatives, or preparations from which cocaine or ecgonine may be synthesized or made. This

report shall be submitted to the Distribution Audit Branch, Department of Justice, Drug Enforcement Administration, Washington, D.C. 20537, on or before the 15th day of the month following the period for which the report is made. Such report shall include a report of all importations of special coca leaves (DEA Form 249a), a report of all materials entered into the processes of manufacturer, a report of the various substances produced therefrom (DEA Form 249c, 249d and 249e), a report of all such substances destroyed (DEA Form 249f), and a summary of operations (DEA Form 249g).

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

## HUMAN SERVICES

### (a)

#### DIVISION OF MENTAL HEALTH AND HOSPITALS

##### Community Mental Health Services

##### Readoption: N.J.A.C. 10:37

Proposed: September 16, 1985 at 17 N.J.R. 2222(a).  
Adopted: October 31, 1985 by Geoffrey S. Perselay,  
Acting Commissioner, Department of Human  
Services.

Filed: November 4, 1985 as R.1985 d.605, **without  
change.**

Authority: N.J.S.A. 30:9A-1.

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 readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:37.

### (b)

#### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

##### Hospital and Special Hospital Services Manual, Independent Clinic Services Manual Ambulatory Surgical Centers

##### Adopted Amendments: N.J.A.C. 10:52-1.1, 1.20; 10:53-1.1, 1.16; 10:66-1.1, 1.2, 1.3, 1.6, 1.7, 1.9 and 3.3

Proposed: November 19, 1984 at 16 N.J.R. 3153(a).  
Adopted: September 30, 1985 by Geoffrey S. Perselay,  
Acting Commissioner, Department of Human  
Services.

Filed: September 30, 1985 as R.1985 d.532, **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. 30:4D-6a(5), b(12)(16); 42 CFR  
416.

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order 66(1978):  
February 9, 1989 for 10:52-1; June 13, 1989 for  
10:53-1; December 15, 1988 for 10:66-1.

##### Summary of the Public Comments and Agency Responses:

There were two comments on the proposal. The commentators were William E. Olmstead of Roseland Surgical Center, and Ellen Samuel, Administrator, The Medical Care Center at Woodbridge. Both commentators had two basic concerns. Their first concern was that the Medicaid (Title XIX) rate of reimbursement was too low because it was based on 80 per cent of the Medicare (Title XVIII) rate which was established three years ago. The Division's response is to amend the proposal to allow for reimbursement using the Medicare (Title XVIII) base rates in effect as of January 1, 1985. The New Jersey Medicaid Program will then reimburse ambulatory surgical centers at 80 percent of this base rate adjusted for geographic variation.

The commentators' second concern was that the Division is only reimbursing for the highest single procedure code whereas Medicare will reimburse an additional 50 per cent (per procedure) if multiple surgical procedures are performed during a single operative session. The Division's response is to allow an additional 50 percent for the second surgical procedure but only in those instances where the procedure is performed at a separate operative site on the patient. Only one fee will be allowed when multiple surgical procedures are performed on the same operative site on the same patient during a single operative session.

##### Summary of changes between Proposal and Adoption:

The Division is amending N.J.A.C. 10:52-1.20, 10:53-1.16, and 10:66-1.7 to indicate the changes in reimbursement that were made in response to the public comments as indicated above. The definition of "ambulatory care facility" was amended to conform with the definition used by the New Jersey Department of Health (N.J.A.C. 8:43A-1.1).

Some codification changes were necessary. The reference to ambulatory surgical centers (ASC) in the definition section of the Hospital Service Manual should be 10:52-1.20. The definitions section of the Independent Clinic Services Manual should appear as 10:66-1.2.

N.J.A.C. 10:66-3.3 has been amended to delete the existing text of the procedure codes and narrative descriptions because they are obsolete. Effective September 1, 1985, the Division of Medical Assistance and Health Services began utilizing the HCPCS Procedure Coding System. (HCPCS stands for Health Care Financing Administration Common Procedure Coding System.) HCPCS was developed to replace various existing coding systems with a single national coding system using common procedure code numbers and terminology. The basic concept of HCPCS is a three level coding system. Level I codes will be used primarily by physicians and independent laboratories, and are based on the CPT-4. (The CPT-4 stands for Physicians' Current Procedure Terminology, 4th Edition, and

is published by the American Medical Association.) Level II codes are assigned by HCFA (Health Care Financing Administration) for those services not included in the CPT-4. Level III codes are assigned by the Division and the Prudential Insurance Company and are to be used for those services that are unique to New Jersey. Those providers which are considered independent clinics, including ambulatory surgical centers, are now required to submit claims to the New Jersey Medicaid Program using the HCPCS coding system. The providers will be reimbursed in accordance with Medicaid policies, procedures, and fee schedules.

Full text of the adoption follows (additions are indicated by asterisks and boldface **\*thus\***; deletions are indicated by asterisks and brackets **\*[thus]\***).

#### 10:52-1.1 Definitions

...

“Ambulatory surgical center or “ASC” operated by a hospital” means a hospital-affiliated ambulatory surgical center that is a separately identifiable entity, physical, administrative and financially independent and distinct from other operations of the hospital (see N.J.A.C. **\*[120:52-1.20.]\*** **\*10:52-1.20.\***

...

#### 10:52-1.20 Ambulatory Surgical Center (ASC)

(a) An ASC may be either independent (that is, not part of a provider of services or any other facility) or may be operated by a hospital (that is, under the common ownership, licensure or control of a hospital).

1. An ASC operated by a hospital must be a separately identifiable entity physically, administratively, and financially independent and distinct from other operations of the hospital.

(b) In order to be approved as a Medicaid Provider, an ASC must:

1. Have an agreement with the Health Care Financing Administration (HCFA) under Medicare to participate as an ASC;

2. Possess a Certificate of Need from the New Jersey Department of Health;

3. Possess a license from the New Jersey State Department of Health;

4. Be individually approved as a provider by the Division of Medical Assistance and Health Services before it will be reimbursed for services rendered to Medicaid patients.

i. The Medicaid Provider Application, the appropriate Provider Agreement, and the Ownership and Control Interest Disclosure Statement (HCFA-1513) must be submitted to:

Chief, Provider Enrollment  
Division of Medical Assistance  
and Health Services  
CN 712

Trenton, New Jersey 08625

ii. Upon signing and returning the Medicaid Provider Application, the Ownership and Control Interest Disclosure Statement (HCFA-1513), the Provider Agreement, and other special enrollment documents as required to the New Jersey Medicaid Program, the ASC will receive written notification of approval or disapproval.

iii. If approved as a provider, the ASC will be assigned a Provider Number and added to the Medicaid Directory of Independent Clinics.

iv. The Prudential Insurance Company (New Jersey Medicaid **\*[Contractor]\* \*Fiscal Agent\*** for independent clinics) will furnish an Independent Clinic Services provider manual and an initial supply of pre-printed claim forms (MC-14 form).

5. Make a charge to all patients for services provided, except as provided by legislation;

i. The charge made for Medicaid patients must not be more than that made to any other patient;

6. It shall be the responsibility of each approved ASC clinic to notify the New Jersey Medicaid Program a minimum of 72 hours prior to the relocation or closing of its facility.

(c) Covered Medicaid surgical procedures in an ambulatory surgical center are only those surgical and medical procedures which appear as an appendix to 42 CFR 416.65, the Federal regulations governing ASC services. No other procedure is covered unless approved by the Division of Medical Assistance and Health Services (New Jersey Medicaid Program).

1. A request by an ambulatory surgical center facility for approval to add an additional surgical procedure not specifically included in the Medicare listing must be reviewed and evaluated by the Division of Medical Assistance and Health Services.

(d) New Jersey Medicaid reimbursement for covered surgical services performed in an approved ambulatory surgical center shall be made for services rendered by both the physician and the ambulatory surgical center facility.

1. Physician reimbursement for covered surgical services performed in an approved ambulatory surgical center shall be in keeping with the New Jersey Medicaid Program's physician procedure fee schedule and limited to New Jersey Medicaid's allowable fees.

i. The physician performing the surgical procedure shall bill the New Jersey Medicaid Program, on the 1500-N.J. claim form, directly either as an individual provider or as part of a physician's group.

ii. A physician receiving a salary from the ASC for performing administrative duties not related to surgical-medical procedures will be permitted to submit claims for the surgical medical procedures which the physician actually performs.

2. A covered procedure performed in an ASC is separated for reimbursement purposes into one of four payment groups as designated in the appendix to 42 CFR 416.65, the Federal regulations governing ASC services.

i. A facility is reimbursed for any procedure within the same group at a single rate.

ii. A single payment is made to an ambulatory surgical center which encompasses all facility services furnished by the ASC in connection with a covered procedure performed on a patient in a single operative session.

**\*[(1) If more than one covered surgical procedure is furnished to a patient in a single operative session, payment will be made for the procedure with the highest reimbursement rate. Other covered surgical procedures furnished in the same session will not be reimbursed.]\***

**\*[(1) If more than one covered surgical procedure is performed on a patient in a single operative session, payment is limited to two procedures, but, then, only if each procedure is at a separate operative site on the patient. Full payment will be made for the procedure with the highest reimbursement rate. Payment for the other procedure will be at 50 percent of the applicable reimbursement rate.]\***

(2) Facility services, generally, are items and services furnished in connection with listed covered procedures which would be covered if furnished in a hospital operating suite or hospital outpatient department in connection with such

procedures. These facility services would not include physicians' services, or medical and other health services for which payment could be made under other provisions of the Medicaid Program such as laboratory, x-ray, or diagnostic procedures (other than those directly related to performance of the surgical procedure).

(For further information about covered services and method of reimbursement, see the Independent Clinic Services Manual (N.J.A.C. 10:66-1.1 through 1.9 and 10:66-3.3).

#### 10:53-1.1

...  
 "Ambulatory surgical center or "ASC" operated by a hospital" means a hospital-affiliated ambulatory surgical center that is a separately identifiable entity, physically, administratively and financially independent and distinct from other operations of the hospital (See N.J.A.C. 10:53-1.16).  
 ...

#### 10:53-1.6 Ambulatory Surgical Center (ASC)

(a) An ASC may be either independent (that is, not part of a provider of services or any other facility) or may be operated by a hospital (that is, under the common ownership, licensure or control of a hospital).

1. An ASC operated by a hospital must be a separately identifiable entity physically, administratively, and financially independent and distinct from other operations of the hospital.

(b) In order to be approved as a Medicaid Provider, an ASC must:

1. Have an agreement with the Health Care Financing Administration (HCFA) under Medicare to participate as an ASC;

2. Possess a Certificate of Need from the New Jersey Department of Health;

3. Possess a license from the New Jersey State Department of Health;

4. Be individually approved as a provider by the Division of Medical Assistance and Health Services before it will be reimbursed for services rendered to Medicaid patients.

i. The Medicaid Provider Application, the appropriate Provider Agreement, and the Ownership and Control Interest Disclosure Statement (HCFA-1513) must be submitted to:

Chief, Provider Enrollment  
 Division of Medical Assistance and Health  
 Services  
 CN 712  
 Trenton, New Jersey 08625

ii. Upon signing and returning the Medicaid Provider Application, the Ownership and Control Interest Disclosure Statement (HCFA-1513), the Provider Agreement, and other special enrollment documents as required to the New Jersey Medicaid Program, the ASC will receive written notification of approval or disapproval.

iii. If approved as a provider, the ASC will be assigned a Provider Number and added to the Medicaid Directory of Independent Clinics.

iv. The Prudential Insurance Company (New Jersey Medicaid Fiscal Agent for Independent Clinics) will furnish an Independent Clinic Services provider manual and an initial supply of pre-printed claim forms (MC-14 form).

5. Make a charge to all patients for services provided, except as provided by legislation;

i. The charge made for Medicaid patients must not be more than that made to any other patient;

6. It shall be responsibility of each approved ASC clinic to notify the New Jersey Medicaid Program a minimum of 72 hours prior to the relocation or closing of its facility.

(c) Covered Medicaid surgical procedures in an ambulatory surgical center mean those surgical and medical procedures which appear as an appendix to 42 CFR 416.65, the Federal regulations governing ASC services. No other procedure is covered unless approved by the Division of Medical Assistance and Health Services (New Jersey Medicaid Program).

1. A request by an ambulatory surgical center facility for approval to add an additional surgical procedure not specifically included in the Medicare listing must be reviewed and evaluated by the Division of Medical Assistance and Health Services.

(d) New Jersey Medicaid reimbursement for covered surgical services performed in an approved ambulatory surgical center shall be made for services rendered by both the physician and the ambulatory surgical center facility.

1. Physician reimbursement for covered surgical services performed in an approved ambulatory surgical center shall be in keeping with the New Jersey Medicaid Program's physician procedure fee schedule and limited to New Jersey Medicaid's allowance fees.

i. The physician performing the surgical procedure shall bill the New Jersey Medicaid Program, on the 1500-N.J. claim form, directly either as an individual provider or as part of a physician's group.

ii. A physician receiving a salary from the ASC for performing administrative duties not related to surgical-medical procedures will be permitted to submit claims for the surgical-medical procedures which the physician actually performs.

2. A covered procedure performed in an ASC's is separated for reimbursement purposes into one of four payment groups as designated in the appendix to 42 CFR 416.65, the Federal regulations governing ASC services.

i. A facility is reimbursed for any procedure within the same group at a single rate.

ii. A single payment is made to an ambulatory surgical center which encompasses all facility services furnished by the ASC in connection with a covered procedure performed on a patient in a single operative session.

\*[(1) If more than one covered surgical procedure is furnished to a patient in a single operative session payment will be made for the procedure with the highest reimbursement rate. Other covered surgical procedures furnished in the same session, will not be reimbursed.]\*

**\*(1) If more than one covered surgical procedure is performed on a patient in a single operative session, payment is limited to two procedures, but, then, only if each procedure is at a separate operative site on the patient. Full payment will be made for the procedure with the highest reimbursement rate. Payment for the other procedure will be at 50 percent of the applicable reimbursement rate for that procedure.\***

(2) Facility services, generally, are items and services furnished in connection with listed covered procedures which would be covered if furnished in a hospital operating suite or hospital outpatient department in connection with such procedures. These facility services would not include physicians' services, or medical and other health services for which payment could be made under other provisions of the Medicaid Program such as laboratory, x-ray, or diagnostic procedures (other than those directly related to performance of the surgical procedure).

(For further information about covered services and method of reimbursement, see the Independent Clinic Services Manual (N.J.A.C. 10:66-1.1 through 1.9 and 10:66-3.3.)

10:66 Agency Note: Eliminate the address—P.O. Box 2486 wherever it appears in this subchapter and substitute CN 712 in its place. Eliminate the title “Local Medicaid Office” wherever it appears in this subchapter and substitute the title “Medicaid District Office” in its place.

10:66-1.1 Scope

This chapter is concerned with the provision of quality health care services to eligible recipients of the New Jersey Medicaid Program in an independent clinic setting.

\*[10:55-1.2]\* **\*10:66-1.2\*** Definitions

...  
 \*["Ambulatory care facility" means a freestanding facility, licensed by the New Jersey State Department of Health, which provides preventive, diagnostic, and therapeutic services. The provision of primary care includes, but is not limited to, health and medical services for children and adults, prenatal, postpartum, and surgical services, and family planning services.]\*

**\*"Ambulatory care facility" means a freestanding facility or a distinct part of a facility, (including outpatient services in a hospital), which is licensed by the New Jersey State Department of Health to provide preventive, diagnostic, and therapeutic services to persons who come to the facility to receive services and depart from the facility on the same day. All ambulatory care facilities shall provide at least the following required services: medical, nursing, dietary counseling, social work services, laboratory, and radiological services.\***

"Ambulatory surgical center" or "ASC" means any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization; is licensed by the New Jersey State Department of Health; has an agreement with the Health Care Financing Administration (HCFA) under Medicare to participate as an ASC; and is enrolled as a provider in the New Jersey Medicaid Program (See N.J.A.C. 10:66-1.3).

"Ambulatory surgical center facility services" mean those items and services furnished by an ambulatory surgical center in connection with a covered surgical procedure. The items and services are those which would otherwise be covered if furnished on an inpatient or outpatient basis in a hospital in connection with the covered surgical procedure.

"Covered ambulatory surgical center procedures" means those surgical and other medical procedures only which appear as an appendix to 42 CFR 416.65, the Federal regulations governing ASC services. No other procedure is covered unless approved by the Division of Medical Assistance and Health Services (New Jersey Medicaid Program).

...

10:55-1.3 Provisions for participation (New Jersey based)

(a) To be reimbursed for services rendered to Medicaid patients, each independent clinic and each of its satellites must obtain from the Division of Medical Assistance and Health Services (New Jersey Medicaid Program) individual approval as a provider.

1. Each approved satellite will be assigned a separate provider number which will appear on the claim form to be used for services performed at that facility. Billing may be performed from one central location; however, the claim form that corresponds to the actual place of service must be used.

i. If it is determined that services have been provided by a non-approved satellite, the New Jersey Medicaid Program may seek recovery of any payments incorrectly or illegally expended, together with appropriate penalties, if warranted.

(b) In addition to (a) above, to be approved as a Medicaid Provider an independent clinic must:

1. Possess a Certificate of Need from the New Jersey Department of Health, if required; and
2. Possess a license from the New Jersey State Department of Health, if required; and

3. In addition to the requirements of (a) and (b)1. and 2. above, the following types of clinics must obtain approval from the relevant State and Federal agencies, as noted in this paragraph, in order to be reimbursed:

- i. Ambulatory Care Facility—New Jersey State Dept. of Health
- ii. Ambulatory Surgical Center—New Jersey State Dept. of Health, and HCFA under Medicare (Written agreement)
- iii. Cerebral Palsy Clinic—New Jersey State Dept. of Health
- iv. Dental Clinic—New Jersey Board of Dentistry
- v. Family Planning Clinic—New Jersey State Dept. of Health
- vi. Medical Day Care Center (Non Residential)—New Jersey State Dept. of Health
- vii. Mental Health Clinic—New Jersey Dept. of Human Services, Division of Mental Health and Hospitals.

4. A clinic other than those in (b)3. above which desires to become a provider must apply (see (d) below) by written request, which must contain the following information:

- i. Type of services to be provided;
- ii. Organizational structure (for example, governing body, staffing patterns);
- iii. Relationships with other governmental or health agencies (for example, Medicare, HHS or private sponsorship);
- iv. Finances (budgets, fee schedule, sources of income, cost, grants, endowments, etc.);
- v. Name, degree(s), license number(s) and social security number(s) of professional staff (e.g., physician, podiatrist, pharmacist, etc.).

5. Make a charge for services to all patients, except as provided by legislation, with the proviso that no charge will be made directly to the Medicaid patient, and the charge to the New Jersey Medicaid Program may not exceed the charge to any other patient for equal service.

\*[(d)]\* \*(c)\* The Medicaid Provider Application, the appropriate Provider Agreement, the Ownership and Control Interest Disclosure Statement (HCFA-1513) and other enrollment documents as required are to be submitted to the:

Chief, Provider Enrollment  
 Division of Medical Assistance  
 and Health Services  
 CN 712  
 Trenton, New Jersey 08625

\*[(e)]\* \*(d)\* Upon signing and returning the Medicaid Provider Application, the Provider Agreement, the Ownership and Control Interest and Disclosure Statement, and other enrollment documents as required, to the New Jersey Medicaid Program, the clinic will receive written notification of approval or disapproval.

1. If approved as a provider, the clinic will be assigned a provider number and added to the Medicaid Directory of Independent Clinics.

2. The Prudential Insurance Company (New Jersey Medicaid Fiscal Agent) will furnish a provider manual and an initial supply of pre-printed claim forms.

\*[(f)]\* \*(e)\* If shall be the responsibility of each approved clinic to notify the New Jersey Medicaid Program a minimum of 72 hours prior to the relocation or closing of its facility.

#### 10:66-1.6 Scope of service

(a) Licensed and approved independent clinics may, to the extent of their specialty, license and/or approved New Jersey Medicare Provider Agreement, provide the following services (see 1.6 (b) through (n)) when medically necessary. Procedure codes \*[, descriptions,]\* and maximum dollar allowance\*[,]\* which correspond to allowable services\*[,]\* are listed in subchapter 3 (N.J.A.C. 10:66-3).

(b) Examination and treatment rules are as follows.

1. (No change.)

2. Screening services, other than vision screening \*[(Procedure code 5406)]\* and Early Periodic Screening Diagnosis Treatment (EPSDT) \*[(Procedure Code 9580)]\* are not reimbursable.

3. (No change.)

4. See \*[N.J.A.C. 10:66-3.3(a)]\* \*N.J.A.C. 10:66-3\* for procedure codes\*[,]\* \*and reimbursement schedule.\*

(c) (No change.)

(d) Family planning rules are as follows.

1.-3. (No change.)

4. See \*[N.J.A.C. 10:66-3.3(c)]\* \*N.J.A.C. 10:66-3\* for procedure codes\*[,]\* \*and reimbursement schedule. Only those clinics which have been specifically approved by the New Jersey Medicaid Program to provide family planning services may be reimbursed for family planning codes.\*

(e) Laboratory procedures rules are as follows.

1.-4. (No change.)

5. See \*[N.J.A.C. 10:66-3.3(d)]\* \*N.J.A.C. 10:66-3\* for procedure codes\*[,]\* \*and reimbursement schedule.\*

(f) (No change.)

(g) Mental health services rules are as follows.

1.-2. (No change.)

3. In no event, shall any charge for the procedures listed in \*[N.J.A.C. 10:66-3.3(g)]\* \*N.J.A.C. 10:66-3\* exceed the customary charge for other individuals receiving the same service.

4. When prior authorization is required (see N.J.A.C. 10:66-1.5(c)3) \*Prior Authorization)\*, the request is to be submitted on the form "Request for Authorization of Psychiatric Services," (FD-07) to the \*[Chief, Bureau of Mental Health Services, P.O. Box 2486]\* \*Chief Consultant, Mental Health Services, Division of Medical Assistance and Health Services,\* \*CN-712,\* Trenton, New Jersey 08625. Item 1 through 17 must be completed.

i.-iii. (No change.)

5. See \*[N.J.A.C. 10:66-3.3(g)]\* \*N.J.A.C. 10:66-3\* for procedure codes\*[,]\* \*and reimbursement schedule.\*

(h) Surgical services rules for both minor surgery in an ambulatory care facility and for surgery in an ambulatory surgical center follow:

1. Specific minor surgical procedures in an ambulatory care facility may be reimbursed when performed by a qualified physician in a licensed ambulatory care facility which is specifically approved to perform such services by the New Jersey Medicaid Program.

\*i. See N.J.A.C. 10:66-3 for procedure codes and reimbursement schedule for minor surgical procedures performed in an ambulatory care facility.\*

2. Covered surgical procedures in an ambulatory surgical center are those surgical and medical procedures only which appear as an appendix to 42 CFR 416.65, the Federal regulations governing ASC services. No other procedure is covered unless approved by the Division of Medical Assistance and Health Services (New Jersey Medicaid Program). \*[(General and specific standards which apply to covered surgical procedures in an ASC include but are not limited to the following (42 CFR 416.65:)]\*

\*[i.]\* \*3.\* General standards for covered surgical procedures \*in an ambulatory surgical center include but are not limited to the following and\* are those surgical and other medical procedures that:

\*[(1)]\* \*i.\* Are commonly performed on an inpatient basis in hospitals, but may be safely performed in an ASC;

\*[(2)]\* \*ii.\* Are not of a type that are commonly performed or that may be safely performed in a physician's office;

\*[(3)]\* \*iii.\* Are limited to those requiring a dedicated operating room (or suite), and generally requiring a post-operative recovery room or short-term (not overnight) convalescent room;

\*[ii.]\* \*4.\* Specific standards for covered surgical procedures \*in an ambulatory surgical center include but are not limited to the following:\* \*[(are limited to those that do not generally exceed:)]\*

\*[(1)]\* \*i. Limited to those that do not generally exceed a\* \*[(A)]\* total of 90 minutes operating time; and

\*[(2)]\* \*ii.\* A total of 4 hours recovery or convalescent time.

iii. If the covered surgical procedures require anesthesia, the anesthesia must be:

(1) Local or regional anesthesia; or

(2) General anesthesia of 90 minutes or less duration.

iv. Covered surgical procedures may not be of a type that:

(1) Generally result in extensive loss;

(2) Require major or prolonged invasion of body cavities;

(3) Directly involve major blood vessels; or

(4) Are generally emergency or life-threatening in nature.

\*[3.]\* \*5.\* \*For facility reimbursement, surgical\* \*[(Surgical)]\* procedures performed in an ASC are separated into \*a\* four \*[(payment)]\* group\*[(s)]\* \*classification system\* as designed under Medicare by the Health Care Financing Administration (HCFA). \*See N.J.A.C. 10:66-1.7(c). for facility reimbursement.\*

i. A request by an ambulatory surgical center facility to add additional surgical procedures not specifically included in one of the four Medicare payment groups must be reviewed and evaluated by the Division of Medical Assistance and Health Services (New Jersey Medicaid Program).

ii. If additional surgical procedures are approved, each procedure will be assigned to one of the existing four Medicare payment groups.

\*[4.]\* \*6.\* Medical justification: An asterisked (\*) procedure should be viewed as potentially an office procedure as well as a procedure possibly suited for the purpose of an Ambulatory Surgical Center.

i. The decision would depend upon the extent and/or location of the involved pathology as well as the age and/or the condition of the patient. It also includes the need for anesthesia and if so they type to be used.

ii. If the asterisked procedure is performed in an Ambulatory Surgical Center, then the record must clearly demonstrate an adequate reason to support that decision. Reasons such as "for the convenience of the physician", "for medical-legal reasons", or "an inadequate fee", are not considered

acceptance indications not to utilize the physicians' office if it can be an appropriate setting for the performance of the procedure.

\*[5.]\* \*7.\* Facility services in an ambulatory surgical center, generally, are items and services furnished in connection with a covered surgical procedure as specified under Federal regulations 42 CFR 416.65. These items and services are those which would otherwise be covered if furnished in a hospital operating suite or hospital outpatient department in connection with the covered surgical procedure.

i. ASC facility services include but are not limited to:

(1) Nursing services, services of technical personnel, and other related services;

(2) The use by the patient of the ASC's facilities;

(3) Drugs, biologicals, surgical dressings, supplies, splints, casts, appliances and equipment commonly furnished in connection with surgical procedures. Drugs and biological\*s\* are limited to those which cannot be self-administered;

(4) Diagnostic or therapeutic items and services furnished by ASC staff in connection with covered surgical procedures, for example, simple tests just before surgery, primarily urinalysis and blood hemoglobin or hematocrit;

(5) Administrative, recordkeeping and housekeeping items and services;

(6) Blood, blood plasma, platelets, etc.;

(7) Material for anesthesia;

ii. ASC facility services do not include medical or other health services for which payment could be made under other provisions of the Medicaid Program such as laboratory, x-ray, or diagnostic procedures (other than those directly related to performance of the surgical procedure). Examples of items or services which are not ASC facility services include:

(1) Physician's services;

(2) The sale, lease, or rental of durable medical equipment to ASC patients for use in their homes;

(3) Prosthetic devices;

(4) Ambulance services and/or invalid coach services;

(5) Leg, arm, back and neck braces;

(6) Artificial legs, arms and eyes;

(7) Services furnished by an independent laboratory.

\*[6. See N.J.A.C. 10:66-3.3(f) for procedures codes. For dental surgery, see Dental Service Manual, N.J.A.C. 10:56-3]\*

(i) Obstetrical services (maternity) rules are as follows.

1. (No change.)

2. See \*[N.J.A.C. 10:66-3.3(h)]\* \*N.J.A.C. 10:66-3\* for procedure codes\*[\*]\* \*and reimbursement schedule.\*

(j) Podiatry services rules are as follows.

1. (No change.)

2. See \*[N.J.A.C. 10:66-3.3(i)]\* \*N.J.A.C. 10:66-3\* for procedure codes\*[\*]\* \*and reimbursement schedule.\* Additional services are identified with an asterisk in \*[N.J.A.C. 10:66-3.3(f)]\* \*N.J.A.C. 10:66-3.\*

(k) Radiology services rules are as follows.

1.-2. (No change.)

3. See \*[N.J.A.C. 10:66-3.3(j)]\* \*N.J.A.C. 10:66-3\* for procedure codes\*[\*]\* \*and reimbursement schedule.\* For dental radiology, see Dental Services Manual, N.J.A.C. 10:56-3.

(1) (No change.)

1.-4. (No change.)

5. Prior authorization by the medical consultant of the \*[Local Medical Office]\* \*Medicaid District Office\* is required for rehabilitation services. Authorization shall be considered only when the request includes a written prescription, by a licensed physician, substantiating the need, type of therapy, objective of treatment, and an estimate of the number

of treatment days. Prescriptions must be definitive as to type and scope. Orders such as "Physical therapy three times a week" will not be accepted. Prior authorization may be for a period not exceeding 60 days. Subsequent authorizations for periods not exceeding 60 days may be issued by the Medicaid medical consultant when the request is supported by the physician's written prescription, including a statement of the anticipated number of treatments required and a progress report of the patient's condition.

i.-iii. (No change.)

6. See \*[N.J.A.C. 10:66-3.3(k)]\* \*N.J.A.C. 10:66-3\* for procedure codes\*[\*]\* \*and reimbursement schedule.\*

(m) Vision care services rules are as follows.

1. (No change.)

2. See Vision Care Manual, N.J.A.C. 10:62-4, for optical appliance procedure codes, or \*[Procedure Code Manual, pp. 153-154]\* \*Physician Services Manual, Subchapter 4 N.J.A.C. 10:54-4\* for examination procedure codes.

(n) Other services rules are as follows.

1. (No change.)

i.-ii. (No change.)

iii. See \*[N.J.A.C. 10:66-3.3(m)1]\* \*N.J.A.C. 10:66-3\* for procedure \*[code.]\* \*codes and reimbursement schedule.\*

2. Hospital visit rules are as follows\*[\*]\* \*:

i. (No change.)

ii. See \*[N.J.A.C. 10:66-3.3(m)2]\* \*N.J.A.C. 10:66-3\* for procedure \*[code.]\* \*codes and reimbursement schedule.\*

3. Sterilization rules are as follows\*[\*]\* \*:

i. Sterilization procedures may be reimbursed, in accordance with current New Jersey Medicaid Program policies and procedures (see N.J.A.C. 10:66-1.8 \*Sterilization\*), only when performed by a licensed ambulatory care facility specifically approved to perform this service by the New Jersey Medicaid Program.

ii. See \*[N.J.A.C. 10:66-3.3(m)3]\* \*N.J.A.C. 10:66-3\* for procedure codes\*[\*]\* \*and reimbursement schedule.\*

4. Transportation rules are as follows\*[\*]\* \*:

i. (No change.)

ii. See \*[N.J.A.C. 10:66-3.3(m)4]\* \*N.J.A.C. 10:66-3\* for procedure \*[code.]\* \*codes and reimbursement schedule.\*

5.-6. (No change.)

10:66-1.7 Basis for reimbursement

(a) Reimbursement for covered services in an approved independent clinic shall be determined by the Commissioner of the Department of Human Services.

1. Except where a set fee schedule exists or is otherwise stated, (such as for ambulatory surgical centers), reimbursement to independent clinics shall be based on the same fees, conditions and definitions, for corresponding services, utilized for the reimbursement of individual Medicaid participating practitioners and providers in "private" practice.

2. In no event shall the charge to the New Jersey Medicaid Program exceed the charge by the provider for identical services to other groups or individuals in the community.

(b) Specialist—Non Specialist: If a procedure code, approved for use by a specific clinic, is assigned both a specialist and non-specialist "Medicaid Dollar Value", the amount of the reimbursement will be based upon the status (specialist or non-specialist) of the individual practitioner who actually provided the billed service.

1. To identify this practitioner enter the Individual Medicaid Practitioner (IMP) Number in the Attending or Operating Practitioner section, Item 15 or Item 16 on the Independent Outpatient Health Facility claim form (MC-14).

2. In a clinic with both specialist and non-specialist members, specialist services must be billed separately from non-specialist services. Therefore, for services provided to the same patient, a specialist and a non-specialist may not bill on the same claim form.

(c) New Jersey Medicaid reimbursement for covered surgical **\*[services]\* \*procedures\*** performed in an approved ambulatory surgical center shall be made for services rendered by both the physician and the ambulatory surgical center facility.

1. Physician reimbursement for covered surgical **\*[services]\* \*procedures\*** performed in an approved ambulatory surgical center shall be in keeping with the New Jersey Medicaid Program's Physician Procedure **\*[Fee]\* \*Code Reimbursement\*** Schedule and limited to New Jersey Medicaid's allowable fees. **\*(See Physicians Services Manual—Subchapter 4, N.J.A.C. 10:54-4).\***

2. **\*For ambulatory surgical center reimbursement,\* [A]\* covered procedure\*s\* \* [performed in an ASC is separated for facility reimbursement purposes into one of four payment groups]\* \*are separated according to a four group classification system\*** as designated in the appendix to 42 CFR 416.65, the federal regulations governing ASC services.

i. A facility is reimbursed for any procedure within the same group at a single rate.

ii. A single payment is made to an ambulatory surgical center which encompasses all facility services furnished by the ASC in connection with a covered procedure performed on a patient in a single operative session.

**\*[(1) If more than one covered surgical procedure is furnished to a patient in a single operative session, payment will be made for the first procedure with the highest reimbursement rate. Other covered surgical procedures furnished in the same session will not be reimbursed.]\***

**\*[(1) If more than one covered surgical procedure is performed on a patient in a single operative session, payment is limited to two procedures, but, then, only if each procedure is at a separate operative site on the patient. Full payment will be made for the procedure with the highest reimbursement rate. Payment for the other procedure will be at 50 percent of the applicable reimbursement rate for that procedure.]\***

iii. The New Jersey Medicaid Program **\*[facility fee for each of the four groups is given under 10:66-3.3 "Ambulatory Surgical Center Codes."]\*** **\*reimburses ambulatory surgical centers 80% of a base rate adjusted for a geographic variation.\***

**\*iv. The New Jersey Medicaid Program utilizes the Medicare base rates in effect as of January 1, 1985. The basic rates (without the geographical adjustment) follows:**

- (1) Group 1—\$231
- (2) Group 2—\$275
- (3) Group 3—\$296
- (4) Group 4—\$336\*

#### 10:66-1.9 Record keeping

(a) Clinics are to keep legible individual records as are necessary to fully disclose the kind and extent of services provided, as well as the medical necessity for those services.

(b) The minimum requirements, except for ambulatory surgical centers, for services performed by the clinic shall include a progress note in the clinical for every visit, except where specified otherwise, which supports the procedure code or codes claimed. This information must be available upon the request of the New Jersey Medicaid Program or its agents.

(c) In addition to (a) above, medical records in an ASC must include, but are not limited to (42 CFR 416.47):

1. Patient identification;
2. Significant medical history and results of physical examination;
3. Pre-operative diagnostic studies (entered before surgery), if performed;
4. Findings and techniques of the operation, including a pathologist's report on all tissues removed during surgery, except those exempted by the governing body;
5. Any allergies and abnormal drug reactions;
6. Entries related to anesthesia administration;
7. Documentation of properly executed informed patient consent;
8. Discharge diagnosis.

#### 10:66-3.3 Procedure Code Listing **\*(HCPCS)\***

**Delete** the current text of this section which appears in the New Jersey Administrative Code as well as the proposal at 16 N.J.R. 3153(a), in the November 19, 1984 issue of the New Jersey Register and replace the text with the following:

**\*The Division of Medical Assistance and Health Services utilizes the HCPCS (Health Care Financing Administration's Common Procedure Coding System) as the basis of reimbursement for providers of Independent Clinic Services that participate in the New Jersey Medicaid Program. The HCPCS coding system utilizes procedure codes, narrative descriptions and corresponding fee schedules as the basis of reimbursement. The HCPCS coding system also indicates any limitations on a particular procedure code by the use of qualifiers and/or modifiers.**

**The HCPCS coding system is not published in the New Jersey Administrative Code but may be obtained from the Administrative Practice Officer, Division of Medical Assistance and Health Services, CN-712, Trenton, N.J. 08625.\***

(a)

## DIVISION OF PUBLIC WELFARE

### General Assistance Manual Reporting General Assistance Work Registration Violations to the Food Stamp Office

#### Adopted Amendment: N.J.A.C. 10:85-10.8

Proposed: August 5, 1985 at 17 N.J.R. 1838(a)

Adopted: November 8, 1985 by Geoffrey S. Perselay,  
Acting Commissioner, Department of Human  
Services.

Filed: November 12, 1985 as R.1985 d.618, **with a substantive change** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 44:8-111(d).

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order No.  
66(1978): July 25, 1988.

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

**Summary of Changes Subsequent to Proposal:**

Upon further review by the Division of Public Welfare, it was determined that Form GA-6D listed in N.J.A.C. 10:85-10.8(a), is obsolete. Therefore, language making reference to that form has been deleted.

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

#### 10:85-10.8 GAEP reporting requirements

\*[(a) Selected Data on Employability Status Form GA-6D: (Selected Data on Employability Status) will be completed each month and forwarded with the regular forms in the GA-6 series identified in N.J.A.C. 10:85-6.4(a)2 through 4. All activities relating to the GAEP which occur during the calendar month of the report shall be included.]\*

\*[(b)]\* The MWD will submit a written notice to the appropriate CWA when a General Assistance/Food Stamp Program recipient fails or refuses to comply with GAEP or any other General Assistance work registration requirement. Information provided shall include the recipient's name, address, Social Security number and the specific work registration requirement violated.

## CORRECTIONS

### (a)

#### BUREAU OF COUNTY SERVICES

##### Adult County Correctional Facilities Security; Strip Searches

##### Adopted Amendments: N.J.A.C. 10A:31-3.7 and 3.12

Proposed: September 16, 1985 at 17 N.J.R. 2229(a).  
Adopted: October 29, 1985 by William H. Fauver,  
Commissioner, Department of Corrections.  
Filed: October 31, 1985 as R.1985 d.604, **without change**.

Authority: N.J.S.A. 30:1-15 and 30:1B-10.

Effective Date: December 2, 1985.  
Expiration Date pursuant to Executive Order No. 66  
(1978): February 4, 1990.

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

Full text of the adoption follows.

#### 10A:31-3.7 Security

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

(c) The standards pertaining to security shall provide that:

1. All inmates admitted to the facility shall be thoroughly searched, except that strip searches and body cavity searches shall be conducted only in accordance with the conditions set forth in N.J.A.C. 10A:31-3.12(b)2. If for any reason inmates are permitted to leave the facility, they may be strip searched upon their return to custody.

2.-54. (No change.)

#### 10A:31-3.12 Reception, orientation, release and property control

(a) (No change.)

(b) The standards pertaining to reception, orientation, release and property control shall provide that:

1. (No change.)

2. No newly admitted inmate may be subjected to a strip search or body cavity search unless the following conditions are met:

i. The person is being lodged in a lockup, detention facility, prison or jail by court order or pursuant to an arrest authorized by law; and

ii. The person has been afforded a reasonable opportunity to post bail. For the purposes of this section, bail may be fixed and accepted by the law enforcement officer in charge of the station house.

iii. Newly admitted inmates who may be strip searched pursuant to the above conditions, shall be strip searched for weapons and contraband. This search shall also include a check for body vermin, cuts, bruises, needle scars and other injuries.

iv. The strip search shall be conducted in private, and at a location where the search cannot be observed by persons not physically conducting the search.

v. Newly admitted female inmates shall be strip searched by a female staff member in an area separate from that of male inmates.

vi. All searches shall be conducted under sanitary conditions.

vii. The law enforcement officer or other person authorized to conduct a strip search or body cavity search shall obtain permission of the officer in charge of the station house to conduct the search and shall report the reason for the search on the record of arrest.

viii. A body cavity search shall be conducted only by a licensed physician or registered professional nurse.

ix. Under no circumstances, may a body cavity search be conducted, unless the officer in charge of the station house is satisfied that probable cause exists that the person is concealing contraband in his or her body cavity.

x. A written report of the result of a body cavity search shall be made part of the inmate's arrest record.

3.-9. (No change.)

## INSURANCE

### (b)

#### DIVISION OF LICENSING

##### Approval of Insurance Schools and Company Training Programs

##### Adopted New Rule: N.J.A.C. 11:2-19

Proposed: November 5, 1984 at 16 N.J.R. 2920(b).  
Adopted: November 1, 1985 by Hazel Frank Gluck,  
Commissioner, Department of Insurance.

Filed: November 4, 1985 as R.1985 d.608, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 11:30-3.5).

Authority: N.J.S.A. 17:1-8.1; 17:1C-6(e); 17B:22-13(a) as amended by P.L. 1983 c.533, sec. 9; 17:22-6.6.

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): December 2, 1990.

**Summary of Public Comments and Agency Responses:**

The Department received several comments on the proposed new rule, N.J.A.C. 11:2-19, which concerns approval of insurance schools and company training programs. Comments were submitted by three insurance companies, one life insurance marketing group, two organizations representing various insurance professionals, an insurance school, a life insurance trade association and a review board composed of agents and brokers.

One organization, the Professional Insurance Agents of New Jersey, strongly supported the proposal and recommended its adoption without change. The other commenters raised both substantive and technical inquiries regarding various requirements of the rule.

Several writers questioned the relationship between this proposal and the Department's proposed new rule, N.J.A.C. 11:2-20, on continuing insurance education requirements as a precondition to license renewal (See: 16 N.J.R. 2922(a)). At the outset, it should be noted that this continuing education proposal, which focuses on the approval of courses, seminars and the like rather than on the entity offering the training, expired on November 4, 1985. The Department intends to repropose the rule with substantive modifications. As such, interpretive questions concerning continuing education cannot be readily addressed as part of this adoption.

The New Jersey State Association of Life Underwriters requested clarification of the scope of N.J.A.C. 11:2-19 in terms of its applicability to continuing insurance education programs. At this time, it is the Department's position that the requirements of N.J.A.C. 11:2-19 are applicable to pre-licensing programs only. Further, no entity may hold itself out to the public as an insurance school unless approved by the Commissioner pursuant to this subchapter.

There were also two comments on N.J.A.C. 11:2-19.2(a)7 which requires that insurance schools and company programs provide at least two continuing education courses each year. Both commenters recommended elimination of the provision because some institutions would want to offer only pre-licensing programs. The Department wished to make continuing education courses widely available so insurance licensees will be able to meet the continuing education requirements set forth in the Department's proposed new rule, N.J.A.C. 11:2-10. As noted above, the Department has not promulgated N.J.A.C. 11:2-20 and, accordingly, this provision of N.J.A.C. 11:2-19 which refers to continuing education requirements has been allowed to expire. Further consideration of the requirement will be undertaken in connection with any reproposal of the continuing education rule.

An insurance trade organization, along with several insurers, recommended that insurance company training programs be exempted from the rule's requirements or be subject to different standards. These commenters based their recommendations on the fact that insurance companies are already heavily regulated and generally do not pose the same potential for abuse as independent insurance schools. The Department believes, based on its evaluation of company training program performance, that the rule should apply to insurers as well as insurance schools.

The Department's proposed regulation of approved school and program instructors also drew considerable comment. N.J.A.C. 11:2-19 contains various requirements pertaining to instructors which are designed to: (1) facilitate the Department's determination as to the qualification of instructors as part of its overall evaluation of a request for approval; and (2) help define the responsibilities of instructors and provide objective standards of performance.

The requirement, at N.J.A.C. 11:2-19.1(a)5, that instructors in insurance schools have five years' broad experience in insurance practice or insurance education, for example, provoked several comments. One writer felt three years' experience would be enough, while another believed tax attorneys and CPA's should qualify. Prudential asserted that five years' experience did not mean an instructor was qualified. Prudential described the qualifications of their Field Management personnel who are now approved instructors and suggested that no other requirements were necessary for their personnel.

The Department believes that five years' experience is the minimum necessary for qualified instructors. However, there are cases in which different qualifications may be acceptable. The rule is being amended on adoption to give the Commissioner discretion to approve instructors with the equivalent of at least five years' broad experience in insurance practice or education.

One commenter thought it was unnecessary for instructors in approved schools to submit resumes as required by N.J.A.C. 11:2-19.3(b)(2) and suggested a "short background statement" should suffice. In the Department's view, submission of a resume is not burdensome, and the type of information generally contained therein is necessary to the Department's determination of the qualification of the instructor.

The requirement, at N.J.A.C. 11:2-19.3(b)2, that every instructor submit an affidavit attesting that he or she will follow the Department's approved curriculum was also criticized by one commenter. The writer considered the affidavit superfluous in light of other rule provisions such as approval by the Commissioner of courses of study, the required submission of instructor resumes and certification by the instructor affirming proper course completion.

The purpose of the affidavit is to ensure that the required course materials were actually covered by the instructor. In the event that an instructor claims he or she was not aware of the requirements, the affidavit serves as proof of notice of those requirements.

Other comments on the proposal included the following. One writer, while allowing that the proposed rule established certain standards and qualifications to be met by entities seeking approval, nevertheless asserted that the manner and method by which the Commissioner renders a determination lacked specificity.

In the Department's view, the requirements delineated in this rule are relatively straightforward and provide sufficient guidance to entities seeking approval. At the same time, the standards, particularly as amended in response to commentary, provide the Department and entities seeking approval under the rule with a needed degree of flexibility.

Regarding the processing of approvals, the Department's proposal, at N.J.A.C. 11:2-19, set forth procedures for the denial as well as withdrawal of approval. These procedures include written notification by the Department and the opportunity for a hearing regarding the disapproval. The Department recognizes that specific procedures for the approval of schools and programs were not contained in the proposal. In

response to this writer's comments, N.J.A.C. 11:2-19.3 is being amended on adoption to provide for a written notice of approval. In addition, N.J.A.C. 11:2-19.3(a) is being amended to require that schools and training programs utilize an application form prescribed and furnished by the Commissioner. The resulting standardization in the form and content of materials furnished by applicants will ease consistent rule compliance and should facilitate the Department's handling of these submissions. Finally, N.J.A.C. 11:2-19.5(b) is being amended to clarify that a hearing with respect to withdrawal of the approval of a school or program will be conducted pursuant to the Administrative Procedure Act.

The requirement, at N.J.A.C. 11:2-19.2(a)1, that insurance schools have a street address and appropriate facilities elicited two comments. One writer claimed that the requirement eliminated correspondence schools, which that writer maintained were not prohibited in N.J.A.C. 11:2-1, the rule concerning educational requirements for licensing. Another commenter claimed that this provision entitled a school to only one location and recommended amending the rule to allow schools within multiple locations.

N.J.A.C. 11:2-1, which concerns educational requirements for licensing, refers to hours of classroom instruction and, therefore, eliminates correspondence courses. The position of the Department with respect to this prohibition is that a classroom situation is important for the subjects covered in the precertification program. The rule does not prohibit insurance schools from having more than one location provided that all locations are in New Jersey and meet the requirements of N.J.A.C. 11:2-19.2(a)1. The adopted rule is being amended to eliminate any ambiguity.

N.J.A.C. 11:2-19.2(a)2 specifies that insurance schools must be available to the public. Two writers questioned the meaning of the provision and one wondered if it meant that a school could not impose minimal entrance requirements.

Except for company training programs, insurance schools must be available to the public which means any member of the public who can pay for the courses must be admitted. Since there are no educational prerequisites other than those set out in N.J.A.C. 11:2-1 for licensing, an insurance school cannot impose any admission requirements.

Two commenters felt that N.J.A.C. 11:2-19.2(a)4, which requires that a certificate be issued to the student for each course passed, imposed an unnecessary burden on schools. The Department believes that those writers have misunderstood the certification provision as it applied to the courses listed in the educational requirements rule. For example, in N.J.A.C. 11:2-1.3(a), the life insurance course outline is one course, not eleven. Providing certificates for completion of the course outlined in the educational requirements rule, therefore, should not present an inordinate administrative burden.

The proposed rule, at N.J.A.C. 11:2-19.1(a)6, mandates that insurance schools and company training programs provide remedies for students who have failed the State examination, including review courses and repeat courses at a reduced price. One writer felt that insurance schools and company programs should not be obligated to provide this service. Another writer suggested that it would not be economically feasible for a school to offer review courses at a reasonable cost for the few students who failed the examination. The writer had no objection to offering second courses at a reduced rate.

In the Department's opinion, the requirement that schools and company programs provide remedies for students who fail the State exam is important and should be retained in the rule.

It was not, however, the Department's intention to prescribe that both review and second full courses be offered. If the commenter's school wishes to offer second courses at a reduced price, this mechanism would satisfy the requirement. A minor revision to this paragraph is being made to clarify this point.

N.J.A.C. 11:2-19.2(b), which requires that insurance schools maintain a pass rate of 70 percent on the State exam in order to retain Department approval provoked several comments. Some writers felt the requirement was unduly harsh and contrasted law and medical schools which have no equivalent requirement. They also pointed out that no other state has such a requirement. Another writer suggested this subsection should not apply to company training programs because it was in their best interest to have a high pass rate; otherwise, their employees could not sell insurance in New Jersey.

The pass rate on the State exam for applicants who have attended insurance education programs currently is higher than 70 percent. Therefore, mandating a 70 percent pass rate in this rule would not appear to place an excessive burden on schools. In response to the suggestion that insurance company programs be exempt from the minimum pass rate requirement, the Department notes that some company programs have the lowest pass rates of any insurance schools. The Department has retained the minimum pass rate requirement for all schools and company training programs.

N.J.A.C. 11:2-19.3(c) sets an application fee of \$100.00 for approval of insurance schools and company programs. One trade association protested that the fee was excessive for company programs when considered with all the other fees insurance companies must pay. All the insurance companies complained that the fee and two-year renewal requirement of N.J.A.C. 11:2-19.3(c) should not be imposed on insurance companies. One writer suggested company training program approval should be coterminous with company licensing, with periodic Department review. Another writer thought elimination of the biennial approval process would reduce the administrative burden on the Department.

The Department believes that the application fees specified in the rule are reasonable and commensurate with the costs associated with the review of applications for approval. Further, the Department views the two-year renewal requirement as an appropriate mechanism for tracking the active status of approved entities as well as for monitoring changes in curriculum, instructors or facilities.

The requirement, at N.J.A.C. 11:2-19.3(d), that insurance schools, other than accredited colleges and universities, post a surety bond to protect the contractual rights of students, was criticized by several companies. They asserted that when students are employees of an insurance company and the training is offered at nominal or no cost, a surety bond is unnecessary since students have no contractual rights to protect. One writer claimed that the method in the rule for calculating the amount of the bond was unworkable since schools may not know the maximum number of students to be enrolled at any one time during the calendar year. In addition, the exemption for accredited colleges and universities was also criticized.

The purpose of the surety bond is to protect the investment of students in a program. If a school charges no tuition, no bond need be filed since anything multiplied by zero is zero. If the student pays a nominal tuition, the surety bond will be correspondingly small. The rule is being amended on adoption to clarify the formula for surety bond calculation. The tuition is to be multiplied by the maximum number of students a

school's facility can accommodate and 75 percent of that product is the figure for the bond. With regard to the exemption for colleges and universities, it should be pointed out that these institutions are regulated by the Department of Education, rather than this Department.

Commenters also requested certain modifications to N.J.A.C. 11:2-19.4(b)3, which mandates that a student must achieve a 70 percent minimum passing grade on the final examination as a condition of successful completion of a course of studies. It was argued that the passing threshold should be raised to 75 percent and that the reference to final examination should be deleted in order to accommodate schools which base final grades on an average of tests, rather than on a final examination.

The 70 percent figure contained in the proposal was intended to provide a minimum passing threshold and not to prohibit an individual school from setting a higher standard. The adopted rule is being amended to clarify this intent. Further, the reference to "final examination" is being deleted as suggested.

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

#### SUBCHAPTER 19. APPROVAL OF INSURANCE SCHOOLS AND COMPANY TRAINING PROGRAMS

##### 11:2-19.1 Requirement of approval

Courses of study in insurance programs, conducted either by insurance schools or company training programs, must be approved by the Commissioner of Insurance pursuant to the provisions of this subchapter.

##### 11:2-19.2 Standards for insurance schools and company training programs

(a) Each insurance school or company training program approved or seeking approval by the Commissioner must:

1. Have a bona fide street address **\*or addresses in New Jersey\***, corresponding telephone number**\*s\***, qualified instructors, facilities with sufficient lighting, desks or tables and suitable quarters conducive to learning which meet all local building codes;

2. Be available to the public if approved as an insurance school. Insurance schools may not be established for recruitment purposes. If approved as a company training program, the student body may be limited to the company employees;

3. Meet the educational requirements set forth in N.J.A.C. 11:2-1.1, 11:2-1.3 and 11:2-1.5;

4. Issue to each student receiving **\*at least\*** a 70 percent minimum passing **\*course\*** grade **\*[on the final examination of]\* **\*for\***** each course of studies taken a certificate conforming to the requirements set forth at N.J.A.C. 11:2-19.4;

5. Satisfy the Commissioner that the course of study will be taught by a qualified instructor or instructors with at least five years of broad experience in insurance practice **\*[or]\*\*, insurance education **\*or equivalent experience subject to the Commissioner's approval\*****

6. Provide remedies for students who have failed the State examination, including review courses **\*[and]\* **\*or\*** second full course at reduced rates\*[;]\*\*.**

**\*[7. Offer at least two continuing education courses each year as approved by the Commissioner pursuant to N.J.A.C. 11:2-20.5.]\***

(b) An approved insurance school or company training program must maintain an annual 70 percent passing rate on the State insurance examination for all of its graduates taking the State examination. A three-month probationary period may be allowed after any 12-month period in which the passing rate falls below 70 percent.

##### 11:2-19.3 Application for approval and renewal of approval

(a) An insurance school or company training program seeking approval pursuant to this subchapter shall file an application with the Commissioner setting forth the **\*[following]\* **\*information specified in 1 through 4 below. The application form shall be prescribed by the Commissioner and may be obtained from:****

**Insurance Education Specialist  
Department of Insurance  
201 East State Street  
CN 325  
Trenton, New Jersey 08625\***

1. Name of the insurance school or company training program;

2. Street address or post office box;

3. List of courses which will be offered;

4. Name and signature of the individual designated as directors of the school or program, who shall be in responsible charge of all its operations and the specific course of education to be conducted.

(b) An application shall be accompanied by:

1. Resumes of all instructors; **\*[and]\***

2. An affidavit from each instructor attesting that he or she will follow a curriculum which meets the educational requirements of the Department of Insurance; and

3. Such other information or documentation as the Commissioner, in his or her discretion, requires to verify or support the application.

(c) An application fee of \$100.00 must be paid with the application.

(d) An application for approval of insurance schools, except accredited colleges and universities, shall be accompanied by a surety bond as issued by an insurance company authorized to do business in this State, conditioned for the protection of the contractual rights of insurance students enrolled in such school in an amount computed in accordance with the following formula:

1. **\*Seventy-five percent of the\* **\*[The]\*** sum of the maximum number of students **\*[to be enrolled in the school's insurance courses at any one time during the calendar year,]\* **\*the insurance school can accommodate\*** multiplied by the amount of tuition for insurance courses.****

**\*[e]\*\*[f]\* **Written notice of approval shall be furnished to any insurance school or company training program approved pursuant to the provisions of this subchapter.\*****

**\*[e]\*\*[f]\* Approval by the Commissioner will expire after two years. The procedure set forth in this section shall be used to renew approval.**

##### 11:2-19.4 Required contents of a certificate issued upon successful completion of a course of studies

(a) A certificate issued to a student who has successfully completed a course of studies must contain:

1. The school or company name;

2. The hours of study;

3. The school or company code;

4. The name of the student;

5. The student's signature; and

6. A signed statement of the instructor containing the information in (b) below.

(b) An instructor must affirm that:

1. The student was instructed for the prescribed number of hours;

2. The instructor is satisfied that the student knows the insurance material; and

3. The student has received **\*at least\*** a 70 percent minimum passing **\*course\*** grade **\*[on the final examination]\***.

11:2-19.5 Denial or withdrawal of approval

(a) Upon notification in writing with reasons for such action, the Commissioner may deny or withdraw approval if the insurance school or company training program fails to comply with any of the provisions set forth in N.J.A.C. 11:2-19 or otherwise demonstrates incompetency, dishonesty, unworthiness or bad faith.

(b) Where the Commissioner denies or withdraws his or her approval of any insurance school or company training program, the school or company training program may request a hearing within 30 days of such notification. **\*With respect to a withdrawal of approval, the hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.\***

(a)

## DIVISION OF ADMINISTRATION

### Rating Organizations Automobile Rate Filings

#### Adopted New Rules: N.J.A.C. 11:3-17

Proposed: November 4, 1984 at 16 N.J.R. 2936(a).

Adopted: November 1, 1985 by Hazel Frank Gluck,  
Commissioner, Department of Insurance.

Filed: November 4, 1985 as R.1985 d.609, **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. 17:1-8.1, 17:1C-6(e), 17:29A-4.

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): December 2, 1990.

#### Summary of Public Comments and Agency Responses:

Five respondents commented on proposed N.J.A.C. 11:3-17. Respondents were: Travelers, Prudential, Allstate, Insurance Services Office, Inc. and the Department of the Public Advocate, Division of Rate Counsel.

Comment: The rule should be modified to include the large data base underlying the New Jersey Automobile Full Insurance Underwriting Association (N.J.A.F.I.U.A.) rates.

Response: Insurance Services Office (ISO) makes rates for the voluntary market. NJAFIUA is a residual market mechanism. Thus, it is not appropriate to include NJAFIUA data with data for voluntary market rates.

Comment: The proposed "break-up of the ISO cartel" is ill-advised and will ultimately detract from the competitive forces that exist in the state. The respondent argued that the

New Jersey auto insurance market has several structural deficiencies, such as a residual market of forty percent, a ten year past history of rate inadequacy, compulsory insurance, restrictions on non-renewal and Public Advocate intervention.

Given this background, an independent filer's only practical recourse is its option under the rating law to become a member of a rating organization. The proposed regulation would deny that benefit to any insurer with a market share of two percent or more. Loss of the right to join a rating bureau is significant in a state with a prior approval rating law, where companies have no opportunity to make needed rate adjustments on a quick and timely basis.

Furthermore, the proposed regulation will not "promote price competition among auto insurance companies." Meaningful price competition cannot be created by forcing insurers to use rates that vary from the rating bureau, but will occur when the structural impediments are removed, or at least addressed in a meaningful way.

Response: The Department disagrees. The primary purpose for the formation of rating organizations was to serve insurers that did not have a sufficient volume of business to engage in independent ratemaking. Large and medium size companies with a volume of business sufficient to engage in credible independent ratemaking should not be using the bureau to gain approval of rates substantially different from those justified by the actual statistical and financial experience of these companies.

Furthermore, this rule will promote price diversity since large and medium size companies with a volume of business sufficient to engage in credible independent ratemaking will have to use rates justified by their own experience. This rule may also encourage these insurers to engage in other forms of price competition such as classification changes.

Comment: N.J.A.C. 11:3-17.1(b) needs clarification since it could be interpreted that the Commissioner is making one determination for the companies with a market share of two percent and one for the remaining companies.

Response: Subsection (b), recodified by the Department to be N.J.A.C. 11:3-17.4(b), has been clarified by the modifications made by the Department to N.J.A.C. 11:3-17.4(c). In subsection (c), if the Commissioner determines that any of the individual company submissions indicate experience substantially different from the bureau rate filing referred to in subsection (a), the bureau rate will be disapproved for use by all members and subscriber companies. Thus, subsection (c) makes it clear that the Commissioner is not making a separate determination for the two percent or more companies and one for the remaining companies since one determination is being made for all members and subscriber companies.

Comment: The phrase "substantially different" in N.J.A.C. 11:3-17.1(c) needs to be defined for clarification purposes since this is the criteria the Commissioner shall use to determine whether any of the individual submissions indicate experience substantially different from the bureau average.

Response: The Department agrees. Thus, "substantially different" has been defined to mean a difference of plus or minus five percent from the bureau average.

Comment: N.J.A.C. 11:3-17.1(d) should be clarified as to whether or not the data of individual companies which the Commissioner has found "substantially different" from the balance of the member companies is to be removed when the Commissioner approves or disapproves the filed rate for the remaining members.

Response: Subsection (d) has been deleted by the Department as per the modifications made in subsection (c). As stated above, in subsection (c), the Commissioner will disapprove the bureau rate for use by all members and subscriber companies if she determines that any of the individual company submissions are "substantially different" from the bureau rate. In her disapproval order, the Commissioner will state the reason for disapproval and suggest the form and content of an appropriate rate filing.

Comment: It is unfair to compel an individual company to use a rate as indicated by its own experience since the rating organization's actuaries have made determinations on the company's behalf.

Response: The Department acknowledges that individual insurers are always permitted to file their own rates. The language compelling "substantially different" individual insurers to use the rate based on their own individual experience as filed by ISO has been deleted. Thus, "substantially different" individual insurers can file their own rates based on determinations made by their own actuaries.

Comments: The phrase "pure premiums" should be substituted for the word "rates".

Response: Rating organizations are permitted to file rates, not just pure premiums, on behalf of their members and subscribers. The suggested change is outside the scope of this rule.

Comment: Bureau members or subscribers having 0.5 percent, rather than 2.0 percent of New Jersey's voluntary private passenger automobile market should be subject to the individual filing requirements.

Response: The Department feels that the market share percentage should be 2.0 percent at this time since the Department does not have the resources to handle the number of filings that would be generated by a lower percentage of the market share.

Comment: The data provided under the Annual New Jersey Statistical Program and the data coupled with the information provided by insurers as required by the Excess Profits Law should be sufficient for the Department to make its evaluation as to whether the company experience is sufficiently credible and substantially different from the total experience.

Response: The Department feels these suggested resources would not provide sufficient information to make the determination the Department wants to make.

Comment: Market share should be determined from the latest available Best's Compilation of page 14 written premiums for Annual Statement Lines of Business 19.1, 19.2 and 21.1 combined.

Response: The Department agrees with the commenter's suggestion. A definition of "share of New Jersey's voluntary private passenger automobile market" has been added.

Comment: ISO is both a rating bureau and statistical agent. Its policy has been to include experience from companies who are affiliates and companies who are not affiliates. The proposed rule would prevent ISO from including data from companies who are not affiliates.

Response: Rate filings should not include experience from non-affiliated companies. Use of experience from non-affiliated companies expands the data base and yields an inaccurate rate.

Comment: Inclusion of the experience of small companies reporting under the "Minimum Plan" would have no impact on the calculated rate level. The "Minimum Plan" is a program which gives small insurers the option of reporting experience under a limited detailed statistical plan which is excluded from rate filings.

Response: The data required under the "Minimum Plan" program was not addressed in the original proposal. However, the Department's present position is that this data is not required.

As a result of internal review of the proposal, the Department is making certain technical modifications to the format and content of the original proposal.

In the original proposal, section one was entitled "automobile rate filings". In the amended adoption, the section entitled "automobile rate filings" is now section four, a new section.

In section four, certain language changes were made to clarify the nature of the filings stated in paragraphs one and two.

In subsection (b), the language was modified to more accurately define what the Commissioner is reviewing and determining in regard to the bureau rate filing, and the individual company data that was submitted in N.J.A.C. 11:3-17.4(a)1.

Section one of the adopted rule is now the purpose section. This section clarifies the intent of this subchapter which was stated in the summary of the original proposal.

Section two of the adopted rule, a new section, contains the scope of this subchapter. This section clarifies the scope of this subchapter which was stated in the summary of the original proposal.

Section three of the adopted rule, a new section, contains definitions. In this section, "substantially different" and "share of New Jersey's voluntary private passenger automobile market" are defined as per commenters' suggestions.

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

#### SUBCHAPTER 17. RATING ORGANIZATIONS

11:3-17.1 \*[Automobile rate filings]\* **\*Purpose\***

**\*The purpose of this subchapter is to promote price diversity and competition in the automobile insurance rate marketplace, and to guarantee compliance with the statutory standard that rates are not unreasonably high or inadequate. N.J.S.A. 17:29A-4.\***

**\*11:3-17.2 Scope\***

**\*This subchapter shall apply to rating organizations filing a petition for the approval of private passenger automobile rates.\***

**\*11:3-17.3 Definitions\***

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

**"Share of New Jersey's voluntary private passenger automobile market" means a percentage of the New Jersey voluntary private passenger automobile business for a particular line based on the latest available Best's Compilation of page 14 written premiums for Annual Statement Lines of Business 19.1, 19.2 and 21.1 combined.**

**"Substantially different" means a difference of plus or minus five percent from the bureau rate filed pursuant to N.J.A.C. 11:3-17.4(a).\***

**\*11:3-17.4 Automobile rate filings\***

(a) Upon filing of a petition for the approval of private passenger automobile rates **\*for all members and subscriber companies\***, the bureau **\***, **in addition,\*** shall be required to **\*submit\*** simultaneously:

1. **[Submit a] \*A\* filing containing the individual statistical and financial loss experience and data [of any] \*for each\* member or subscriber with a **two percent or greater** share of New Jersey's voluntary private passenger automobile market\*. **The filing shall only contain the experience of those members or subscribers** \* [equal to or in excess of two percent]\* that **[has] \*have\*** authorized the bureau to make rates on their behalf\*.\* **[as of the effective date of this subchapter; and]\*****

2. **[Submit a] \*A\* filing containing the **combined** statistical and financial loss experience and data of all bureau members and subscribers for which individual **company**\* data is not submitted under (a) above.**

(b) **[Once the] \*The\* Commissioner [has] \*shall\* review[ed]\* the rate filing [containing the statistical and financial loss experience and data of all members and subscriber companies] \*referred to in (a) above,\* and [has]\* **shall** render[ed]\* a determination, pursuant to N.J.S.A. 17:29A-14, as to the appropriateness of **[the entire]\* **this**** rate filing\*[, the]\*\*. **The\* Commissioner shall **then**** review the individual company data submitted by the bureau **[to]\* **and**** determine whether the experience therein **[was]\* **is**** substantially different from the bureau **[average]\* **rate and whether it is sufficiently credible to be used as the basis for ratemaking****.\***

(c) If the Commissioner determines that any of the individual **company**\* submissions **in (a)1 above**\* indicate experience substantially different from the bureau **[average:]\* **rate filing referred to in (a) above, the bureau rate shall be disapproved for use. All members and subscriber companies shall be required to use their existing approved rate until further order of the Commissioner.****\*

**[1. The approved bureau rate shall be deemed to violate the statutory standard of N.J.S.A. 17:29A-4 in respect to the individual insurer; and**

2. The individual insurer shall be compelled to use such rate as indicated by its individual experience.

(d) Upon rendering a decision as to the individual submission pursuant to (c) above, the Commissioner shall issue a determination as to the approval or disapproval of the filed rate as applied to the remaining bureau members and subscribers]\*

## DIVISION OF ACTUARIAL SERVICES

### (a)

#### Smoker and Nonsmoker Mortality Tables

##### Adopted New Rule: N.J.A.C. 11:4-24

Proposed: October 7, 1985 at 17 N.J.R. 2348(a).  
 Adopted: November 8, 1985 by Jasper J. Jackson,  
 Acting Commissioner, Department of Insurance.  
 Filed: November 8, 1985 as R.1986 d.617, **without change.**

Authority: N.J.S.A. 17:1C-6(e); N.J.S.A. 17B:19-8a(i);  
 N.J.S.A. 17B:25-g; and N.J.S.A. 17B:25-19h(viii).

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order No.  
 66(1978): December 2, 1990.

#### Summary of Public Comments and Agency Responses:

The Department received three comments regarding N.J.A.C. 11:4-24. All three commenters supported the Department's rule and urged its adoption.

Full text of the adoption follows.

#### SUBCHAPTER 24. SMOKER AND NONSMOKER MORTALITY TABLES

##### 11:4-24.1 Purpose

The purpose of this subchapter is to authorize the use of mortality tables adopted after September 11, 1981 by the National Association of Insurance Commissioners in determining minimum nonforfeiture standards and minimum valuation standards.

##### 11:4-24.2 Definitions

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

"1980 CSO Table" means that mortality table, consisting of separate rates of mortality for male and female lives, prescribed by N.J.S.A. 17B:19-8a(i) and N.J.S.A. 17B:25-19h(viii) and referred to therein as the Commissioners 1980 Standard Ordinary Mortality Table, with or without Ten Year Select Mortality Factors.

"1980 CET Table" means that mortality table, consisting of separate rates of mortality for male and female lives, prescribed by N.J.S.A. 17B:25-19h(viii) and referred to therein as the Commissioners 1980 Extended Term Insurance Table.

"1958 CSO Table" means that mortality table prescribed by N.J.S.A. 17B:9-8a(i) and N.J.S.A. 17B:25-19g and referred to therein as the Commissioners 1958 Standard Ordinary Mortality Table.

"1958 CET Table" means that mortality table prescribed by N.J.S.A. 17B:25-19g and referred to therein as the Commissioners 1958 Extended Term Insurance Table.

"Smoker and nonsmoker mortality tables" means the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the 1980 CSO, 1980 CET, 1958 CSO and 1958 CET tables defined above and approved by the National Association of Insurance Commissioners in December 1983.

"Composite mortality tables" means the 1980 CSO, 1980 CET, 1958 CSO and 1958 CET mortality tables defined above, as they were originally published with rates of mortality that do not distinguish between smokers and nonsmokers.

##### 11:4-24.3 Smoker and nonsmoker mortality tables

(a) In determining minimum cash surrender values, minimum amounts and minimum periods of nonforfeiture benefits, and minimum reserve liabilities for any policy of insurance delivered or issued for delivery in this State after the operative date of N.J.S.A. 17B:25-19h(xi) for that policy form and before January 1, 1989, at the option of the insurer and subject to the conditions in (e) below, the following tables may be substituted:

1. The 1958 CSO Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CSO Table; and

2. The 1958 CET Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CET Table.

(b) For any category of insurance issued on female lives using 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables in determining minimum cash surrender values, minimum amounts and minimum periods of nonforfeiture

benefits, and minimum reserve liabilities, such minimum values may be calculated according to an age not more than six years younger than the actual age of the insured.

(c) Once an election has been made to use a 1980 CSO Mortality Table for a plan of insurance, the substitution in (a) above shall not be available for any subsequent new plan of insurance.

(d) In determining minimum cash surrender values, minimum amounts and minimum periods of nonforfeiture benefits, and minimum reserve liabilities for any policy of insurance delivered or issued for delivery in this State after the operative date of N.J.S.A. 17B:25-19h(xi) for that policy, at the option of the insurer and subject to the conditions in (e) below, the following tables may be substituted.

1. The 1980 CSO Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CSO Table; and

2. The 1980 CET Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CET Tables.

(e) For each policy form with separate rates for smoker and nonsmokers, an insurer may:

1. Use composite mortality tables to determine minimum cash surrender values, minimum amounts and minimum periods of nonforfeiture benefits and minimum reserve liabilities;

2. Use smoker and nonsmoker mortality tables to determine the valuation net premiums and minimum reserves, if any, required by N.J.S.A. 17B:19-8e and use composite minimum amounts and minimum periods of nonforfeiture benefits and basic minimum reserve liabilities; or

3. Use smoker and nonsmoker mortality tables to determine minimum cash surrender values, minimum amounts and minimum periods of nonforfeiture benefits and minimum reserve liabilities.

**11:4-24.4 Separability**

If any provision of this subchapter or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

**(a)**

**Annuity Mortality Tables**

**Adopted New Rules: N.J.A.C. 11:4-26**

Proposed: October 7, 1985 at 17 N.J.R. 2349(a).

Adopted: November 8, 1985 by Jasper J. Jackson, Acting Commissioner, Department of Insurance.

Filed: November 8, 1985 as R.1985 d.616, **without change.**

Authority: N.J.S.A. 17:1C-6(e) and N.J.S.A. 17B:19-8a (ix).

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): December 2, 1990.

**Summary of Public Comments and Agency Responses:**

The Department received three comments regarding N.J.A.C. 11:4-26. All three commenters supported the Department's rule and urged its adoption.

**Full text** of the adoption follows.

**SUBCHAPTER 26. ANNUITY MORTALITY TABLES**

**11:4-26.1 Purpose**

The purpose of the new subchapter is to recognize new mortality tables, the 1983 Table "a" and the 1983 GAM Table, for use in determining the minimum standard of valuation for annuity and pure endowment contracts.

**11:4-26.2 Definitions**

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

"1983 Table 'a'" means that mortality table adopted as a recognized mortality table for annuities in June, 1982 by the National Association of Insurance Commissioners.

"1983 GAM Table" means that mortality table adopted as a recognized mortality table for annuities in December, 1983 by the National Association of Insurance Commissioners.

**11:4-26.3 Individual annuity or pure endowment contracts**

(a) The 1983 Table "a" is approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual or pure endowment contract issued on or after September 11, 1981.

(b) The 1983 Table "a" shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1987.

**11:4-26.4 Group annuity or pure endowment contracts**

(a) The 1983 GAM Table and the 1983 Table "a" are approved as group annuity mortality tables for valuation and, at the option of the company, either table may be used for purposes of valuation for any annuity or pure endowment purchased on or after September 11, 1981 under a group annuity or pure endowment contract.

(b) The 1983 GAM Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1987 under a group annuity or pure endowment contract.

**11:4-26.5 Separability**

If any provision of this subchapter or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

**LAW AND PUBLIC SAFETY**

**(b)**

**BOARD OF NURSING**

**Reporting of Unlawful Conduct**

**Adopted New Rule: N.J.A.C. 13:37-1.4**

Proposed: September 16, 1985 at 17 N.J.R. 2232(a).

Adopted: October 25, 1985 by New Jersey State Board of Nursing, Sylvia C. Edge, R.N., M.A., President.

Filed: November 4, 1985 as R.1985 d.607, **without change.**

Authority: N.J.S.A. 45:1-21(e) and 45:11-24(d)(19).

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): June 3, 1990.

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

Full text of the adoption follows.

13:37-1.4 Reporting unlawful conduct

Every nurse licensee shall report in a timely manner to the Board of Nursing or its designated representative any and all incidents or series of incidents which upon objective evaluation leads to the good faith belief that the conduct is in violation of the Nurse Practice Act (N.J.S.A. 45:1-14, 45:11-23 et seq.) or any regulation adopted by the Board. (See the "Guidelines on Reporting Unlawful Conduct" available on request from the Board of Nursing office.)

**(a)**

**BOARD OF PSYCHOLOGICAL EXAMINERS**

**Change of Address; Service of Process**

**Adopted New Rule: N.J.A.C. 13:42-1.5**

Proposed: April 15, 1985 at 17 N.J.R. 896(a).

Adopted: October 28, 1985 by New Jersey State Board of Psychological Examiners, Duncan E. Walton, Ph.D., President.

Filed: November 12, 1985 at R.1985 d.621, **without change.**

Authority: N.J.S.A. 45:14B-13.

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): November 3, 1988.

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

Full text of the adoption follows.

13:42-1.5 Notification of change of address; service of process

(a) A licensee of the Board of Psychological Examiners shall notify the Board in writing of any change of address from that currently registered with the Board and shown on the most recently issued license. Such notice shall be 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).

(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)**

**STATE BOARD OF VETERINARY MEDICAL EXAMINERS**

**Licensure Requirements  
 General Rules of Practice**

**Adopted New Rules: N.J.A.C. 13:44-1.3, 1.4, 2.4, 2.14 and 2.15**

**Adopted Amendments: N.J.A.C. 13:44-1.2 and 2.9**

**Adopted Repeal: N.J.A.C. 13:44-6**

Proposed: July 15, 1985 at 17 N.J.R. 1739(a).

Adopted: August 26, 1985 by New Jersey State Board of Veterinary Medical Examiners, David Eisenberg, D.V.M., President.

Filed: November 12, 1985 as R.1985 d.622, **without change.**

Authority: N.J.S.A. 45:16-9.9.

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order No.

66(1978): July 16, 1989 for N.J.A.C. 13:44-1; August 20, 1989 for N.J.A.C. 13:44-2.

**Summary of Public Comments and Agency Responses:**

On August 28, 1985 the State Board of Veterinary Medical Examiners at its regular meeting adopted proposed new rules and amendments to rules, said proposals appearing at 17 N.J.R. 1739. Two comments, one from Ray Thompson, Executive Director of the New Jersey Veterinary Medical Association and one from a licensee, Robert R. Shomer, D.V.M., to the proposed amendments were received by the Board. Both addressed N.J.A.C. 13:44-1.3 which would require five years of active clinical experience within the seven years immediately following preceding application, as a prerequisite for licensure by waiver of examination.

Mr. Thompson noted in his comment that the proposed regulation is in conflict with a proposed amendment to the Veterinary Practice Act. The proposed legislation (S-3150) would establish a requirement of three consecutive years of clinical practice prior to application.

Dr. Shomer opined that five years is too severe a restriction and does not necessarily reflect superior ability. He further stated that the requirement of three years of consecutive clinical practice "should remain in effect."

Upon consideration, the Board concluded that the five year requirement offered greater consumer protection than a three year requirement. The Board believes the examination process is an objective and effective way to determine those individuals who are qualified to be licensed and that it is more difficult to assess candidates who seek licensure by waiver of examination. In evaluating candidates who seek licensure by endorsement, experience is a key element that the Board considers. Unlike the medical profession, for example, requirements for the licensing of veterinarians vary significantly from state to state. The Board believes a mere three years experience requirement would encourage otherwise unqualified applicants to circumvent the New Jersey examination process. The Board believes that an additional two years offers greater consumer

protection. For this reason, the Board determined that its original proposal requiring five years experience should be maintained. The Board hopes that the Legislature is responsive to the concerns of the Board and that it will act accordingly. In addition, the Board wishes to point out that prior to this regulation, the Board had no rule regarding the amount of experience required by a veterinarian seeking licensure by endorsement. Therefore, Dr. Shomer's comment that the three year requirement "should remain in effect" does not accurately reflect the past rule of the Board.

Dr. Shomer also objected to the provision in proposed N.J.A.C. 13:44-1.3(b) which states that a graduate of a college or university not accredited by the AVMA shall complete the ECFVG clinical experience program "or other similar program recognized by the Board." Dr. Shomer states that "the phrase 'or other similar program recognized by the Board' might be subject to challenge since the present alternative is a three to five day in depth clinical examination at an accredited veterinary college (Mississippi) and is a 'testing procedure' rather than 'clinical training' or 'clinical experience' program." At present, the Board does not recognize any program other than the ECFVG clinical training program for graduates of non-accredited schools. The language providing for "other similar programs recognized by the Board" was not drafted with any particular program in mind, but was included to permit exercise of the Board's discretion in the event that other programs acceptable to the Board are developed and become available.

Full text of the adoption follows.

#### 13:44-1.2 Examinations

(a) Candidates for licensure by examination shall complete the following:

1. The National Board Examination;
2. The Clinical Competency Test; and
3. The New Jersey Practical Examination.

(b) As a prerequisite to taking the New Jersey practical examination, an applicant shall have attained a grade of 70.0 on the National Board Examination, calculated according to New Jersey criteria, within five years preceding application for the New Jersey Practical Examination and shall not have scored less than 70.0 on more than one section of each test.

(c) National Board Examination and Clinical Competency Test scores shall be sent to the Board by Interstate Reporting Service.

(d) In addition to the above, a candidate shall file an application for a review of credentials and shall submit:

1. Two passport size photographs; and
2. An official transcript of veterinary school credits which is to be forwarded directly to the Board by the college or university attended. The transcript must contain signature of college officials and be properly stamped. If the transcript is in a language other than English a verified English translation of the record must also be sent.

(e) Applications for the New Jersey Practical examination, accompanied by the required fees and credentials, shall be filed with the Board's executive secretary at least two months prior to the examination.

(f) Applicants shall be required to attain a grade of 70 on the New Jersey Practical examination as a prerequisite to licensure.

(g) An unsuccessful candidate may apply to the Board for a review of his or her practical examination papers. Such application must be submitted to the Board's executive sec-

retary in writing within 14 days following notification of examination results, and the executive secretary shall subsequently arrange a date for the candidate to review his or her examination papers and grades in the Board office.

(h) After the review, the unsuccessful candidate may file in writing with the Board's executive secretary an appeal of his or her practical examination grade within 14 days following the review. Such notice of appeal must include a statement explaining the basis of the appeal along with any documentation, including references, which the candidate claims supports his or her appeal. The Board shall consider such appeal within 30 days of filing and may invite the candidate to appear for a hearing on the appeal.

#### 13:44-1.3 Licensure by waiver of examination

(a) The Board may waive all but the law portion of the New Jersey practical examination for an applicant who presents satisfactory proof that he or she:

1. Has held for a minimum of five years immediately preceding application a valid unsuspended and inrevoked license to practice veterinary medicine issued after examination by another state, territory or the District of Columbia which has education and examination requirements substantially equivalent to those required for licensure in New Jersey;

2. Has five full years of active clinical experience of character approved by the Board;

3. Has obtained the required experience in one or more jurisdictions in which active licensure is held within the seven year period immediately preceding the date application is made;

4. Has passed the National Board Examination and Clinical Competency Test, except however, the National Board Examination requirement shall not apply to anyone who was licensed in another jurisdiction prior to June 1970, the date the National Board Examination first was administered in the State of New Jersey, and the Clinical Competency Test requirement shall not apply to anyone who was licensed in another jurisdiction prior to 1982, the date that test was first required by the Board.

(b) A graduate of a college or university not accredited by the A.V.M.A. shall complete the ECFVG clinical experience program or other similar program recognized by the Board.

(c) In addition, the applicant shall file an application for a review of credentials and submit:

1. Two passport size photographs;
2. An official transcript of veterinary school credits which is to be forwarded directly to the Board by the college or university attended. The transcript must contain signatures of college officials and be properly stamped. If the transcript is in a language other than English a verified English translation of the record must also be sent.

3. Submit National Board Examination and Clinical Competency Test scores through Interstate Reporting Service. The scores must meet New Jersey standards upon conversion.

4. Three notarized certifications of experience regarding the applicant from veterinarians actively licensed and practicing in the same jurisdiction(s) for which the experience is being certified. Each certification shall be on professional letterhead stationery; state the exact dates of the period being certified; indicate the type of experience acquired, that is, bovine, exotic, equine or small animal; certify to the applicant's moral character; provide a critical evaluation of the applicant's ability to practice along with a professional recommendation for licensure. Certification shall be sent to the Board by the certifying veterinarian.

5. Submit a certification from every state in which the applicant is licensed verifying that applicant holds a valid, unsuspended and unrevoked license to practice, and other pertinent information the Board may require.

(d) An equine practitioner shall have the Racing Commission of each state in which the applicant has practiced during the five year experience period, file a statement of good standing with the Board. The practitioner shall also notify the Board if his or her privilege to practice veterinary medicine was ever suspended or revoked by any authority.

(e) A candidate who has failed the New Jersey State Practical Examination must wait five years from the date of the test before applying for a license by waiver of examination.

#### 13:44-1.4 Graduates of non-approved veterinary programs

(a) As a prerequisite to admission to any examination administered by the Board or issuance of a temporary permit, a graduate of a veterinary college or university not approved by the Board shall:

1. Complete the one year clinical experience training program administered by the Education Commission for Foreign Graduates (ECFVG) of the American Veterinary Medical Association or other accrediting or qualifying body recognized by the Board;

2. Meet all other requirements for admission to examination;

3. File an application for review of credentials;

4. Have the ECFVG office submit to the Board test results of examinations required of the applicant under the training program and a certification the applicant completed the program.

(b) The National Board Examination and Clinical Competency Test taken for the ECFVG Program may be used to fulfill the prerequisite for the State Practical Examination or the State Veterinary Jurisprudence Examination. However, for this purpose the results of the tests shall meet New Jersey standards upon conversion and shall have been obtained within the five year period immediately preceding application.

(c) Prior to commencing ECFVG training in New Jersey a candidate must obtain a training certificate from the Board.

(d) Upon receipt of an application and required fee, the Board shall issue a training certificate. The certificate shall be issued in the name of the applicant and a supervising licensed veterinarian at the training facility; the name and location of the facility shall appear on the certificate and indicate the date of expiration. The certificate shall be conspicuously displayed at the facility in an area open to the public.

(e) The registration shall permit training only at the location specified in the certificate.

(f) Photocopies of ECFVG quarterly reports shall be sent to the Board while the candidate is training in the State of New Jersey.

#### 13:44-2.4 Non-licensed veterinarians

No person shall engage the services of a non-licensed veterinarian for the purpose of being trained or to assist with the practice of veterinary medicine dentistry or surgery unless, the non-licensed veterinarian first obtains a temporary permit or training certificate issued by the Board.

#### 13:44-2.9 Temporary Permits

(a) (No change.)

(b) A candidate who has filed an application for a review of credentials, and is waiting to write the next scheduled National Board Examination, Clinical Competency Test, the New Jersey Practical Examination, or Veterinary Jurispru-

dence Examination, may apply to the Board for a temporary permit number 1 to be employed as an assistant under the responsible supervision of a qualified New Jersey licensed veterinarian, except that a person with National Board Examination and/or Clinical Competency Test scores which do not meet New Jersey standards upon conversion shall not be eligible to make application.

(c) Before a temporary permit number 1 is granted to an applicant waiting to take the next scheduled National Board Examination and/or the Clinical Competency Test, the candidate shall have the licensing agency of the jurisdiction in which the test(s) is being administered certify to the New Jersey Board the applicant has filed for examination. A temporary permit number 1 shall be issued in the name of the licensed veterinarian upon receipt of a properly executed application and fee and required document. The certificate shall expire when the candidate's examination results are released and shall not be extended. The holder of a temporary permit number 1 who fails to appear for a scheduled examination, without good cause, shall be disqualified from obtaining any additional permits.

(d) A candidate who fails an examination shall immediately cease and desist from the practice of veterinary medicine, dentistry and surgery until an application for another temporary permit is approved.

(e) The Board shall not issue more than four temporary permits to any applicant.

(f) A temporary permit shall not be transferable.

(g) The Board may issue a temporary permit number 2 for a period of up to 90 days when the New Jersey licensee shall be absent from his or her practice.

(h) To be eligible for a temporary permit number 2, an applicant shall:

1. Have five years of licensed active clinical experience to have been acquired within the seven year period immediately preceding the application;

2. Complete an application for a review of credentials and pay the required filing fee;

3. Submit three notarized certifications of experience regarding the applicant from veterinarians actively licensed and practicing in the same jurisdiction(s) for which the experience is being certified. Each certification shall be on professional letterhead stationery; state the exact dates of the period being certified; indicate the type of experience acquired, that is, bovine, exotic, equine or small animal; certify to the applicant's moral character; provide a critical evaluation of the applicant's ability to practice along with a professional recommendation for licensure. Certification shall be sent to the Board by the certifying veterinarian.

4. Submit a certification from every state in which the applicant is licensed verifying that applicant holds a valid, unsuspended and revoked license to practice, and other pertinent information the Board may require.

5. An equine practitioner shall have the Racing Commission of each state in which the applicant has practiced during the five year experience period, file a statement of good standing with the Board. The practitioner shall also notify the Board if his or her privilege to practice veterinary medicine was ever suspended or revoked by any authority.

(i) Where a lawfully qualified veterinarian of another state has failed the New Jersey State Board examination, such failure may be grounds for denying of issuance of a temporary permit to such applicant to take charge temporarily of the practice of a lawfully qualified veterinarian of this State during his or her absence from such practice.

13:44-2.14 Emergency service facilities

(a) Any veterinary facility denominated as an emergency service facility and advertising that it provides emergency service shall have at least one licensed veterinarian and one supporting staff member on the premises during the hours the facility is open for service.

(b) Advertisements for emergency service facilities shall include a statement of the days of the week and the hours the facility is open and that a New Jersey licensed veterinarian and supporting staff member are on the premises during these times.

(c) A certificate of registration or duplicate certificate for the location must be obtained by all licensed employees of an emergency service facility, except that a veterinarian who assists at the facility on an occasional emergency relief basis shall not be required to obtain a registration.

(d) Emergency service facilities shall keep a daily log recording the names of licensees and supporting staff regularly or occasionally employed by the facility, with the dates and the hours each has worked for the facility.

(e) This rule shall not apply to a veterinary facility not denominated as an emergency care facility which advertises an after hours telephone number to be called when the facility is closed.

13:44-2.15 Notification of address changes

Every practitioner of veterinary medicine licensed in this State shall submit to the Board in writing notification of change in his or her residential address within 30 days of such change, or shall be responsible for keeping the Board informed of that address at which he or she may be reached. Any change in practice address shall be reported within 10 days of the change. If the licensee does not maintain a practice address in New Jersey he or she shall notify the Board of an address at which he or she can be reached, and shall notify the Board of any change in such address within 10 days.

SUBCHAPTER 6. (RESERVED)

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:44-6.

**(a)**

**NEW JERSEY RACING COMMISSION**

**Thoroughbred Rules**

**Urine Testing**

**Adopted Amentment: N.J.A.C. 13:70-14A.11**

Proposed: July 1, 1985 at 17 N.J.R. 1640(a).

Adopted: October 28, 1985 by New Jersey Racing

Commission, Harold G. Handel, Executive Director.

Filed: October 30, 1985 as R.1985 d.602, **without change.**

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

Effective Date: December 2, 1985.

Operative Date: January 1, 1986.

Expiration Date pursuant to Executive Order No. 66

(1978): February 19, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

13:70-14A.11 Urine test

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

(b) Every official, jockey, trainer and groom for any race at any licensed racetrack may be subjected to a urine test, or other non-invasive fluid test at the direction of the State Steward in a manner prescribed by the New Jersey Racing Commission. Any official, jockey, trainer or groom who fails to submit to a urine test when requested to do so by the State Steward shall be liable to the penalties provided in N.J.A.C. 13:70-31.

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

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

1. He shall, as quickly as possible, notify the official, jockey, trainer and groom involved in writing.

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

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

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

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

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**(a)**

**Harness Rules  
Urine Testing**

**Adopted Amendment: N.J.A.C. 13:71-18.2**

Proposed: July 1, 1985 at 17 N.J.R. 1641(a).

Adopted: October 28, 1985 by New Jersey Racing

Commission, Harold G. Handel, Executive Director.

Filed: October 30, 1985 as R.1985 d.603, **without change.**

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

Effective Date: December 2, 1985.

Operative Date: January 1, 1986.

Expiration Date pursuant to Executive Order No. 66  
(1978): September 17, 1989.

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

**Full text** of the adoption follows.

13:71-18.2 Urine test

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

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

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

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

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

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

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

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

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

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

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**TREASURY-GENERAL****(a)****DIVISION OF PENSIONS****State Police Retirement System****Adopted New Rules: N.J.A.C. 17:5-1, 2, 3, 5 and 6****Readoption: N.J.A.C. 17:5-4**

Proposed: August 19, 1985 at 17 N.J.R. 2018(a).  
 Adopted: November 4, 1985 at State Police Retirement System, Anthony P. Ferrazza, Secretary.  
 Filed: November 7, 1985 as R.1985 d.614, **without change.**

Authority: N.J.S.A. 53:5A-30h.

Effective Date: November 7, 1985 for 17:5-4; December 2, 1985 for 17:5-1, 2, 3, 5 and 6.

Expiration Date pursuant to Executive Order No. 66(1978): December 2, 1990.

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

Full text of the readoption and adopted new rules appear in the New Jersey Administrative Code at N.J.A.C. 17:5.

**(b)****STATE INVESTMENT COUNCIL****Common Pension Funds A and C****Adopted New Rules: N.J.A.C. 17:16-32 and 17:16-38**

Proposed: October 7, 1985 at 17 N.J.R. 2386(b).

Adopted: November 7, 1985 by Roland M. Machold, Director, Division of Investment.  
 Filed: November 8, 1985 as R.1985 d.615, **without change.**

Authority: N.J.S.A. 52:18A-91.

Effective Date: December 2, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): December 2, 1990.

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

Full text of the adopted new rules appear in the New Jersey Administrative Code at N.J.A.C. 17:16-32 and 17:16-38.

**OTHER AGENCIES****(c)****CASINO CONTROL COMMISSION****Accounting and Internal Controls Rules concerning Patron Credits****N.J.A.C. 19:45-1.27****Extension of Operative Date**

Take notice that the New Jersey Casino Control Commission at its public meeting of November 6, 1985, decided to extend the operative date for the adopted amendments to N.J.A.C. 19:45-1.27 (see May 20, 1985, New Jersey Register at 17 N.J.R. 1327(a) and October 7, 1985, New Jersey Register at 17 N.J.R. 2456(a)) from December 1, 1985 to **March 1, 1986.**

The Commission believes that the extended operative date will afford the casino industry the necessary time to implement the new requirements concerning credit procedures.

# EMERGENCY ADOPTION

## INSURANCE

(a)

### DIVISION OF ADMINISTRATION

#### Cancellation and Nonrenewal of Property and Casualty/Liability Policies

#### Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 11:1-20.1 Emergency Amendment Adopted: November 15, 1985 by Jasper J. Jackson, Acting Commissioner, Department of Insurance.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c):  
November 12, 1985.

Emergency Amendment Filed: November 15, 1985 as  
R.1985 d.626.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:22-6.14a1,  
2 and 3, 17:29C-1 et seq., 17:29A-1 et seq., 17:29AA-1  
et seq., and 17:29B-4.

Emergency Amendment Effective Date: November 15,  
1985.

Emergency Amendment Expiration Date: January 14,  
1986.

Concurrent Proposal Number: PRN 1985-676.

Submit comments by January 2, 1986 to:  
Verice M. Mason, Director  
Legislative and Regulatory Affairs  
Department of Insurance  
CN 325  
Trenton, New Jersey 08625

These amendments were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (See N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of these emergency rules are being proposed for readoption in compliance with the normal rulemaking requirements of Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

The agency emergency amendments and concurrent proposal follows:

#### Summary

On September 16, 1985, the Commissioner of Insurance adopted, on an emergency basis, new rules governing the cancellation and nonrenewal of property and casualty/liability insurance coverages. The new rules were filed with the Office of Administrative Law and became effective on September 17, 1985 (See 17 N.J.R. 2460(a)). These emergency rules were subsequently readopted by the Department on November 16, 1985, without change.

This emergency adoption and concurrent proposal amends the scope section of the regulation, N.J.A.C. 11:1-20.1, to exclude policies written by surplus lines insurers. Surplus lines

policies are being exempted from the requirements of this rule for the following reasons.

Surplus lines insurers are not fully authorized to write business in New Jersey. Rather, they write those lines of insurance for which there is no readily available market among admitted carriers. To the extent that the rule restricts the ability of surplus lines insurers to fill this gap, availability problems may be exacerbated.

In addition, the following lines of commercial insurance or types of commercial policies are being removed from the scope of N.J.A.C. 11:1-20:

1. Employers' liability;
2. Fidelity, surety, performance and surety bonds;
3. Ocean marine and aviation insurance; and
4. Policies issued in this State covering risks with multi-state locations, except with respect to coverages applicable to locations within this State.

Employers' liability insurance is traditionally allied with workers compensation coverage, which was excluded from the scope of the original rule. To maintain consistency, employers' liability insurance is now being excluded.

The various types of bonds are being excluded from the scope of the rule because they have traditionally been subject to less regulatory scrutiny than other lines.

Finally, ocean marine and aviation insurance, as well as policies covering risks located outside this State, are being excluded from the rule to minimize any perceived "extraterritorial" effects of the rule. The rule was not intended to affect the law of other jurisdictions, which was the concern of some commenters.

#### Social Impact

The exemption of surplus lines and certain commercial coverages from the rule's requirements is expected to benefit the public by ensuring the continued availability of such coverages.

Additionally, it would be unfair to insurers to impose requirements on them when experience has shown such requirements to be inappropriate.

#### Economic Impact

N.J.A.C. 11:1-20 imposed certain costs upon insurers in meeting the notice, proof of mailing and other procedural requirements of N.J.A.C. 11:1-20. The restrictions imposed on an insurer's ability to terminate or modify coverage potentially increased an insurer's exposure to loss. Relief from the rule's requirements with respect to the lines exempted should accordingly result in cost savings for affected insurers.

The public will benefit economically from the continued availability of coverage. The Department's costs in monitoring and enforcing the requirements of N.J.A.C. 11:1-20 may also decrease as a result of excluding these lines from the scope of the rule.

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

#### SUBCHAPTER 20. CANCELLATION AND NONRENEWAL OF PROPERTY AND CASUALTY INSURANCE POLICIES

## 11:1-20.1 Scope

(a) This subchapter shall apply to all property and casualty/liability insurance policies except workers' compensation and employers' liability insurance, accident and health insurance, fidelity, surety, performance and forgery bonds, ocean marine and aviation insurance and any policy written by a surplus lines insurer. This subchapter shall not apply to any policy issued in this State covering risks with multi-state lo-

cations except with respect to coverages applicable to locations within this State. [and to the extent this subchapter may be inconsistent with applicable statutes and regulations, policies covering automobiles as defined at N.J.S.A. 39:6A-3.] This subchapter shall apply to policies covering automobiles as defined at N.J.S.A. 39:6A-3, and its requirements are in addition to any imposed by other statutes or regulations.

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# MISCELLANEOUS NOTICES

## HUMAN SERVICES

(a)

### DIVISION OF PUBLIC WELFARE

#### Eligible AFDC Child Regularly Attending School, N.J.A.C. 10:82-1.7

#### Non-eligible Persons in the Household: N.J.A.C. 10:82-2.3

#### Notice of Correction

Take notice that errors appear in the New Jersey Administrative Code at N.J.A.C. 10:82-1.7 concerning eligible AFDC child regularly attending school and N.J.A.C. 10:82-2.3 concerning Non-eligible persons in the household. N.J.A.C. 10:82-1.7 and N.J.A.C. 10:82-2.3 should appear in the New Jersey Administrative Code as follows:

10:82-1.7 Eligible AFDC child regularly attending school  
 (a) When an eligible child [over 18 and under 21] is a student regularly attending school, college or university, or regularly attending a course of vocational training designed to fit him/her for gainful employment, this child shall be included as a member of the eligible unit whether or not he/she is living in the home during the period in which he/she is pursuing his/her studies. (See N.J.A.C. 10:82-1.9 for definitions of school attendance.)  
 (b)-(d) (No change in text.)

10:82-2.3 Non-eligible persons in the household  
 (a) (No change in text.)  
 (b) When the natural or adoptive parent is not included in the eligible unit and has earned [an] or unearned income of his or her own, such income, less the parent's per capita share of the allowance standard for the eligible unit with the parent included, shall be applied to the needs of the eligible children, except when such parent is an SSI recipient.  
 1. (No change in text.)

## INSURANCE

(b)

### THE COMMISSIONER

#### Notice of Exportable List Effective January 8, 1985

#### NOTICE OF HEARING ON EXPORTABLE LIST

Take notice that Jasper J. Jackson, Acting Commissioner of Insurance, announces that the Department will hold a hearing to determine classes of insurance for which no reason-

able or adequate market exists among authorized insurers on December 19, 1985 at 1:00 P.M. at:

Department of Insurance  
 Hearing Room  
 201 East State Street  
 Trenton, New Jersey 08625

Consideration will be given to the 48 classes of coverage declared eligible to export on January 8, 1985. In addition, interested persons are invited to submit other proposed classes of coverage for listing.

Interested persons may submit in writing, data, views or arguments relevant to the Exportable List on or before December 16, 1985. These submissions should be addressed to:

Department of Insurance  
 Financial Examinations Division  
 Surplus Lines Examining Office  
 CN 325  
 Trenton, New Jersey 08625

1. Amusement Devices for Adults and Kiddies
2. Amusement Parks and Carnivals Liability
3. Animal Mortality, Horses only
4. Armored Cars
5. Automobile—Race Tracks Liability
6. Auto Races
7. Aviation, Crop Dusters
8. Bowling Alleys
9. Burglary and Robbery, Check Cashing, Money Exchange, and Installment Sales Houses only
10. Business Interruption—Value per diem form only
11. Cleaners' and Dyers' Bailee Coverage in Municipalities over 100,000 population
12. Commercial Excess Liability Insurance
13. Differences in Condition (Parasol)
14. Environmental Impairment Liability Insurance
15. Excess Auto Physical Damage (value over \$30,000)
16. Excess of First Loss Insurance
17. Excess Loss and Excess Aggregate for Self-Insurers' Public Liability and Workmens' Compensation
18. Excess Property Insurance
19. False Arrest and Other Personal Injury Liability Classes
20. Fine Arts Dealers
21. Fire and Allied Lines on Buildings Occupied as Auction Markets, Farmers Markets and Contents of Such Buildings
22. Fireworks Display
23. First Loss Insurance
24. Golf Driving Range
25. Hole-In-One
26. House Movers and Building Demolition
27. International Movers Insurance Plan
28. Kidnapping Insurance
29. Liquor Law Liability
30. Manufacturers and Contractors Liability for Floor Waxers, Building Maintenance People, Window Washers and Exterminators
31. Miscellaneous Errors and Omissions including Management Consultants, Franchisers, Associations, Seedmans, Trustees, Collection Agencies, Insurance Audit and Engineering Firms, Testing Laboratories and Freight Forwarders
32. Personal Articles Floaters only
33. Picnics/Excursions
34. Police Professional Errors and Omissions

- 35. Pony Rides/Riding Academies
- 36. Products Liability and Products Recall Coverage
- 37. Professional Liability (Malpractice) Policies for Chiropractors, Clinical Laboratories, Psychologists, Veterinarians, Massage and Reducing Salons and Divorce Mediation, Associated Persons (Licensed by the Commodity Futures Trading Commissions), Hospices, Medical Personnel Pools, Medical Health Care Agencies, Stress Testing Centers, Real Estate Appraisers, Title Abstractors and Salon Sun Tan Beds
- 38. Rain Insurance
- 39. Retrospective Penalty Indemnity
- 40. Short-Term (not over 30 days) Drive-Away Auto Insurance with \$15,000/\$30,000 Bodily Injury and \$15,000 Property Damage Limits on Vehicles owned and operated by Military Personnel except for vehicles registered in New Jersey
- 41. Short-Term Entertainment Events, Rock Festivals
- 42. Short-Term Association Meetings and Conventions
- 43. Skating Rinks, Roller and Ice Skate-Board Parks
- 44. Sporting Events (Casual)
- 45. Swim Clubs/Swim Pools
- 46. Truck Physical Damage Coverages for Non-Fleet (one to five) trucks over 7,800 pounds, including Trailers and/or Trailer Interchange
- 47. Vacant Buildings—Fire, Extended Coverage and Vandalism
- 48. Warehouseman's Legal Liability

PLEASE NOTE: Item 31 and Item 37 also includes coverages shown as Class A rated by a Rating Bureau and any coverages or classes not specifically rated by a Rating Bureau.

## TREASURY-GENERAL

(a)

### DIVISION OF BUILDING AND CONSTRUCTION

#### Architect-Engineer Selection Notice of Assignments: November 13, 1985

Solicitations of design services for major projects are made by notices published in construction trade publications and newspapers and by direct notification of professional associations/societies and listed, prequalified New Jersey consulting firms. For information on DBC's prequalification and assignment procedures, call (609) 984-6979.

Last list dated October 15, 1985.

The following assignments have been made:

DBC NO.	PROJECT	A/E	CCE
M650	Upgrade Heating Control System Meese Building North Jersey Developmental Center Totowa, NJ	Barnickel Engineering	\$ 20,000.
H824	Analysis of Switchgear Montclair State College Upper Montclair, NJ	Frank R. Holtaway & Son	\$ 40,000.

M657	Egress Sidewalks No. Princeton Developmental Center Skillman, NJ	Van Cleef Engineering	\$ 15,000.
M658	Study-Life Safety Improvements Glen Gardner Center for Geriatrics Glen Gardner, NJ	Vincent E. Paolicelli	\$ 2,500. Services
M656	Replace HVAC Units Three Day Training Centers-North Union, Morris & Hudson Counties	K. Feinberg Assoc., Inc.	\$140,000.
M656-01	Replace HVAC Units Three Day Training Centers-South Ocean, Gloucester & Atlantic Counties	Roy Larry Schlein & Associates	\$140,000.
H839	Replacement of A/E Chiller Sprague Library Montclair State College Upper Montclair, NJ	London, Kantor, Umland & Associates	\$250,000
P482	New Administration Facility Belleplain State Forest Dennis Township, Cape May County	Bernard De Annuntis & Associates	\$170,000.
P471	Office/Conference Space Renovations Terminal Complex Liberty State Park Jersey City, NJ	Kruger, Kruger, Albenberg	\$150,000.
M661	Repair Storm Drainage Systems Trenton Psychiatric Hospital Trenton, NJ	Van Note-Harvey Associates	\$175,000
M654	Preparation for Dishwasher Installation Marlboro Psychiatric Hospital Marlboro, NJ	John C. Morris & Associates, Inc.	\$ 45,000.
D005	Facility Consultant Dept. of Corrections	Barnickel Engineering	\$ 10,000. Services
D006	Facility Consultant Dept. of Corrections	Borda Engineers & Energy Consultants	\$ 10,000. Services
D007	Facility Consultant Dept. of Corrections	M. Benton & Associates	\$ 10,000. Services
D008	Facility Consultant Dept. of Corrections	Becker, Bendixen, Murphy, & Herbst	\$ 20,000. Services
D009	Facility Consultant Dept. of Corrections	H. V. Weeks, Inc.	\$ 15,000. Services
H838	Exterior Improvements Dougall & Whitman Halls Kean College of New Jersey Union, NJ	Leslie M. Dennis & Son	\$ 80,000.
E137-01	Phase II Study-Lower Lake Dam Marie Katzenbach School for the Deaf West Trenton, NJ	Converse Consultants, Inc.	\$ 25,000. Services

Competitive Proposals

Converse Consultants, Inc.	\$25,000. Lump Sum
Louis Berger & Associates	\$32,147. Lump Sum
Storch Engineers	\$50,050. Lump Sum

S200	Facilities Inventory & Master Plan for Renovation of DMV Inspection Stations Statewide	Vaughn Organization	\$209,124. Services
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Competitive Proposals

Vaughn Organization	\$209,124. Lump Sum
Armstrong, Jordan, Pease	\$330,000. Lump Sum
Haines, Lundberg, Wachler	\$456,000. Lump Sum

M645	Program for Renovation/Expansion of Medical Services Building for Conversion to Acute Psychiatric Care Unit Greystone Park Psychiatric Hospital Greystone Park, NJ	Gilbert L. Seltzer Associates	\$ 27,900.
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Competitive Proposals

Gilbert L. Seltzer Associates	\$27,900. Lump Sum
James Goldstein & Partners	\$31,300. Lump Sum
Becker, Bendixen, Murphy, Herbst	\$39,000. Lump Sum

# 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 September 3, 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. 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	17 N.J.R. 2711 and 2814	November 18, 1985
17 N.J.R. 1159 and 1358	May 20, 1985	17 N.J.R. 2815 and 2934	December 2, 1985

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
<b>ADMINISTRATIVE LAW—TITLE 1</b>				
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)
1:2-2.1	Civil Service cases: pre-proposal concerning conference hearings	17 N.J.R. 2072(a)		
1:2-2.1, 2.4	Conference hearings and employee/employer disputes	17 N.J.R. 2712(a)		
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)
1:6A-5.4	Special education hearings: placement of child pending an appeal	17 N.J.R. 2586(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)

(TRANSMITTAL 13, dated August 19, 1985)

<b>AGRICULTURE—TITLE 2</b>				
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)
2:32-2.7	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)		
2:90-1.5, 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 32, dated August 19, 1985)

<b>BANKING—TITLE 3</b>				
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)		
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)
3:26-4.1	State savings and loan parity with Federal associations	17 N.J.R. 2713(a)		
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)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
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)	R.1985 d.573	17 N.J.R. 2749(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)		
4:1-12.12	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)
4:1-23	Grievances and minor discipline	17 N.J.R. 2587(a)		
4:2-12.1, 12.2	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)		
4:2-23	Grievances and minor discipline	17 N.J.R. 2587(a)		
4:3-12.1, 12.2	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)		
4:3-23	Grievances and minor discipline	17 N.J.R. 2587(a)		

(TRANSMITTAL 26, dated August 19, 1985)

**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)	R.1985 d.611	17 N.J.R. 2870(a)
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)	R.1985 d.611	17 N.J.R. 2870(a)
5:18B-3.2	High Level Alarms	17 N.J.R. 1015(b)	R.1985 d.611	17 N.J.R. 2870(a)
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)		
5:23-3.11, 4.22, 4.24, 4.25	Uniform Construction Code: premanufactured construction	17 N.J.R. 1169(a)		
5:23-3.15	UCC: Plumbing Subcode	17 N.J.R. 2714(a)		
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)
5:28	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)
5:37	Municipal, County and Authority Employees Deferred Compensation Programs	17 N.J.R. 1960(a)	R.1985 d.598	17 N.J.R. 2749(b)
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)		

(TRANSMITTAL 32, dated August 19, 1985)

**DEFENSE—TITLE 5A**

(TRANSMITTAL 1, dated May 20, 1985)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
<b>EDUCATION—TITLE 6</b>				
6:3-1.2	Board of school estimate: correction			17 N.J.R. 2753(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)	R.1985 d.613	17 N.J.R. 2884(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)
6:21-1	Readopt Pupil Transportation Standards	17 N.J.R. 1365(a)	R.1985 d.451	17 N.J.R. 2107(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)
<b>(TRANSMITTAL 33, dated August 19, 1985)</b>				
<b>ENVIRONMENTAL PROTECTION—TITLE 7</b>				
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-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)		
7:1G	Worker and Community Right to Know Act: U.S. Court of Appeals decision			17 N.J.R. 2794(b)
7:2-12	Open lands management	17 N.J.R. 866(b)		
7:7-2.2	Wetlands maps in Ocean County	17 N.J.R. 1710(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)		
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)
7:9-15	Restoration of publicly-owned freshwater lakes	17 N.J.R. 2182(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(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)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)		
7:19-6.10	Water supply management in critical areas	17 N.J.R. 1966(a)	R.1985 d.596	17 N.J.R. 2753(b)
7:19A-1.4	Emergency water supply: residential and nonresidential users defined	17 N.J.R. 1967(a)	R.1985 d.595	17 N.J.R. 2754(a)
7:19B-1.3	Emergency water supply: residential and nonresidential users defined	17 N.J.R. 1967(a)	R.1985 d.595	17 N.J.R. 2754(a)
7:25-2.20	Higbee Beach Wildlife Management Area	Emergency	R.1985 d.514	17 N.J.R. 2459(a)
7:25-4.6	Nongame and exotic wildlife: possession permit fees	17 N.J.R. 2589(a)		
7:25-5.12	Use of steel-jaw leghold traps	17 N.J.R. 2714(b)		
7:25-6	1986-87 Fish Code	17 N.J.R. 2187(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
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)	R.1985 d.597	17 N.J.R. 2755(a)
7:25-17	Disposal and possession of dead deer	17 N.J.R. 2715(a)		
7:25-19	Atlantic Coast harvest season	17 N.J.R. 2494(a)		
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, 7.4, 9.1, 12.1, 12.8	Reuse of hazardous waste	17 N.J.R. 2716(a)		
7:26-1.4, 9.3	Above-ground tank storage of hazardous waste	17 N.J.R. 1501(a)	R.1985 d.620	17 N.J.R. 2885(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)		
7:26-2.6, 2.7	Disposal of asbestos waste	17 N.J.R. 2719(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)
7:26-6.5	Solid waste flow: Ocean County	17 N.J.R. 2590(a)		
7:26-6.5	Solid waste flow: Camden County	17 N.J.R. 2591(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)		
7:26-12.9	Correction to Administrative Code: Short-term permit for hazardous waste treatment	_____	_____	17 N.J.R. 2794(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	R.1985 d.610	17 N.J.R. 2887(a)
7:27-15.6	Gas-fueled motor vehicle: idle standard	16 N.J.R. 2889	R.1985 d.610	17 N.J.R. 2887(a)
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)		
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)
7:28-19.2, 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)
7:38	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)

(TRANSMITTAL 33, dated August 19, 1985)

**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)		
8:21-7	Frozen dessert products	17 N.J.R. 1986(b)	R.1985 d.591	17 N.J.R. 2755(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	Family planning facilities: licensure fee	17 N.J.R. 1999(a)	R.1985 d.581	17 N.J.R. 2768(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-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)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
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)
8:34-1.31	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)
8:43-4.13	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)		
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)
8:57-1.13	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)	R.1985 d.606	17 N.J.R. 2890(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)
8:65-8	Controlled dangerous substances: manufacture, distribution, disposal and nondrug use	17 N.J.R. 2721(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	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), 2556(b))	17 N.J.R. 1043(a)	R.1985 d.580	17 N.J.R. 2769(a)
8:71	Generic drug list additions (see 17 N.J.R. 2557(a))	17 N.J.R. 1733(a)	R.1985 d.579	17 N.J.R. 2769(b)

(TRANSMITTAL 30, dated August 19, 1985)

**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)
9:2-2	Fund for Improvement of Collegiate Education: policies and procedures	17 N.J.R. 2724(a)		
9:2-4.1	Eligibility for Alternate Benefit Program	17 N.J.R. 1635(a)	R.1985 d.588	17 N.J.R. 2770(a)
9:2-12.1, 12.2	Teacher education: degree standards	17 N.J.R. 1515(a)	R.1985 d.589	17 N.J.R. 2771(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)		
9:7-2.9	Student assistance programs: award combinations	17 N.J.R. 2725(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, 4.2, 4.3, 4.5, 4.8	Garden State Scholarship Program	17 N.J.R. 2726(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)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
9:9-1.6	Guarantee Student Loans and payment of insurance fee	17 N.J.R. 2727(a)		
9:9-1.16	Interest liability on defaulted student loans	17 N.J.R. 2728(a)		
9:9-9.2	Direct PLUS program and co-signer requirement	17 N.J.R. 2728(b)		
9:11, 12	Educational Opportunity Fund Program rules	17 N.J.R. 2214(b)		
<b>(TRANSMITTAL 28, dated August 19, 1985)</b>				
<b>HUMAN SERVICES—TITLE 10</b>				
10:30	Organization of Division of Mental Health and Hospitals	Organizational	R.1985 d.515	17 N.J.R. 2558(a)
10:36-1	Patient supervision at State psychiatric hospitals	17 N.J.R. 2593(a)		
10:37	Community Mental Health Services	17 N.J.R. 2222(a)	R.1985 d.605	17 N.J.R. 2894(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)		
10:49-1.1	Administration Manual: retroactive Medicaid eligibility	17 N.J.R. 2729(a)		
10:49-1.4	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:49-7	Reinstatement of Medicaid provider	17 N.J.R. 1519(a)	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)		
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)	R.1985 d.594	17 N.J.R. 2772(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)
10:51-1.14, 5.16	Pharmaceutical services: ineligible prescription drugs	17 N.J.R. 2730(a)		
10:51-4	Consultant Pharmacist Services	17 N.J.R. 2731(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)	R.1985 d.532	17 N.J.R. 2894(b)
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)	R.1985 d.532	17 N.J.R. 2894(b)
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)		
10:57	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)		
10:59-1.11	Medical Supplier Manual: repair of durable medical equipment	17 N.J.R. 2516(a)		
10:59-1.12	Medical Supplier Manual: correction			17 N.J.R. 2691(c)
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)		

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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)		
10:63-3	Vision Care Manual: billing procedures	17 N.J.R. 2731(b)		
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)	R.1985 d.532	17 N.J.R. 2894(b)
10:66-1.2, 1.6, 3.3	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(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)		
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)		
10:81-10.7	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)		
10:81-11.19	PAM: distribution of arrearage payments for child support	17 N.J.R. 1238(a)	R.1985 d.585	17 N.J.R. 2774(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)
10:82-1.7, 2.3	Correction to Administrative Code			17 N.J.R. 2917(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)		
10:82-3.11	ASH: correction to Administrative Code			17 N.J.R. 2691(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)
10:82-5.3	ASH: child care	17 N.J.R. 1835(a)	R.1985 d.586	17 N.J.R. 2774(b)
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)		
10:85-3.3, 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)
10:85-5.2, 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)
10:85-6.4	GAM: final reporting requirements	17 N.J.R. 1837(a)	R.1985 d.584	17 N.J.R. 2775(a)
10:85-10.8	GAM: work registration violations and Food Stamp recipients	17 N.J.R. 1838(a)	R.1985 d.618	17 N.J.R. 2900(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)
10:87-2.38, 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)

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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)
10:89-2.2, 2.3, 3.2, 3.3, 3.4, 3.6, 4.1, 5.1	Home energy assistance	Emergency	R.1985 d.593	17 N.J.R. 2791(a)
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)
10:94-5.5	Medicaid Only: deeming of income	17 N.J.R. 2732(a)		
10:94-7, 8, 9	Medicaid Only program for aged, blind and disabled	17 N.J.R. 2340(a)		
10:129-2	Child abuse prevention	17 N.J.R. 2735(a)		

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**CORRECTIONS—TITLE 10A**

10A:31-3.7, 3.12	Adult county facilities: new inmate processing	17 N.J.R. 2229(a)	R.1985 d.604	17 N.J.R. 2901(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)		

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**INSURANCE—TITLE 11**

11:1-2.5-2.8	Property-liability: rate counsel participation	16 N.J.R. 2918(a)	Expired	
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)
11:1-16	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	17 N.J.R. 2460(a)	R.1985 d.627	17 N.J.R.
11:1-20.1	Property and casualty/liability coverage	Emergency	R.1985 d.626	17 N.J.R. 2915(a)
11:1-21	Property/casualty insurers: preparation of annual loss reserve opinions	17 N.J.R. 2596(a)		
11:2-19	Approval of insurance schools and company training programs	16 N.J.R. 2920(b)	R.1985 d.608	17 N.J.R. 2901(b)
11:2-20	License renewal: continuing education requirement	16 N.J.R. 2922(a)	Expired	
11:2-21	Property and casualty coverage: underwriting guidelines	16 N.J.R. 2924(a)	Expired	
11:2-23	Advertisement of life insurance and annuities	16 N.J.R. 2926(a)	R.1985 d.600	17 N.J.R. 2776(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)	Expired	
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)	Expired	
11:3-17	Automobile rate filings	16 N.J.R. 2936(a)	R.1985 d.609	17 N.J.R. 2905(a)
11:3-18	Filing review procedures	16 N.J.R. 2937(a)	Expired	
11:3-20	Reporting excess profits	17 N.J.R. 370(a)		
11:3-20	Automobile insurers: financial disclosure and excess profit reporting	17 N.J.R. 2597(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)	Expired	
11:4-24	Smoker and nonsmoker mortality tables	17 N.J.R. 2348(a)	R.1985 d.617	17 N.J.R. 2907(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)	R.1985 d.616	17 N.J.R. 2908(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)		

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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)		
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)	R.1985 d.601	17 N.J.R. 2779(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)		

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**LABOR—TITLE 12**

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)		
12:17-11	Unemployment compensation and pension offset	17 N.J.R. 2736(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)
12:235	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)

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**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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13:19-10.1	Motor vehicle driver violations: point assessment	17 N.J.R. 2231(a)	R.1985 d.599	17 N.J.R. 2780(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)
13:20-32.16	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)		
13:20-36.1, 36.2	Special National Guard Plates	17 N.J.R. 2602(a)		
13:21-2	Motor Vehicle Licensing Service: Statutory Language Interpretation	17 N.J.R. 2090(b)	R.1985 d.576	17 N.J.R. 2780(a)
13:21-5.11	Registration of vehicles subject to Federal Heavy Vehicle Use Tax	17 N.J.R. 2737(a)		
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)		
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, 8.14	Board of Dentistry licensee requirements	17 N.J.R. 1864(b)	R.1985 d.548	17 N.J.R. 2669(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)

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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)
13:35-4.2	Termination of pregnancy	17 N.J.R. 2738(a)		
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)
13:37-1.4	Nursing licensees: reporting unlawful conduct	17 N.J.R. 2232(a)	R.1985 d.607	17 N.J.R. 2908(b)
13:37-2.1, 2.3, 3.5, 4.1, 4.3-4.6, 5.1, 5.5	Licensing of nurses	17 N.J.R. 1529(a)	R.1985 d.592	17 N.J.R. 2781(a)
13:37-6.2	Delegation of nursing tasks by RPNs	17 N.J.R. 2354(a)		
13:38-3.2	Board of Optometrists: reexamination	17 N.J.R. 677(a)		
13:38-3.2	Reexamination for optometry licensure	17 N.J.R. 1639(b)	R.1985 d.504	17 N.J.R. 2443(a)
13:39-3.10	Practice of pharmacy: qualifying examinations	17 N.J.R. 2528(a)		
13:39A-1	Board of Physical Therapy: organization and administration	17 N.J.R. 2355(a)		
13:39A-2	Authorized practice by physical therapists	17 N.J.R. 2356(a)		
13:39A-3	Unlawful practices by physical therapists	17 N.J.R. 2358(a)		
13:39A-3.2	Pre-proposal: fee splitting and kickbacks by physical therapists	17 N.J.R. 2360(a)		
13:39A-4	Unlicensed practice of physical therapy	17 N.J.R. 2361(a)		
13:39A-5	Physical therapy applicants: required credentials	17 N.J.R. 2362(a)		
13:40-1, 2	Title block contents on drawings, site plans and land surveys	17 N.J.R. 2602(b)		
13:40-3.2, 4.1, 5.1	Professional engineers and land surveyors: Board rules	17 N.J.R. 799(a)	R.1985 d.465	17 N.J.R. 2140(a)
13:41-3.2	Board of Professional Planners: fee schedule	17 N.J.R. 1061(a)	R.1985 d.443	17 N.J.R. 2141(a)
13:41-4	Board of Professional Planners: readopt preparation of site plan rules	17 N.J.R. 1240(a)		
13:42-1.5	Psychological Board licensees: notification of current address	17 N.J.R. 896(a)	R.1985 d.621	17 N.J.R. 2909(a)
13:44-1.2, 1.3, 1.4, 2.4, 2.9, 2.14, 2.15, 6	Veterinarian licensure	17 N.J.R. 1739(a)	R.1985 d.622	17 N.J.R. 2909(b)
13:44C-1.1	Audiology and Speech Language Pathology Advisory Committee: fees and charges	17 N.J.R. 1062(a)		
13:44D	Public moving and warehousing	17 N.J.R. 1382(a)		
13:45A-14	Unit pricing in retail establishments	17 N.J.R. 2232(b)		
13:47B-1.20	Weights and measures: National Bureau of Standards Handbook 44	17 N.J.R. 2233(a)		
13:47B-1.24	Weights and measures: central registry for security sealing devices	17 N.J.R. 2234(a)		
13:47C-3.6	Standard for treated lumber	17 N.J.R. 2234(b)		
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13:51-3.5, 3.6	Chemical breath testing: approved instruments	17 N.J.R. 1531(a)	R.1985 d.441	17 N.J.R. 2141(b)
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