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REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS*, PAGE 845.

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W. State St.
Trenton, N. J.

VOLUME 17 NUMBER 7
April 1, 1985 Indexed 17 N.J.R. 763-858
(Includes rules filed through March 11, 1985)

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

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RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **May 1, 1985**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

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

AGRICULTURE

DIVISION OF REGULATORY SERVICES

Proposals numbered 173, 174 and 181 are authorized by the State Board of Agriculture, Arthur R. Brown, Jr., Secretary, Department of Agriculture.

Submit comments by May 1, 1985 to:

Robert C. Fringer, Director
 Division of Regulatory Services
 N.J. Department of Agriculture
 CN 330
 Trenton, New Jersey 08625
 Telephone (609) 292-5575

(a)

Commercial Fertilizer and Soil Conditioner Commercial Values

Proposed Amendment: N.J.A.C. 2:69-1.11

Authority: N.J.S.A. 4:9-15.26, 4:9-15.33.

Proposal Number: PRN 1985-173.

The agency proposal follows:

Summary

This rule sets forth the commercial values used in determining the penalties which will be assessed against manufacturers

of commercial fertilizer and soil conditioners whose products fail to meet the prescribed standards. Proportions of nitrogen, phosphorous, and potash are considered. The purpose of the proposal is to update the commercial values, from July 1, 1985 to June 30, 1986, for these primary plant nutrients. The assessed penalties for deficient fertilizers will be based on the values set forth in the rule, and will be charged to the manufacturer. When the purchaser of the defective fertilizer can be ascertained, the penalty will be awarded to him. The State Treasury will receive all unclaimed penalty fees.

Social Impact

All known consumers of fertilizers will have financial protection when deficient fertilizers are detected, as they will be awarded the penalties against manufacturers. Manufacturers will exhibit more care in formulating their processes in order to avoid the assessment of penalties.

Economic Impact

All consumers of fertilizer will be equitably compensated for their losses because these proposed values are accurately adjusted to current market prices.

During Fiscal Year June 1983-June 1984, known consumers of defective products received \$5,500. in penalties assessed against manufacturers, and the State Treasury received a total of \$7,400. in unclaimed funds. During the period from June 1984 through February 1985, known consumers were awarded \$10,798 in penalties, and the State Treasury received \$16,557.

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

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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The New Jersey Register (ISSN 0300-6069) is published the first and third Monday of each month by Administrative Publications of the Office of Administrative Law, CN 301, Trenton, New Jersey 08625. Telephone: (609) 292-6060. Subscriptions, payable in advance, are one year, \$75 (\$150 by First Class Mail); back issues when available, \$7.50 each. Make checks payable to Administrative Publications.

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

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

2:69-1.11 Commercial values

(a) (No change.)

(b) These values shall be effective from July 1, [1984] 1985 through June 30, [1985] 1986.

(a)

**Agricultural Liming Materials
Physical Classification**

**Proposed Readoption: N.J.A.C. 2:70-1.1
through 1.8**

Authority: N.J.S.A. 4:9-21.11 et seq.
Proposal Number: PRN 1985-174.

The readoption of N.J.A.C. 2:70-1 becomes effective upon acceptance for filing by the Office of Administrative Law of a notice of adoption.

The agency proposal follows:

Summary

This chapter was internally reviewed by the Department of Agriculture in February 1985 in compliance with Executive Order No. 66(1978) and was found to be adequate, reasonable and necessary in regulating the manufacture and use of Agricultural Liming Materials. The chapter expires on May 30, 1985. The text of the chapter defines "pulverized", "ground" and "granular" limestone (N.J.A.C. 2:70-1.1 to 1.3). Materials failing to meet the standards for pulverized, ground and/or granular limestone may not be sold as agricultural limestone (N.J.A.C. 2:70-1.4). Burnt limes and hydrated lime standards are described (N.J.A.C. 2:70-1.5-1.6). Inspection fee requirements are clearly outlined (N.J.A.C. 2:70-1.7). Minimum total oxide content and derivation of slurries (mixtures of lime and water), and suspension are explained (N.J.A.C. 2:70-1.8). The State Treasurer receives all inspection fees from producers of liming materials sold in New Jersey.

Social Impact

The rules have allowed farm and non-farm consumers of agricultural liming materials to be clearly informed concerning the guarantee and content of the product which they use. Manufacturers have been aware of the labeling content and physical characteristics required of their products. The readoption of the rules is necessary in order to continue these beneficial effects.

Economic Impact

Consumers and distributors of agricultural liming materials have been provided relief from economic loss by the requirement that such materials be properly labeled. The failure to include correct ingredients in these materials can effectively burn a crop and damage the soil itself. Thus these rules have performed a vital role in consumer protection. The readoption of these rules is necessary in order to continue these beneficial effects.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 2:70-1.1 through 2:70-1.8.

(b)

Jersey Fresh Logo

**Proposed New Rules: N.J.A.C. 2:71-2.2
through 2.7**

Authority: N.J.S.A. 4:10-3, 4:10-13 and 4:10-20.
Proposal Number: PRN 1985-181.

The agency proposal follows:

Summary

The proposed new rule for the voluntary "Jersey Fresh Logo" program were developed to aid packers of fresh market cucumbers, iceberg lettuce, eggplant, sweet peppers and peaches to pack a grade that will have greater acceptance by the consumer and ultimately increase the demand for the superior quality of these New Jersey grown products. The text of the rules describes the configuration of the "Jersey Fresh Logo", N.J.A.C. 2:71-2.2; the application for license and licensing procedure and the license period, N.J.A.C. 2:71-2.2; charges for the "Jersey Fresh Logo" labels, N.J.A.C. 2:71-2.3; the commodities intended to be marketed under the "Jersey Fresh Logo" program, N.J.A.C. 2:71-2.4; commodity grades; packing requirements, packer identification and containers, N.J.A.C. 2:71-2.5; definition of terms, N.J.A.C. 2:71-2.6; and penalties that may be incurred, N.J.A.C. 2:71-2.7.

Social Impact

The people affected by the rules will be the packers using the New Jersey Logo and the consumers. Products packed under the Logo will enhance the promotion of uniformly packed high quality New Jersey farm products to the benefit of the packers and consumers. Packers will gain new markets for their products, while consumers will have a larger supply of quality product available to fill their needs.

Economic Impact

The economic impact on voluntary Logo packers will be very minimal. Packers' cost will be \$0.02 per label. This small cost will be offset by increases in monies received by the packers through the sale of a high quality product. The cost to the State of printing the labels will be \$0.01 or less per label.

Full text of the proposed new rules follows.

2:71-2.2 Use of the Jersey Fresh Logo on containers of certain fresh fruits and vegetables

(a) The New Jersey Department of Agriculture approves the use of the New Jersey map symbol under provisions of N.J.S.A. 4:10-5 as an official emblem for identifying New Jersey produced agricultural commodities.

(b) The configuration of the Jersey Fresh Logo follows:



(c) Only those persons, firms, partnerships, corporations or associations licensed by the New Jersey Department of Agriculture pursuant to N.J.S.A. 4:10-5 to use the Jersey

Fresh Logo shall be permitted to attach the printed label to the container in which the agricultural commodity is to be marketed or to employ its use in advertising or in any manner whatsoever.

(d) Any person, firm, partnership, corporation or association wishing to employ the Jersey Fresh logo to be used in marketing certain New Jersey produced agricultural commodities shall make application to the New Jersey Department of Agriculture for a license. The application shall be made in writing, upon a form provided by the department for this purpose. The application shall reveal such information as is deemed necessary for the enforcement of the Jersey Fresh logo program. Information given in the application shall be held confidential and not subject to review or reproduction under the provisions of N.J.S.A. 47:1A-1 et seq. (C. 73, P.L. 1963).

(e) All applications approved for issuance of licenses shall have the license granted for the period of one year commencing April 1. Interim licenses may be granted to qualified packers for the remainder of the license year. Applications shall be submitted at least 20 days prior to application approval. The department shall approve or deny applications within 20 days of receipt.

2:71-2.3 Charges for Jersey Fresh logo labels

(a) A fee of \$20.00 shall accompany the application form and shall be made payable to the New Jersey Farm Products Publicity Fund. Qualified applicants will receive a supply of Jersey Fresh logo labels equal in value to the annual fee. If an applicant is deemed ineligible, the fee shall be refunded.

(b) Licensees may purchase additional Jersey Fresh logo labels in increments of 1,000. The charge for Jersey Fresh logo labels shall be \$20.00 per thousand. Checks are to be made payable to the New Jersey Farm Products Publicity Fund.

2:71-2.4 Agricultural commodities intended to be marketed under the Jersey Fresh logo program

(a) Only cucumbers, eggplants, iceberg lettuce, sweet peppers and peaches may be identified by the Jersey Fresh logo.

(b) All agricultural commodities marketed under the Jersey Fresh logo program shall be produced and packed in New Jersey.

2:71-2.5 Commodity grades, packing requirements, packer identification and containers

(a) Each container bearing the Jersey Fresh logo shall have the name and address of the packer in letters not less than three-eighths inches in height.

(b) Cucumbers shall be US No. 1 grade, or better, with two and three-eighths inch maximum diameter and six inch minimum length. All containers shall be at least fairly well filled. All containers shall be new.

(c) Eggplants shall be US No. 1 grade, or better, and reasonably uniform in size. All containers must have at least a fairly tight pack. All containers shall be new.

(d) Iceberg lettuce shall be US No. 1 grade, or better. The maximum pack is 24 heads per container. The heads shall be fairly uniform in size. The containers shall have a tight pack. All containers shall be new. All lettuce shall be vacuum cooled. The containers shall be marked "vacuum cooled."

(e) Sweet peppers shall be US No. 1 grade, or better. Containers shall be marked with either "Extra Large" or "Large"

or "Medium" in accordance with the following size specifications: "Extra Large" shall have a three inch minimum diameter and a three and one-half inch minimum length; "Large" shall have a three inch minimum diameter and a two and one-half inch minimum length; "Medium" shall have a two and one-half inch minimum diameter and a two and one-half inch minimum length. All containers shall be at least fairly well filled. All containers shall be new.

(f) Peaches shall be US Extra No. 1 grade, or better, with a two and one-quarter inch minimum diameter. Containers shall be marked to denote variety and minimum size or count. All containers shall be new. All containers shall be at least fairly well filled.

2:71-2.6 Definitions

The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Fairly tight" means, in the case of eggplants, that the package is sufficiently filled to prevent any appreciable movement of the eggplants and that they are in contact with the lid or cover.

"Fairly uniform in size" means, in the case of lettuce, that not more than 10 percent of the heads in a container may vary appreciably from the standard size head for the count pack.

"Fairly well filled" means that cucumbers or sweet peppers are not in contact with the lid or cover, but not more than one-half inch below the lid or cover. In the case of peaches, the container is level full and there is practically no movement of the fruit when the container is closed.

"Reasonably uniform in size" means, in the case of eggplants, that the weight of the smallest eggplant in the container is not less than one-half the weight of the largest eggplant.

"Tight" means, in the case of lettuce, that the layers are completely and tightly filled without injury to the heads.

2:71-2.7 Penalties

(a) Any licensed packer using Jersey Fresh logo containers for products other than those covered by these rules or any unlicensed packer using Jersey Fresh logo packages for any product shall be subject to a penalty of not more than \$50.00 for the first offense and not more than \$100.00 for each subsequent offense, except for violations of N.J.S.A. 4:10-5 which penalty shall be \$50.00.

(b) After the third violation of any part of this subchapter of the same regulated product packed by the same licensed packer during the same calendar year, the license to pack under the Jersey Fresh logo program will be revoked for the remainder of the license year.

(c) Prior to the imposition of penalties under (a) or (b) above the individual charged with a violation of the regulations shall be afforded the opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

(d) Upon revocation of a license, a packer may apply for a license for the next license year.

COMMUNITY AFFAIRS

DIVISION OF HOUSING AND DEVELOPMENT

Proposals numbered PRN 1985-177 and 194 are authorized by John P. Renna, Commissioner, Department of Community Affairs.

Submit comments by May 1, 1985 to:
Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing and Development
CN 804
Trenton, New Jersey 08625

(a)

Uniform Construction Code Asbestos Hazard Abatement Subcode

Proposed New Rules: N.J.A.C. 5:23-8

Authority: N.J.S.A. 52:27D-124, 34:5A-32.
Proposal Number: PRN 1985-194.

A **public hearing** on this proposal will be held on April 18, 1985 at 10:00 A.M. at the offices of the Bureau of Construction Code Enforcement, 3131 Princeton Pike, Lawrenceville, New Jersey.

The agency proposal follows:

Summary

The Department of Community Affairs, in cooperation with the Departments of Health and Labor seeks to implement an Asbestos Hazard Abatement Program (see jointly proposed rules of the Departments of Health and Labor in this issue of the Register). Asbestos, a material used in buildings to provide fire protection, has been found to create a health hazard in certain situations in which its fibers can get into the air.

Since the work of asbestos removal or containment necessarily involves alteration or repair of buildings, it must be done in accordance with the State Uniform Construction Code (N.J.A.C. 5:23). However, the present adopted subcodes and administrative rules do not deal adequately with the issues involved in asbestos hazard abatement. Since there exists no nationally-recognized model code in this area, the Department is proposing this subchapter as an Asbestos Hazard Abatement Subcode.

This subchapter concerning asbestos abatement contains rules which deal with permits, fees, licenses, certifications, required reports and documentation, inspection requirements, air monitoring, enforcement responsibilities and procedures and inspector certification. These rules will apply to buildings and structures in Use Group E as defined in the building subcode. See definition of Use Group E in N.J.A.C. 5:23-8.2 for educational buildings affected.

Social Impact

With this subchapter in effect, the Department will be able to implement an asbestos removal and containment program that will protect the health and welfare of people using those educational buildings subject to these rules in which asbestos is now present.

Economic Impact

Permit fees are established for asbestos work. The fee shall be \$300.00 for any work having a cost of up to \$7,500, with the amount thereafter being \$40.00 per \$1,000 up to \$10,000; \$32.00 per \$1,000 for from \$50,001 to \$100,000; and \$24.00 per \$1,000 thereafter. A certificate of occupancy fee in the amount of ten percent of the asbestos work permit fee, with a minimum of \$100.00 is established. Where the inspection is done by a local enforcing agency, fees in lieu of these fees may be set by ordinance.

The procedure for asbestos removal will clearly impose costs upon property owners that would not otherwise exist. However, asbestos removal poses serious hazards not posed by other repair or alteration activities and the special procedures and requirements are necessary to protect the health, safety and welfare of all who use the building.

Full text of the proposed new rules follows.

SUBCHAPTER 8. ASBESTOS HAZARD ABATEMENT SUBCODE

5:23-8.1 Title; scope; intent

(a) This part of the regulations, adopted pursuant to c.217, P.L. 1975, the Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and entitled Asbestos Hazard Abatement Subcode shall be known and may be cited throughout the regulations as N.J.A.C. 5:23-8 and when referred to this subchapter, may be cited as "this subchapter."

1. In addition, the New Jersey Departments of Health and Labor have jointly adopted regulations pursuant to c.217, P.L. 1984, the Asbestos Control and Licensing Act (N.J.S.A. 34:5A-32 et seq.) and are cited as N.J.A.C. 8:60, and N.J.A.C. 12:120, respectively. These regulations provide for: a standardized training course for all asbestos workers; licensing of asbestos removal contractors; and issuing work-permits for asbestos removal workers.

i. Copies of N.J.A.C. 8:60 may be obtained from the New Jersey Department of Health, Occupational Disease Prevention and Information Program, CN 360, Trenton, New Jersey 08625-0360.

ii. Copies of N.J.A.C. 12:120 may be obtained from the New Jersey Department of Labor, Division of Workplace Standards, CN 054, Trenton, New Jersey 08625-0054.

(b) Unless otherwise specifically provided, all references to article or section numbers or to provisions not specifically identified by number, shall be construed to refer to such article, section or provision of this subchapter.

(c) This subchapter shall control matters relating to: asbestos work permit; fees; licenses; certifications; work permits; reports required; documentation; inspections by the administrative authority having jurisdiction; air monitoring; enforcement responsibilities; inspector certification; and remedies and enforcement for buildings and structures in Use Group E as defined in the Building Subcode.

(d) This subchapter seeks to provide and ensure public safety, health, and welfare insofar as they are affected by asbestos and asbestos containing materials. It is not intended to, nor should it be construed to, conflict with or impede the operation of the asbestos work standards issued by the Occupational Safety and Health Administration, 29 CFR Section 1910.1001 et seq.

1. It is the purpose of this subchapter to establish standards and procedures to ensure that all State laws and regulations applicable to asbestos hazard abatement work are actually adhered to wherever work takes place.

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2. Asbestos has been a pervasive construction material which in many of its forms poses no significant health risk. These standards and procedures need not be applied to all work involving asbestos-containing materials but only those which pose serious health hazards to the public.

3. Asbestos which is or which can readily become friable was a widely used construction material. Its removal, replacement, repair, enclosure or encapsulation shall be construction work which requires a construction permit issued pursuant to the State Uniform Construction Code Act (N.J.S.A. 52:27d-119 et seq.). Asbestos and asbestos-containing materials were, in many cases, used in order to satisfy important code requirements pertaining to fire safety. Accordingly, asbestos shall not be removed unless it is replaced as part of the project, with material or assembly which has equivalent fire resistive or heat resistive characteristics. Additionally, any encapsulation materials or methods shall conform to the construction requirements of the Uniform Construction Code.

5:23-8.2 Definitions

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

Asbestos: A general term used to describe a group of naturally occurring hydrated mineral silicates. The most commonly identified varieties include chrysotile, amosite, crocidolite, and tremolite.

Asbestos Safety Inspector: A private firm who shall act as the Asbestos Safety Inspector approved by the New Jersey Department of Health, hired by the building owner, who continuously monitors the asbestos abatement work pursuant to this subchapter. This inspector shall be required to be on the job site for all buildings and structures in Use Group E as defined in the building subcode.

Asbestos Work Permit: Required official approval to commence any asbestos hazard abatement job. This permit is issued by the administrative authority having jurisdiction as delineated in N.J.A.C. 5:23-8.4.

Barrier: Polyethylene sheeting that completely seals off the work area to prevent the distribution of fibers to surrounding area.

Contractor: The Asbestos Removal Contractor licensed by the New Jersey Department of Labor.

Employee: An asbestos abatement worker having a valid work permit, issued by New Jersey Department of Labor and employed by the contractor.

Encapsulation: Treatment of asbestos-containing materials, generally ceilings, with a penetrating or surface sealant to minimize the potential for fiber release.

Enclosure: An impermeable barrier (made of wood, metal, etc.) placed around asbestos-containing material.

Fibers: Asbestos fibers longer than 5 um (microns) with a length-to-width aspect ratio of 3:1 or greater.

Friable: Any material applied to ceilings, walls, piping, duct work, etc., which when dry may be crumbled, pulverized, or reduced to a powder by moderate hand pressure.

Glove Bag: A plastic bag especially designed to contain sections of pipe for the purpose of removing short lengths of damaged asbestos material without releasing fibers into the air.

HEPA: High Efficiency Particulate Absolute filter, capable of filter efficiency of 99.97 percent down to 0.3 um (microns).

Large Asbestos Hazard Abatement Job: Involves the repair or removal within one year of more than 160 square feet of material used on an equipment, wall or ceiling area or more than 260 linear feet of covered piping which is repaired or

removed; or involves any amount of asbestos containing materials to be encapsulated or enclosed.

Small Asbestos Hazard Abatement Job: Involves the repair or removal within one year of less than 160 square feet of material used on an equipment, wall or ceiling area or less than 260 linear feet of covered piping which is repaired or removed.

Use Group E: As defined in the building subcode Use Group E, Educational Buildings shall include: All buildings and structures, or parts thereof, shall be classified in Use Group E which are used for gathering people together for the purpose of instruction; including, among others, schools, colleges, universities, academies and child day care centers. Educational type uses with a total occupant load less than 50 shall be classified as Use Group B. Exception: School buildings, or parts thereof, for vocational training shall be classified in the same Use Group as the vocation taught.

5:23-8.3 Matters covered; exceptions

(a) Except as is otherwise provided in (b) below, the provisions of this subchapter shall be enforced by municipal enforcing agencies (the Bureau of Construction Code Enforcement, hereafter cited as the Bureau, if applicable) and shall be administered and enforced uniformly throughout the State. This subchapter shall be in addition to existing regulations already adopted pursuant to the Uniform Construction Code Act (P.L. 1975, c.217 as amended) and known as the Regulations for the Uniform Construction Code (N.J.A.C. 5:23). This subchapter contains administrative procedures for the inspection of asbestos abatement work involving: asbestos removal; asbestos for encapsulation and enclosure; and repair, renovation or demolition work which disturbs asbestos in Use Group E as defined in the Building Subcode.

1. Any municipality shall be authorized to enforce this subchapter when staffed with at least one inspector who is certified pursuant to this subchapter.

(b) Rules concerning exceptions are as follows:

1. State-owned or State-managed buildings:

i. The Division of Building and Construction, New Jersey Department of Treasury, shall be the sole enforcing agency to administer and enforce the Asbestos Hazard Abatement Subcode with respect to State-owned or State-managed buildings where construction work is required to be contracted through the Division. This shall involve the issuance of permits; monitoring of asbestos projects; issuance of written notices to proceed and certificates of approval or occupancy; and any other provisions as may be deemed appropriate.

5:23-8.4 Asbestos work permits

(a) All asbestos hazard abatement work requires a permit issued by the administrative authority having jurisdiction. The amount of asbestos to be removed, encapsulated, enclosed or repaired shall be the governing factor in determining whether it is considered a Large Asbestos Hazard Abatement Job or a Small Asbestos Hazard Abatement Job.

1. The Bureau; Division of Building and Construction, New Jersey Department of Treasury; or a municipality which has been authorized by the Bureau to enforce the Asbestos Hazard Abatement Subcode within its jurisdiction, shall be the sole enforcing agency for asbestos hazard abatement work which:

i. Involves the repair or removal within one year of more than 160 square feet of material used on an equipment, wall or ceiling area or more than 260 linear feet of covered piping which is repaired or removed; or

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Interested Persons see Inside Front Cover

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ii. Involves any amount of asbestos containing materials to be encapsulated or enclosed.

(1) As specified in i and ii above, for the purposes of this subchapter, this work shall be considered a Large Asbestos Hazard Abatement Job as delineated in N.J.A.C. 5:23-8.5.

iii. Involves the repair or removal within one year of less than 160 square feet of material used on an equipment, wall or ceiling area or less than 260 linear feet of covered piping which is repaired or removed.

(1) As specified in iii above, for the purposes of this subchapter, this work shall be considered a Small Asbestos Hazard Abatement Job as delineated in N.J.A.C. 5:23-8.7.

5:23-8.5 Large Asbestos Hazard Abatement Job

(a) The criteria which is delineated in N.J.A.C. 5:23-8.4(a)1.ii(1) shall conform to the following for asbestos work permits. It shall be unlawful to undertake asbestos hazard abatement work unless the owner or an authorized representative on behalf of the owner, first files an application in writing with the administrative authority having jurisdiction as delineated in N.J.A.C. 5:23-8.4(a)1 and obtains the required permit.

(b) The application for an asbestos work permit shall be subject to the following:

1. The application for a permit shall be submitted in such form as the Bureau may prescribe and shall be accompanied by the required fee as provided for in this subchapter.

2. In addition to the information required on a permit application as delineated in N.J.A.C. 5:23-2.15, the application for an asbestos work permit shall be required to include the following:

i. The name, address and license number of the asbestos contractor pursuant to N.J.A.C. 12:120 Asbestos Licenses and Permits under the jurisdiction of the New Jersey Department of Labor;

ii. The asbestos hazard assessment conducted by the New Jersey Department of Health for buildings and structures in Use Group E as defined in the Building Subcode;

iii. The name and address of the private air monitoring firm, hired by the building owner who shall act as the Asbestos Safety Inspector approved by the New Jersey Department of Health who will be responsible for continuously monitoring the asbestos abatement;

iv. The name and address of the analytical testing laboratory approved by the New Jersey Department of Health which shall analyze bulk, dust and air monitor samples, as needed;

v. Specifications indicating the scope of the proposed work, the provisions proposed to contain the asbestos during abatement work and scheduled starting and completion dates for the asbestos work project;

vi. Documentation that schools, day care centers and nurseries except under limited circumstances approved by the New Jersey Departments of Health, Education or Community Affairs, as appropriate, will be unoccupied at the time an asbestos remediation job takes place;

vii. The name and address of the New Jersey Department of Environmental Protection registered waste hauler and of the New Jersey Department of Environmental Protection registered landfill where the asbestos waste will be deposited.

(c) The issuance of an asbestos work permit shall be subject to the following:

1. The issuance of an asbestos work permit shall be conditioned upon the following:

i. Submission of a completed application;

ii. The described work and containment measures conform to the requirements of this subchapter and the requirements

of any other applicable law or regulation adopted or enforced by any other State agency;

2. The issuance of the asbestos work permit authorizes the preparation of the job site. No actual asbestos abatement work shall commence until:

i. A pre-commencement inspection has been conducted and approved by the administrative authority having jurisdiction as delineated in N.J.A.C. 5:23-8.4(a)1.

3. A permit, once issued remains valid only as long as all of the information contained in the application remains correct and is adhered to. Any changes requires an amendment to the application before the change takes place. Failure to adhere to these requirements may result in a stop work order;

4. The applicant or contractor shall notify the following agencies in writing at least 10 days prior to the start of any asbestos work project. Such notice shall be supplied in the form of a copy of the completed Asbestos Work Permit application and a copy of the permit:

i. New Jersey Department of Health
Asbestos Control Project
Environmental Health Program
CN 360

Trenton, NJ 08625-0360

ii. New Jersey Department of Education
(For Public School Projects Only)
Bureau of Facility Planning Services
225 W. State Street
Trenton, NJ 08625

iii. New Jersey Department of Community Affairs
Bureau of Construction Code Enforcement
CN 805
Trenton, NJ 08625-0805

(d) Pre-commencement inspections shall be conducted as follows:

1. Notification to the administrative authority having jurisdiction as delineated in N.J.A.C. 5:23-8.4(a)1 shall be made by the applicant or contractor to request a pre-commencement inspection at least 48 hours in advance of the desired date of inspection.

2. The inspector shall ensure that:

i. The job site is properly prepared and that all containment measures are in place pursuant to this subchapter;

ii. All workers shall present to the inspector a valid work permit issued by the New Jersey Department of Labor;

iii. Measures for the disposal of removed asbestos material are in place and shall conform to the adopted standards;

iv. The Asbestos Safety Inspector approved by the New Jersey Department of Health is on the job site and properly equipped to carry out the monitor's responsibilities;

v. The contractor has a list of emergency telephone numbers at the job site which shall include the monitoring firm employed by the building owner and telephone numbers for fire, police, emergency squad, local hospital and health officer, New Jersey Department of Labor and New Jersey Department of Health.

3. If all is in order, the inspector from the administrative authority having jurisdiction as delineated in N.J.A.C. 5:23-8.4(a)1 shall issue a written notice to proceed in the field. If the job site is not in order, then any needed corrective action must be taken before any work is to commence. Conditional approvals shall not be granted.

(e) Inspections shall be conducted as follows:

1. Progress Inspections shall be conducted as follows:

i. Primary responsibility for ensuring that the asbestos abatement work progresses in accordance with this subchap-

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ter rests with the Asbestos Safety Inspector. This inspector shall continuously be present to observe the progress of work and perform required tests.

ii. Inspections performed by inspectors from the administrative authority shall be unannounced and ensure that:

(1) The Asbestos Safety Inspector is present and is performing all required tests and maintaining required records; and

(2) The work is progressing in accordance with this subchapter.

iii. If the Asbestos Safety Inspector observes irregularities at any time, the inspector is required to direct such corrective action as may be necessary. If the contractor fails to take the corrective action required, or if the contractor or any of their employees habitually and excessively violate the requirements of any regulation, then the Asbestos Safety Inspector is required to inform the inspector from the administrative authority having jurisdiction who shall issue a Stop Work Order and have the work site secured until all violations are abated.

2. Clean-up inspections shall be conducted as follows:

i. Notice for clean-up inspection shall be requested by the contractor at least 48 hours in advance of the desired date of inspection;

ii. The clean-up inspection shall be conducted prior to the removal of the containment barriers;

iii. The inspector from the administrative authority having jurisdiction shall ensure that:

(1) The work site has been properly cleaned and is free of visible asbestos and asbestos-containing material;

(2) All Asbestos Safety Inspector inspections and test responsibilities have been properly performed and all records are complete and demonstrate compliance with this subchapter; and

(3) All removed asbestos has been properly disposed of off-site in accordance with the regulations of the New Jersey Department of Environmental Protection, N.J.A.C. 7:26-1 et seq.

iv. If all is in order, the inspector shall issue a written notice of authorization to remove barriers from the job site.

3. Final inspections shall be conducted as follows:

i. Upon notice by the owner or by the contractor and at least 48 hours after the removal of the barriers, a final inspection shall be made to ensure the absence of any visible signs of asbestos or asbestos-containing materials.

4. Bureau Inspections shall be conducted as follows:

i. The Bureau shall make unannounced periodic inspections of any job-site involving asbestos abatement work.

(f) Certificate of Occupancy requirements are as follows:

1. It shall be unlawful to use or occupy the portion of the building affected by asbestos removal in whole or part until a certificate of occupancy has been issued by the administrative authority having jurisdiction as delineated in N.J.A.C. 5:23-8.4(a)1.

2. The application for a certificate of occupancy shall be submitted in such form as the Bureau may prescribe and shall be accompanied by the required fee as provided for in this subchapter.

i. In addition to the information required on a certificate of occupancy application as delineated in N.J.A.C. 5:23-2.23(f), the application shall be required to include the following:

(1) The report of the Asbestos Safety Inspector, including all records and test data required; and

(2) Final air monitoring level of .01 fibers/cc. or lower submitted by the Asbestos Safety Inspector.

3. If all the information required is complete and in accordance with this subchapter, and if the final inspection reveals no visible evidence of asbestos, a certificate of occupancy shall be issued.

i. If the project fails to pass the final inspection or meet the final air monitoring level, a certificate shall not be issued until remedial measures are taken.

5:23-8.6 Asbestos encapsulation and enclosure

(a) Encapsulation usually constitutes spraying friable asbestos-containing material with a sealant (not including paint) that helps bind the asbestos together with other material components and to adhere it firmly to the building structure.

1. The requirements of this section are set forth in order to prevent the contamination of the building environment which may be caused by improperly performed asbestos encapsulation work.

i. Encapsulation shall not be performed where:

(1) Removal is feasible;

(2) Asbestos-containing material is friable, damaged or deteriorating;

(3) Effective long-term inspection of the encapsulated site cannot be assured;

(4) The source of asbestos is highly accessible to building occupants and damage to material is probable;

(5) The asbestos containing material does not adhere well to the substrate;

(6) There is existing or potential water damage to asbestos containing material;

(7) The asbestos containing material is not used to cover pipes or duct work and the asbestos containing material is more than one inch thick;

(8) The asbestos containing material is subject to high vibration.

ii. Encapsulation may be performed when:

(1) There is limited access to the site making removal infeasible;

(2) Damage to the material is improbable;

(3) There are complex surfaces to be covered;

(4) The encapsulating material is known to bond asbestos to the subsurface and asbestos-containing material still retains its bonding integrity;

(5) Asbestos has been removed and loose fibers remain which should be bonded.

iii. If encapsulation is used as a method of asbestos abatement the following maintenance procedures shall be employed:

(1) A periodic monitoring and maintenance program, consisting of inspection at least annually to check for damage to all encapsulated surfaces;

(2) Maintenance of records by the building owner, on the locations and condition of the encapsulated material;

(3) The removal of encapsulated asbestos when conditions change, making encapsulation no longer an appropriate method of asbestos abatement.

iv. Sealants considered for use in encapsulation shall first be tested to ensure that the sealant is adequate for its intended use. A section of the asbestos containing material shall be evaluated following this initial test application of the sealant to quantitatively determine the sealants' effectiveness in terms of penetrating, and hardening the asbestos containing material. The American Society of Testing and Material (ASTM) Committee E06.21.06E on Encapsulation of Building Materials has developed a guidance document to assist in the selection of an encapsulant once a decision to encapsulate has been made.

v. Before encapsulation is performed, all loose and hanging asbestos containing material shall be removed while damp, and disposed of in accordance with this subchapter.

vi. Filler material used to repair damaged and missing areas of asbestos containing material shall contain no asbestos, shall adhere well to the substrate and shall provide an adequate base for the encapsulating agent.

vii. Encapsulated asbestos containing materials shall be identified by signs, labels, color coding or some other mechanism to warn persons who may be required to disturb the material that asbestos is present.

viii. Where encapsulants are to be sprayed onto asbestos containing materials:

(1) A low pressure airless spray shall be used.

(2) Negative air filtration units (with HEPA filters) shall be used during the encapsulation process which shall have sufficient capacity to cause one complete air exchange every 30 minutes.

ix. Sealants used in encapsulation shall be flame resistant.

(b) Enclosure constitutes construction of an air-tight barrier to isolate a surface coated with asbestos-containing material. The barrier for an enclosure job should be impact-resistant. It is not necessary to have an air-tight barrier for piping if the insulation has first been covered with an appropriate sealant or tape. When removal is not feasible or practical and the integrity of the barrier can be maintained, enclosure may be the most appropriate remedial measure. Enclosure is particularly suitable (when applied after the repair of damaged material) as part of the remediation procedure for piping because the shape and structure of piping is relatively complex to be treated and the usual difficulty of accessibility prevents an adequate removal job. For example, an enclosure is recommended for vertical piping in classrooms, or for pipings in basement areas to prevent the asbestos insulation from being damaged or disturbed by an opening door. The procedures pertaining to asbestos encapsulation and enclosure projects shall be similar to those delineated in N.J.A.C. 5:23-8.4 with several exceptions:

1. The requirements of this section are set forth in order to prevent the contamination of the building environment which may be caused by improperly performed asbestos enclosure work. The following procedures shall be adhered to:

i. The surface area of asbestos containing material which will be disturbed during the installation of hangers, brackets or other enclosure supports shall first be sprayed with amended water using a low pressure airless spray;

ii. Power drills used to install anchors or other tools which may disturb asbestos containing material shall be equipped with or used in conjunction with HEPA vacuum filters;

iii. Loose and hanging asbestos containing materials shall be removed while damp and disposed of in accordance with this chapter;

iv. After the installation of hangers, brackets or other supports and before the asbestos containing material is enclosed, asbestos containing materials shall be repaired, using materials which do not contain asbestos;

v. Enclosures for asbestos containing materials shall be identified by signs, labels, color coding or some other mechanism to warn persons who may be required to disturb the enclosure that asbestos is present;

vi. Enclosures shall be inspected, at least annually, to ensure their integrity.

(c) The administrative authority having jurisdiction as delineated in N.J.A.C. 5:23-8.4(a)1 shall issue a permit for all encapsulation and enclosure work.

(d) Whenever encapsulation or enclosure methods of asbestos abatement are used, asbestos-containment barriers shall be required pursuant to N.J.A.C. 5:23-8.11(c) and (d).

(e) Encapsulation and enclosure work should be conducted when a building is not in general use.

(f) Inspection responsibility shall be that of the administrative authority having jurisdiction as delineated in N.J.A.C. 5:23-8.4(a)1.

(g) A Certificate of Occupancy shall be issued after the project has been successfully completed in which asbestos is disturbed and the work is conducted in an unoccupied building. This certificate shall require an acceptable final air monitoring level of .01 fibers/cc. or lower submitted by the Asbestos Safety Inspector.

(h) A Certificate of Approval shall be issued after the project has been successfully completed in which asbestos is not disturbed and the work is conducted in an occupied building.

5:23-8.7 Small Asbestos Hazard Abatement Job

(a) Work pursuant to this section shall be inspected by the administrative authority having jurisdiction as delineated in N.J.A.C. 5:23-8.4(a)1.iii(1). Although this work may disturb small amounts of asbestos, it does not require the same level of precautions as with a large asbestos hazard abatement job, but it does require that all asbestos abatement work be performed by a licensed contractor and the employees must have valid work permits issued by the New Jersey Department of Labor. A construction permit shall be issued pursuant to N.J.A.C. 5:23-8.3(b)3. An Asbestos Safety Inspector approved by the New Jersey Department of Health and air sample monitoring will not be required but the work will have to be contained and performed in accordance with established standards. A minimum level of precaution shall be employed. The following work practices shall include:

1. The licensed contractor shall provide the required respirators and protective clothing to all who may inspect the job site;

2. Prior to the start of repair or removal, adequate warning signs of asbestos dust hazard should be posted outside of all work areas where work on asbestos-containing materials will be conducted;

3. Work area where asbestos-containing materials will be disturbed must be isolated from the surrounding environment. This enclosure is extremely important where work is to be performed in occupied areas. Furniture and movable equipment should be removed from the work area. The work area should then be sealed off from the surrounding area with thick polyethylene sheeting having a thickness of at least 6 mil. The material and building conditions involved in each job need to be evaluated carefully to develop a proper enclosure;

4. Only personnel essential to asbestos abatement work should be present in the work area. This may necessitate that the work not be done during normal work hours, so as to avoid exposure to people who usually occupy the area;

5. Release of asbestos fibers from material to be repaired or removed can be controlled by thoroughly wetting the materials. Before removal or repair of asbestos covered pipes, boilers, hot water heaters, etc., all asbestos containing material must be thoroughly sprayed (using a large garden-type insect sprayer) with water, using a wetting agent such as 50 percent polyoxyethylene ester and 50 percent polyoxyethylene ether;

6. After wetting the material to be repaired or removed, every effort should be made to minimize disturbance of the material. Lagging adhesive, mixed and applied while wearing

gloves, should be used to repair damaged pipe or boiler insulation. Wet cheesecloth may also be wrapped around the damaged area, then sealed with a lagging adhesive or other sealant. Enclosure with canvas, wood or metals may be suitable for the repair of pipe and boiler insulation. Under special conditions, glovebags, can also be used to minimize building contamination;

7. Fans or blowers should not be used to ventilate tunnels, basement areas or manholes before or during asbestos removal or repair work;

8. All gross contamination of people or their disposable clothing should be removed using a HEPA vacuum before leaving the work area. The suits should be discarded after cleaning up the work area with the HEPA vacuum. Maintenance employees must have access to shower facilities after performing asbestos-related work activities;

9. The work area must be thoroughly HEPA-vacuumed and wet mopped before any plastic sheeting is taken down. All contaminated clothing, cleaning rags, mops, etc. must be treated and disposed of like asbestos waste;

10. All asbestos waste should be placed in 6 mil plastic bags, double bagged with visible labels, and securely sealed by knotting the bag;

11. Asbestos waste must be disposed of in accordance with the regulations of the New Jersey Department of Environmental Protection, N.J.A.C. 7:26-1 et seq.

12. When work is completed, all plastic sheeting used to protect walls, floors, and equipment should be carefully removed in a manner that keeps the contaminated area inside. Sheets of plastic can be rolled up, ends tucked in, placed in 6 mil plastic bags and sealed;

13. Unless no alternative is available, all future use of asbestos-containing materials, such as asbestos cement, asbestos insulation gaskets, etc. should cease;

14. Outside contractors, who will be working in an area where asbestos materials are located, should be advised of its presence and cautioned to prevent disturbance of the material and possible exposure to the workers.

(b) Asbestos repair jobs in tunnels, crawl spaces and plumbing access spaces are likely to present unique conditions which will require modification of the recommended procedures described in this section. In all instances, every effort should be made to minimize airborne fibers and contamination of surrounding areas by enclosing the work area effectively.

(c) Whenever possible, asbestos repair projects should not be conducted when the building is in general use.

(d) The inspector shall ensure that the work conforms to this subchapter and ensure that asbestos is not being disturbed.

1. If it is found that the asbestos is being disturbed to the degree that it is or may become airborne, the inspector shall issue a stop work order and require additional precautions as may be needed consistent for a given job situation.

(e) A certificate of approval shall be required whenever a project pursuant to this section is completed. This certificate shall be issued by the administrative authority having jurisdiction as delineated in N.J.A.C. 5:23-8.4(a)1.

5:23-8.8 Fees

(a) Bureau of Construction Code Enforcement fees are as follows:

1. The fee charged for an Asbestos Work Permit shall be based upon the estimated cost of the abatement work. The fee shall be in the amount of \$40.00 per \$1,000. From \$50,001 to and including \$100,000, the additional fee shall be in the

amount of \$32.00 per \$1,000 of estimated cost above \$50,000. Above \$100,000, the additional fee shall be in the amount of \$24.00 per \$1,000 of estimated cost above \$100,000. For the purpose of determining estimated cost, the applicant shall submit to the department, if available, cost data produced by the architect or engineer of record, or by a recognized estimating firm, or by the contractor. A bona fide contractor's bid, if available, shall be submitted. The department will make the final decision regarding estimated costs. This fee shall be paid before the permit is issued.

i. The minimum fee charged for an asbestos work permit shall be \$300.00.

2. The fee charged for a Certificate of Occupancy or a Certificate of Approval shall be in the amount of 10 percent of the Asbestos Work Permit fee which is charged pursuant to this subchapter.

i. The minimum fee charged for a Certificate of Occupancy or a Certificate of Approval pursuant to this subchapter shall be \$100.00.

(b) Municipal enforcing agency fees are as follows:

1. The fees charged for an Asbestos Work Permit, Certificate of Occupancy and Certificate of Approval shall be set forth by Ordinance as provided in N.J.A.C. 5:23-4.17.

5:23-8.9 Coordination with other permits

(a) When a building owner or an authorized representative on behalf of the owner submits an application for a construction permit for repair, renovation, or demolition work, the following information shall be required to be given to the construction official having jurisdiction before a construction permit is issued:

1. An architect/engineer certification concerning whether asbestos will be disturbed and to what extent it will be disturbed during the planned construction work.

i. Where minor work not requiring an architect/engineer is involved then this certification will be required of the contractor undertaking the work.

(b) When it is certified that asbestos may become disturbed, an assessment performed by a New Jersey Department of Health certified assessor shall be required.

1. If the assessment indicates that the work and the disturbance which will result from it has made asbestos hazard abatement work necessary, then the construction official shall determine if the issuance of the permit is within the proper jurisdiction or if it is within the administrative authority having jurisdiction as delineated in N.J.A.C. 5:23-8.4(a)1.

i. The work which will cause the disturbance will not be permitted to proceed until the hazard abatement work is complete or the asbestos-containing material clearly presents no further hazard.

ii. The construction official shall issue a partial permit for work which clearly will not disturb or interfere with the asbestos hazard abatement work. Written approval from the administrative authority having jurisdiction is required before such a partial permit is issued.

5:23-8.10 Asbestos Hazard Abatement Inspector: Qualifications

(a) Individuals permitted to administer and enforce the Asbestos Hazard Abatement Subcode shall possess the following requirements:

1. Licensed code enforcement officials pursuant to N.J.A.C. 5:23-5 shall have:

i. A technical license as an Inspector with at least a license level of Residential and Small Commercial Structures (R.C.S.); and

ii. Successful completion of a training program approved for inspectors by the New Jersey Department of Health and certification by the New Jersey Department of Health.

iii. As delineated in i. and ii. above, for the purposes of this subchapter, the inspector shall be permitted to inspect all aspects of asbestos abatement work including replacement work pursuant to the Uniform Construction Code.

iv. The license may be renewed as follows:

(1) Individuals must meet the requirements for license renewal pursuant to N.J.A.C. 5:23-5.7; and

(2) Successful completion of such continuing educational requirements as may be established by the N.J. Department of Health.

2. As an alternative to (a)1. above, a person shall be permitted to inspect the removal of asbestos only, if:

i. That person demonstrates practical knowledge in the area of architecture, inspection, engineering, construction, environmental sciences or health; and

ii. Successful completion of a training program approved for inspectors by the New Jersey Department of Health and certification by the New Jersey Department of Health.

5:23-8.11 Precautions and standards during asbestos removal projects

(a) Protective clothing and equipment for asbestos removal shall be subject to the following requirements:

1. The asbestos removal contractor shall provide the required respirators and protective clothing to all who may inspect or visit the job site;

2. The protective clothing and equipment requirements set forth in this section shall be used to prevent the contamination of areas and buildings accessible to or used by the public by persons engaged in asbestos abatement projects;

3. Protective clothing shall consist of disposable full body coveralls, with hoods and booties attached. Separate disposable headcovers and foot covering may be substituted if disposable coveralls without attached hoods and booties are used. Additional clothing shall include boots or sneakers and gloves. Eye protection and hard hats shall be available as appropriate;

4. Polyethylene bags shall be 6 mil thick and of sufficient size for their intended use;

5. All tape shall be a high-quality duct tape. All spray-on adhesives, glue, and other barrier securing material shall also be high quality products;

6. The asbestos removal contractor shall have available sufficient inventory of protective clothing, respirators, filter cartridges, plastic sheeting of size and thickness, duct tape, glue, spray-on adhesives, and air filters. Personal protective equipment inventory shall allow for inspector and visitor usage;

7. The asbestos removal contractor shall have available shower stalls and sufficient plumbing for these showers including sufficient hose length and drain systems or an acceptable alternate such as a portable decontamination trailer with showers. Waste shower water shall be filtered through 5-um filters and recycled to be used as a wetting agent or added to asbestos contaminated waste before disposal in an approved landfill;

8. The asbestos removal contractor shall have available ladders and/or scaffolds of adequate length and sufficient quantity so that all work surfaces may be easily reached by inspectors;

9. The asbestos removal contractor shall have available air filtering equipment capable of filtering asbestos fibers to 0.3 um at 99.97 percent efficiency and of sufficient quantity and

capacity to cause a complete air change within the work area once every 15 minutes; such equipment shall exhaust the filtered air so as to maintain a negative pressure inside the work area. Air shall flow in through the decontamination chamber and waste exist ports and exit through negative air filtration units. Air flow shall be sufficient to prevent escape of airborne fibers.

(b) Decontamination procedures are as follows:

1. The asbestos removal contractor shall provide an adequate decontamination unit consisting of a serial arrangement of rooms or spaces adjoining the work area or a decontamination trailer. Each space shall be clearly identified and separated from the others by plastic sheet doors, acceptable air locks, or other arrangements designed to minimize fiber and air transfer as people pass between areas. Air locks shall have at least three layers of 6 mil plastic sheetings.

2. The decontamination areas shall consist of the following:

i. Clean room: In this room persons remove and leave all street clothes and put on clean disposable coveralls. Approved respiratory protection equipment is also picked up in this area. No asbestos contaminated items are permitted in this room.

ii. Shower room: This is a separate room used for transit by cleanly dressed people entering the job site from the clean room and for showering by them after they have undressed in the equipment room. This is a contaminated area.

iii. Equipment room: Work equipment, footwear, and all other contaminated work clothing shall be stored here. This is also a change and transit room for people. All areas between the shower room and work area shall be considered part of the equipment room. Plastic floor and wall covering is required. This is a contaminated area.

3. The asbestos removal contractor in order to prevent contamination of the environment shall be responsible for controlling access at the work site and shall maintain a daily log of personnel entering the work area. A list of names of workers shall be posted with their start and stop times for each day. In addition, the contractor shall assure that all who enter the work area (hereafter referred to as person) shall observe the following work area entry and exit procedures:

i. Person enters clean room and removes street clothing, puts on clean coveralls and respirator, and passes through shower room into the equipment room.

ii. Any additional required clothing and equipment previously deposited in the equipment room is put on. (When work area is too cold for coveralls only, the person will usually provide himself/herself with additional warm garments to be worn under the disposable clothing. These must be treated as contaminated clothing and left in the decontamination unit. Under no circumstances shall a person enter the work area without having protective clothing on.)

iii. Person proceeds to work area.

iv. Before leaving the work area, the person shall remove all gross contamination and debris from the coveralls using a vacuum with a high efficiency particulate absolute (HEPA) filter. In practice, this is usually carried out by one person assisting another.

v. The person then proceeds to equipment room and removes all clothing except approved respirators. Extra clothing may be stored in contaminated end of the unit. Disposable coveralls are placed in a bag for disposal with other material.

vi. The person then proceeds directly into the shower room. Respirators shall be taken off last to prevent inhalation of fibers during removal of contaminated clothing, and shall not be removed until they have been washed free of dust.

vii. After showering, the person moves to the clean room and dresses in street clothing prior to exiting.

viii. Respirators are picked up, washed thoroughly, and disinfected as required, wrapped and stored in the clean room.

4. The asbestos removal contractor shall assure that filters in dual cartridge type respirators used during the preparation phase of the job shall be removed, wetted and discarded as contaminated waste. A new filter shall be in place in the respirator prior to reuse. For powered air purifying respirators or supplied air respirators, the manufacturer shall be consulted about the proper decontamination sequence.

5. There shall be no smoking, eating, or drinking in any contaminated areas (shower room, equipment room, and work area). Respirators shall be worn in all contaminated areas.

6. Nondisposable footwear shall remain inside the contaminated area until completion of the visit, and shall be thoroughly cleaned at that time.

(c) Preliminary preparations in the work area shall be conducted as follows:

1. The asbestos removal contractor shall provide and post in clearly visible locations, caution signs indicating that asbestos work is being conducted and that unprotected persons should not enter;

2. The asbestos removal contractor shall clean with wet cloths all movable items that can be removed from the work area without disrupting the asbestos material. This shall include furniture, equipment, drapes, and curtains. These items and equipment shall be returned to the work area after removal, cleaning and final air testing. The cloths used for cleaning shall be disposed of as asbestos contaminated waste;

3. The asbestos removal contractor shall install or build an approved decontamination facility;

4. The asbestos removal contractor shall shut down and seal off all heating, cooling, ventilating or other air handling systems;

5. The contractor shall establish written emergency procedures to be posted within each work area. These procedures shall include plans for medical emergencies, fire evacuation, temporary loss of electrical power or water and procedures for repair and clean-up following temporary breach of containment barriers.

(d) Isolation and barrier construction in the work area shall be conducted as follows:

1. Before removing any asbestos from the work area, the asbestos removal contractor shall ensure that the outer perimeters of the work area have been securely sealed off from the rest of the building;

2. All vertical and horizontal surfaces except those of asbestos containing materials shall be sealed with watertight polyethylene plastic sheeting except as provided in 3. below;

3. The only permissible exception to total enclosure shall be:

i. An entrance airlock with showers and a decontamination chamber;

ii. A debris removal airlock to permit cleaning and removing asbestos waste;

iii. Staircases.

4. Barriers used to isolate contaminated from uncontaminated areas shall be constructed of plastic polyethylene sheeting. This plastic sheeting shall be of sufficient thickness to prevent contamination of clean areas, and shall be replaced immediately if torn or damaged. The minimum acceptable thickness for covering walls shall be 4 mil plastic sheeting used

to seal open space between work areas and non-contaminated areas shall be at least 6 mil thick. A double layer of 6 mil plastic sheeting shall be used for all floors except stairs.

(e) Initial activity in the work area shall be conducted as follows:

1. The contractor shall wet clean all non-removable non-asbestos items in the work area including built in equipment and cover with two thicknesses of 6 mil plastic sheeting taped securely in place;

2. The contractor shall detach and wet clean removable electrical, heating and ventilating equipment and other items which may be connected to the asbestos surfaces. These items shall be removed from the work area and returned and reattached to their proper place when the work area has been decontaminated and final air testing provided satisfactory results;

3. The contractor shall seal all openings between the work area and uncontaminated areas including (but not limited to) windows, doorways, elevator openings, skylights, corridor entrances, floor and sink drains, air ducts, grills, grates and diffusers with plastic sheeting taped securely in place or fastened by spray-on adhesives, glue beads, or horizontal wood battens. Floor drains shall be sealed individually and then covered as all other floor surfaces with two thicknesses of 6 mil plastic sheeting. Temporary walls may be constructed in order to facilitate barrier construction;

4. For floor covering, two layers of 6 mil polyethylene sheeting shall be used. Floor sheeting shall be extended up sidewalls at least 24 inches. Sheeting shall be sized so as to minimize the number of seams necessary. No seams shall be located at the joints between walls and floors;

5. Wall sheeting shall consist of at least 2 layers of 4 mil polyethylene sheeting. It shall be installed to minimize joints and shall overlap floor sheeting by at least 18 inches. No seams shall be located at the corners. Plastic wall coverings shall be taped first to the upper most edge of the wall and shall hang straight down;

6. Remove filters from all heating, ventilating and air conditioning systems and pack them in sealable 6 mil minimum single thickness plastic bags, labeled for disposal as asbestos-containing waste. These bags should be handled in the same manner as removed asbestos. The filters should be replaced with new filters as a final step in the decontamination process;

7. As all existing ventilating systems in the work area are to be sealed throughout the removal operation, an alternate system shall be utilized. Install approved negative air filtration units utilizing appropriate HEPA filters to exhaust air from the work area. The air shall enter through the decontamination unit;

8. Replacement air shall enter the work area through the decontamination facility, in order to reduce the possible escape of contaminated air. The entire alternate ventilating system shall be installed and operating prior to commencement of asbestos removal.

(f) Sequence of asbestos removal activities shall be conducted as follows:

1. The asbestos material shall be sprayed with water containing an additive to enhance penetration (amended water). The additive, or wetting agent, shall be 50 percent polyoxyethylene ester and 50 percent polyoxyethylene ether at a concentration of one ounce per five gallons of water or approved equivalent. A fine low-pressure spray of this solution shall be applied to prevent fiber disturbance preceding removal. The wetted or amended water shall be sprayed on as many times and as often as necessary to ensure that the asbestos material

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is adequately wetted throughout (especially that asbestos nearest the substrate) to prevent dust emission. No dry removal of asbestos is allowable. For amosite-containing asbestos materials, a small test area shall first be tested with the specified wetting agent to deterring material absorption.

2. As a method of organizing the asbestos removal work, workers shall begin working on the areas nearest to the decontamination unit and work towards the negative air filtration units.

3. Material shall not be dropped or thrown to the floor level. For materials located at heights greater than 40 feet above the floor, a dust-tight, enclosed chute shall be constructed to transport removed material to containers on the floor. Asbestos containing materials may be dropped to a raised scaffold or containerized at a height for disposal. Materials greater than 15 feet above the floor shall be dropped into inclined chutes or scaffolding, or containerized at a height for eventual disposal.

4. The wet material from each section shall be packed and sealed into labeled 6 mil plastic bags prior to starting the next section, to prevent the material from drying. Water-soaked fallen material shall not be left out of bags overnight, or for more than four hours, to prevent loss of its water content due to evaporation.

5. Contaminated material containing sharp edged items shall be cut to size while adequately wet, placed in small cardboard boxes and double bagged, or singly bagged and then placed in temporary fiber drums. 40 CFR 61.22(j) prescribes a leak-tight container, the integrity of which is the contractor's responsibility.

6. Bags and drums shall be marked with the label prescribed by Section 61.22(c) of the EPA regulations. The outside of all containers shall be wet-cleaned or HEPA vacuumed before leaving the work area. All vacuum cleaners shall be equipped with HEPA filters.

7. After completion of this removal phase (stripping), all surfaces from which asbestos has been removed shall be wire brushed and/or wet sponged or cleaned by an equivalent method to remove all visible asbestos containing material. During this work the surfaces being cleaned shall be kept wet using amended water. All disposable equipment shall be packaged for disposal. Containers shall be washed with amended water and shall have all exterior particulate matter removed prior to removal from the contaminated area.

8. All accessory equipment shall be moved to the equipment room in sealed containers (6 mil minimum) and decontaminated for removal.

9. All free water (in contaminated areas) shall be retrieved and added to asbestos contaminated waste and then placed in plastic lined leak-tight drums.

10. Final clean-up of work area may commence.

(g) Final clean-up work of work area shall be conducted as follows:

1. The following procedures must be performed in the order listed.

2. The asbestos removal contractor shall first clean all surfaces in the work area using disposable cloths wetted with amended water. These cloths shall be disposed of or rinsed thoroughly on a frequency sufficient to eliminate visible accumulation of debris. Then, when these surfaces have been allowed to dry, all surfaces shall be cleaned again using a HEPA filtered vacuum. All radiator covers shall be removed and fin tube radiators shall be vacuumed. After the first cleaning, the asbestos removal contractor shall wait 24 hours to allow for settlement of dust, and then wet-clean all surfaces in the work area again and allow to dry.

3. After completion of cleaning all surfaces in the work area, the asbestos removal contractor shall spray coat all exposed surfaces with a binding agent such as a diluted clear encapsulant or a water based paint. The surfaces to be coated shall include surfaces from which asbestos containing materials have been removed (such as ceilings) and polyethylene which has been used to cover walls, floors and non-removable fixtures and equipment. Plastic used to maintain critical barriers between work areas and clean areas such as those in doorways, windows and air vents shall be sprayed, but not removed until air monitoring is completed and satisfactory results have been obtained.

4. After spray coating the plastic sheeting used to protect floors, walls, fixtures, and equipment, the plastic shall be carefully removed and rolled up with the contaminated portion inside, and packaged for disposal.

5. After completion of the cleaning operations the asbestos removal contractor shall:

i. Notify the administrative authority having jurisdiction that a clean-up inspection as delineated in N.J.A.C. 5:23-8.5(e)2. can be performed to insure all visible asbestos has been removed and the area is dust free;

ii. Request air monitoring of the work area.

6. Air monitoring results shall meet the level-specified in N.J.A.C. 5:23-8.5(f)2.i(2). This test is required before critical barrier removal and reconstruction activities may begin. If the test results show asbestos fiber concentrations above the acceptance criteria, then clean-up shall be repeated until compliance is achieved by re-cleaning all surfaces using wet methods and operating HEPA equipped Negative Air Filtration Units to exhaust air outside the work area to filter the air.

7. After the work area is found to be in compliance with the acceptance criteria the following tasks shall be performed by the asbestos removal contractor:

i. All critical barriers shall be unsealed;

ii. Plastic sheeting, tape and any other debris shall be disposed of in sealed plastic bags labeled as asbestos contaminated waste;

iii. The inside of windows shall be washed;

iv. Any walls, floors, trim, doors, furniture or other items damaged during the work shall be repaired and refinished to match existing material;

v. Woodwork, trim, floor, furniture, plumbing and electric light fixtures shall be cleaned;

vi. Cloths or sponges used in the cleaning operation shall be disposed of as contaminated waste;

vii. Remove all residue left on floors, ceilings, electric light fixtures or other surfaces;

viii. Notice for a final inspection shall be made by the owner or contractor pursuant to N.J.A.C. 5:23-8.5(e)3.

8. Upon receiving a satisfactory final inspection, application for a Certificate of Occupancy shall be made pursuant to N.J.A.C. 5:23-8.5(f).

(h) This subsection shall apply to the removal of asbestos from the job site and the disposal of asbestos waste.

1. Disposal of asbestos waste shall be conducted as follows:

i. A notification of intent to dispose of asbestos shall be sent to the New Jersey Department of Environmental Protection at least 10 days prior to actual disposal. The notification shall be sent to the Division of Waste Management, Bureau of Field Operations, 120 Route 156, Yardville, New Jersey 08620.

ii. All asbestos waste materials destined for disposal in New Jersey shall be wetted and packaged in permanently sealed, leaktight containers (such as 6 mil plastic bags) in

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accordance with 40 CFR 61.20-25 before it can be legally transported and disposed of in New Jersey. No haulage of loose asbestos is permitted.

iii. The notification of ii. above shall include the following:

- (1) Name and physical location of removal project;
- (2) Quantity and nature of waste materials to be disposed of;
- (3) Name, address, and New Jersey registration number of transporter;
- (4) Name and address of the disposal facility to be used;
- (5) Date of proposed disposal.

iv. Asbestos waste which is properly packaged is classified as Waste ID #27, non-hazardous industrial waste, and shall be disposed of at a landfill which is registered by the Department of Environmental Protection in conformance with the following:

- (1) The landfill used must be registered by the Department of Environmental Protection to accept Waste IE #27;
- (2) The specific landfill facility chosen must be one designated by the Department of Environmental Protection as the recipient facility for the community in which the removal project is located;
- (3) The waste hauler must possess a valid solid waste transporter registration issued by the New Jersey Department of Environmental Protection. A licensed solid waste transporter shall be a commercial collector/hauler or shall be the removal company if they are so registered;
- (4) Asbestos waste can be hauled in dumpster containers provided the load is comprised only of asbestos in bags and does not contain any other wastes or asbestos containing wastes which could compromise the integrity of the permanent containers;
- (5) If other materials are present in the load which could potentially puncture the permanent containers, then those containers shall be enclosed in temporary fiber or steel drums during loading, transport, and unloading operations. In addition, asbestos wastes shall not be loaded into or hauled with vehicles containing compaction devices;
- (6) To determine which landfill to use for a particular project, N.J.A.C. 7:26-6.5 shall be consulted.

5:23-8.12 Duties of the asbestos safety inspector

(a) The asbestos safety inspector shall perform all air sampling specified in this subchapter, and shall be thoroughly familiar with this subchapter. He shall have access to all areas of the asbestos removal project at all times and shall continuously inspect and monitor the performance of the contractor to verify that said performance complies with this subchapter. The asbestos safety inspector shall be on site throughout the entire abatement operation.

(b) The asbestos safety inspector shall have the authority to direct the actions of the contractor verbally and in writing to assure compliance. In the event of continual noncompliance or serious violation, the asbestos safety inspector shall notify the contractor from the administrative authority having jurisdiction who shall issue a written Stop Work Order to the contractor and have the work site secured until all violations are abated.

(c) The asbestos safety inspector, upon receipt of testing results indicating that concentrations above 0.01 fibers per cc have occurred outside the containment barriers or above 0.02 fibers per cc within the clean room of the decontamination chamber during the abatement action shall report these results within one working day verbally or by telephone communication if necessary to the contractor, the owner and the architect/engineer so that prompt corrective action may be taken.

This telephone or verbal communication shall be followed by a written report.

(d) The asbestos safety inspector shall keep a daily log of on-site observations concerning contractor's compliance with activities required under this subchapter. This log shall be made available upon request at all times to the owner, the architect/engineer and to appropriate local and State agencies.

(e) The asbestos safety inspector shall report results in a comprehensive final report, including daily logs, observations and air monitoring results simultaneously to the owner or his agent, the contractor and the New Jersey Department of Community Affairs within 20 working days following final testing for re-occupancy. For public school projects only, the results of tests shall be reported also to the New Jersey Department of Education, Bureau of Facility Planning Services.

(f) Removal phase shall be conducted as follows:

1. Monitoring outside the work area shall be provided throughout removal operations, to ensure that no outside contamination is occurring;

2. Filter cassettes and sampling train shall be assembled as specified in NIOSH #7400. The flow rate shall be between 0.5 and 16 liters per minute. The total volume shall be at least 4000 liters. Pumps shall be calibrated before and after sampling and a record kept of this calibration;

3. Three samples per day shall be provided. One stationary sample at decontamination unit entrance/exit and two samples adjacent to work area but remote from the decontamination unit entrance. In the selection of adjacent areas to be monitored, preference shall be given to rooms which may remain occupied by unprotected personnel;

4. If the contractor's barriers or other control methods are observed to malfunction and if the contractor does not correct the problems immediately upon notification, then the work stoppage procedures specified in N.J.A.C. 8.5(3)1.iii shall be followed. In such a situation additional sampling up to three samples per day shall be performed by the asbestos safety inspector;

5. The analysis of air samples shall be done using NIOSH Method #7400;

6. The maximum turn-around time for analysis of the samples shall be two working days following delivery of the samples to the laboratory;

7. The evaluation criteria shall be 0.01 fibers per cubic centimeter;

8. A series of smoke tests shall be performed at the decontamination unit entrance/exit, by the asbestos safety inspector to ensure continuous negative air pressure. This test shall be performed before each work shift and every four hours thereafter until the work stops;

9. The asbestos safety inspector shall calculate the required number of negative air filtration units for each work area. This calculation shall be made whenever the volume of the work area changes. The asbestos safety inspector shall inform the owner, contractor and the architect/engineer of any discrepancies between the number of units required and those in operation within the work area. If problems are identified and not corrected, then the work stoppage procedures specified in N.J.A.C. 8.5(e)1.iii shall be followed;

10. A record shall be kept in a daily log of all on-site observations, and required activities of the contractor.

(g) Post-removal test shall be conducted as follows:

1. Within 48 hours after final clean-up and before the removal of critical barriers, a final air test shall be performed. This test is required to establish safe conditions for removal of critical barriers and to permit reconstruction activity to

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begin. Sufficient time following clean-up activities shall be allowed so that all surfaces are drying during monitoring. Negative air filtration units shall not be in use during monitoring. At least 24 hours shall be allowed to pass after any wet cleaning has been done and negative air filtration units have been used before the post-removal tests are begun;

2. Normal occupancy use conditions shall be simulated using propeller-type fans. The fans shall be placed in each room to be sampled so as to cause settled fibers to rise and enter the air. The fans shall have fan blades with a radius of at least one foot and shall be capable of creating a minimum air velocity of 500 feet per minute. These fans may be of the oscillating type. The sampling pump and sampling media shall be placed 20-40 feet at a right angle from the line(s) of air flow created in front of the fan;

3. Filter cassettes and sampling train shall be assembled as specified in NIOSH #7400. The flow rate shall be between 0.5 and 16 liters per minute. The total volume shall be at least 4000 liters. Pumps shall be calibrated before and after sampling and record kept of this calibration;

4. One representative sample for every 10,000 square feet of floor space where asbestos containing materials have been removed or abated shall be taken. Where the 10,000 square feet area includes several rooms, the sample shall be located in the room where the asbestos-containing material was in the worst conditions before the abatement project began;

5. Analysis shall be by NIOSH Method #7400;

6. Maximum turn-around time for analysis of samples shall be 24 hours after submission of samples to the laboratory;

7. Evaluation criteria: If test results exceed 0.01 fiber/cc TWA, the asbestos safety inspector shall so inform the contractor, the owner and the architect/engineer. If these criteria have not been met, the contractor shall be required to re-clean all surfaces using wet cleaning methods and provide negative HEPA-filtered exhaust air during the re-cleaning process. This process of re-cleaning, allowing surfaces to dry and re-testing shall be repeated until compliance is achieved.

(h) Submission of final report shall be conducted as follows:

1. Upon satisfactory completion of all asbestos removal work and of all tests, the asbestos safety inspector and an official of the testing laboratory shall jointly submit a written final report to the owner including copies of all back-up records (charts, logs, calibration results, records, ventilation measurements, etc.) documenting the day-by-day progress of work and related tests;

2. Copies of this report shall be made available upon request to appropriate State or Federal agencies. This report shall be presented in logical form, neatly bound, and properly titled, dated and signed;

3. Any deviations from acceptable practice on the part of the contractor, and any unsatisfactory test results reported during the course of the job, shall be highlighted in the report for record purposes.

5:23-8.13 Application of asbestos

(a) This section shall apply to the application of asbestos, except as provided in 1. below.

1. This section shall not apply to asbestos materials which are applied in solid, non-friable form, such as floor tiles or cement pipe.

(b) The requirements of this section are set forth in order to prevent the contamination of the building environment which may be caused by improperly performed asbestos application work.

1. No person may cause or allow surface coating by spraying on any building structure, facility, installation or internal or external portion thereof, using asbestos or any friable material containing in excess of 0.25 percent by weight of asbestos. See N.J.A.C. 7:27-17.

2. The direct application of asbestos material during construction or renovation of structures, facilities or installations by means such as troweling by hand shall be prohibited.

3. The only permissible applications of asbestos containing materials during construction or renovation of structures, facilities or installations shall be those in which the asbestos is securely bound into a solid matrix before the application is performed, such as floor tiles in which asbestos is a minor component.

(a)

**Rooming and Boarding Houses
Owner and Operator Training; Licenses**

Proposed Amendments: N.J.A.C. 5:27-1.6

Authority: N.J.S.A. 55:13B-4.

Proposal Number: PRN 1985-177.

The agency proposal follows:

Summary

The proposed amendment provides that no license to own or operate a boarding house shall be issued on or after July 1, 1987 to any person who has not successfully completed a training course as approved by the Department of Community Affairs. This training course has developed by the Community Health Law Project, under contract with the Department of Human Services, and will be offered at numerous locations throughout the State. Rooming house owners and operators are not affected.

Social Impact

All owners and operators of boarding homes will be provided with the training necessary to ensure that they have the knowledge required to own and operate boarding homes more efficiently and the knowledge necessary to provide better care for residents. The course has been developed through the joint participation of the Department of Community Affairs, the Department of Health, and the Department of Human Services. It has previously been given at 14 sites over the past two years, and consists of 15 sessions of three to five hours each, which cover ten topics, which range from nutrition and emergency care to a study of the pertinent regulations.

Economic Impact

Owners and operators will have to make such arrangements as may be necessary to allow them to attend fifteen course sessions. The course will be free to students. An owner or operator who fails to attend the course risks loss of license and consequent inability to remain in business legally. The training course is funded through the Department of Human Service, specifically the Division of Youth and Family Services and the Department of Mental Health and Hospitals.

Full text of the proposal follows (additions shown in bold-face **thus**).

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5:27-1.6 Licenses

(a)-(j) (No change.)

(k) On or after July 1, 1987, no license to own or operate a boarding house shall be issued to, or shall be continued to be held by, any person who has not completed a training course approved by the Department of Community Affairs. This subsection shall not apply to persons holding or applying for only Class A (rooming house) licenses and shall only be effective so long as there exists a training program funded by the Department of Human Services.

ENVIRONMENTAL PROTECTION

Proposals numbered PRN 1985-184, 185 and 186 are authorized by Robert E. Hughey, Commissioner, Department of Environmental Protection.

(a)

DIVISION OF PARKS AND FORESTRY

State Park Service Rules

Proposed Amendments: N.J.A.C. 7:2-2.14, 3.4 and 3.5

Authority: N.J.S.A. 13:1B-3 and 13:1B-15.100 et seq.
DEP Docket No.: 013-85-02.

Proposal Number: PRN 1985-186.

Submit comments by May 1, 1985 to:

Michael P. Marotta
Office of Regulatory Services
NJDEP
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.A.C. 7:2-1 through 7:2-16 constitute the rules of the State Park Service and govern the use of all State parks, forests, recreational areas, historic sites, marinas and other lands, waters and facilities under the jurisdiction of the Department of Environmental Protection and assigned to the Division of Parks and Forestry.

As it is presently written, N.J.A.C. 7:2-2.14 provides the requirement that the use of the State Park lands and facilities be in accordance with posted instructions. The proposed amendment would insert an additional requirement of compliance with written instructions as well.

N.J.S.A. 7:2-3.4 presently regulates the use of motor vehicles within State Park Service lands. The proposed new section (d) requires that a permit be obtained from the Division before any motor vehicle race, rally, exhibition or demonstration may be conducted.

N.J.A.C. 7:2-3.5 regulates the use of snowmobiles within State Park Service lands. The proposed amendment to 7:2-3.5(a)4 raises to \$500.00 the property damage threshold beyond which an accident must be reported to the Division.

Social and Environmental Impact

It is anticipated that the proposed amendments will have positive social and environmental effects. In addition to posted instructions, written certain specific instructions currently accompany most permits. If the instructions are violated the only efficient remedy at present is to revoke the permit. In many cases this is not an adequate deterrent because the non-compliance may not be detected until the permitted use is completed. The proposed amendment to N.J.A.C. 7:2-2.14 will allow the Division to treat such non-compliance as violations of the regulation and thereby provides another method of assuring compliance with permit conditions. Since all such instructions address safety and environmental requirements, anything that increases the effectiveness of the enforcement of these requirements would result in a benefit.

The proposal requiring prior written permission for any motor vehicle event would enable the Division to take necessary measures to assure that such activities are conducted in a safe and environmentally sound, manner, and to prohibit a specific event if, and upon review, it is determined that it cannot be done safely or without environmental harm.

The social and environmental effect of the proposed amendment to 7:2-3.5 is anticipated as minimal. Motor vehicle accidents are presently reported in accordance with the applicable motor vehicle statutes. The Division has proposed this amendment so that the requirement for reporting snowmobile accidents conforms with the laws governing the use of motor vehicles (N.J.S.A. 39:3C-21 and 39:4-130).

Economic Impact

It is not anticipated that the proposed rule amendments will have a significant economic impact upon anyone. Administrative costs of implementing the proposed amendments will be subsumed in the budget, and costs for obtaining the permit in N.J.A.C. 7:2-3.4(d) are minimal.

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

7:2-2.14 Posted instructions

No person shall make use of the lands, waters, conveniences and facilities under the jurisdiction of State Park Service contrary to posted **or written** instructions.

7:2-3.4 All motor vehicles

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

(d) No person or organization shall conduct a motor vehicle race, rally, exhibition or demonstration of any type on State Park Service lands without prior written permission of the director or his designee on forms provided by the State Park Service.

7:2-3.5 Snowmobiles

(a) All use of snowmobiles on lands and frozen waters under the jurisdiction of the State Park Service must be in conformance with the definitions and regulations contained in N.J.S.A. [Title] 39:3C-1 et seq., the Motor Vehicle Laws of New Jersey. In addition, by authority of that statute the following rules shall apply.

1.-3. (No change.)

4. All accidents involving personal injury or damage to property in excess of [\$200] **\$500** must be reported to the officer-in-charge of the [state] **State** property on which the accident occurred, in addition to the requirement of N.J.S.A. [Title] 39:3C-21, as soon as possible after the occurrence.

5.-9. (No change.)

(a)

DIVISION OF WASTE MANAGEMENT

Restriction of Land Disposal of Hazardous Waste

Proposed Amendments: N.J.A.C. 7:26-7.4, 8.3, 8.15, 9.2, 10.6 and 10.8

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

DEP Docket Number: 012-85-02.

Proposal Number: PRN 1985-185.

A public hearing concerning these proposed amendments will be held on:

April 23, 1985 at 1:00 P.M.
First Floor Conference Room
New Jersey State Library
West State Street
Trenton, New Jersey

Submit comments by May 1, 1985 to:

Patricia E. G. Skelly
Office of Regulatory Services
N.J. Department of Environmental
Protection
CN 402
Trenton, N.J. 08625

The agency proposal follows:

Summary

The proposed amendments would result in restrictions on the disposal of acute hazardous (H) waste, listed in N.J.A.C. 7:26-8.15(e) with the prefix P, and toxic (T) wastes, listed in N.J.A.C. 7:26-8.15(f) with the prefix U. The amended rule would prohibit the final disposition of P—(acute hazardous) waste and U—(toxic) waste in surface impoundments and landfills unless the generator demonstrates:

1. The waste has been rendered non-acute hazardous or non-toxic, or
2. The waste cannot be rendered non-acute hazardous or non-toxic, destroyed by chemical, biological or thermal processes, or recycled or reclaimed. In these cases, the waste shall be chemically stabilized and completely encapsulated prior to final land disposal so as to eliminate its leaking potential to the environment. (N.J.A.C. 7:26-7.4).

The intent of the proposal is to encourage the treatment, recycling and reclamation of acute hazardous and toxic wastes in place of final disposal of untreated waste on or into the ground. The Department does recognize, however, that a land disposal method may be utilized for storage or treatment (i.e. land treatment units and surface impoundments) and, therefore, is not prohibiting the use of land storage and treatment for acute hazardous wastes and toxic wastes if the facility is designed, constructed, operated, maintained and closed in accordance with N.J.A.C. 7:26 and N.J.A.C. 7:14A. (N.J.A.C. 7:26-7.4; 7:26-10.6; 7:26-10.8).

In addition, the proposed amendments will establish a mechanism for assigning waste codes for process waste(s) and mixtures of process waste(s) containing, as constituents, substances listed as P and U waste, which have been determined

by the Department to be hazardous waste. These waste codes will be used when manifesting these waste streams. (N.J.A.C. 7:26-8.15).

Social Impact

The Department of Environmental Protection anticipates a positive social impact resulting from the restriction of acute hazardous and toxic wastes from land disposal. The potential effects of these waste types on public health, as a result of exposure, has been well-documented (See 45 FR 33066, May 19, 1980). In addition, there are technically feasible alternate disposal methods available which limit the exposure of the public to these wastes by rendering the waste innocuous. Therefore, the Department believes that the banning of the final disposal of these waste types in surface impoundments and landfills will have an overall positive social impact.

Economic Impact

Based on the manifest records and the facility annual reports submitted to the Department, two companies currently land dispose of P and U wastes and therefore will be directly affected by these proposed regulations.

The potential economic impact on the regulated community is to initially increase the cost of disposal. These cost increases could range from an order of magnitude to several orders of magnitude depending on the phase of the waste form (e.g., solid, liquid, etc.), the transportation method and distance to alternate treatment facilities, and the treatment and disposal methods. However, alternate technologies are currently available and the Department expects that these restrictions will, in the long term, reduce the cost of these alternatives to levels comparable with land disposal as the competition in the marketplace increases.

In addition, it is the Department's intent to evaluate alternative disposal methods for each hazardous waste type and impose additional land disposal restrictions as necessary. This will result in a significant decrease in the types of waste which can be land disposed, thereby reducing the potential for groundwater contamination. The costs for cleanup at sites with groundwater contamination, as evidenced in the Superfund (Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq.) and the Spill Compensation and Control Act N.J.S.A. 58:10-23.11 program, are significant and dictate this action. Therefore, the overall economic impacts are positive.

Environmental Impact

The Department of Environmental Protection expects the land disposal restriction of acute hazardous and toxic waste to benefit the environment by providing the mechanism for the cessation of final land disposal of those waste types which present the most significant risk to the environment. The restrictions will reduce their potential migration throughout the environment, in particular to the groundwater, and will avoid long range adverse effects on public health and the environment.

The United States Environmental Protection Agency (hereinafter USEPA) has indicated that these wastes are listed as acute hazardous because they are "considered to present a substantial hazard whether improperly managed or not" and toxic because they "have been shown in reputable scientific studies to have toxic, carcinogenic, mutagenic, or teratogenic effects on humans or other life forms and include such substances as those identified by the EPA's Carcinogen Assessment Group". (See 45 FR 33066 May 19, 1980).

Further, the USEPA has also indicated that "it is not technologically and institutionally possible to contain wastes and

constituents forever or for the long time periods that may be necessary to allow adequate degradation to be achieved . . . the regulation of hazardous land disposal must proceed from the assumption that migration of hazardous waste and their constituents and by-products from a land disposal facility will inevitably occur". (See 46 FR 11126 Feb. 5, 1981).

The U.S. Congress has found in its recent amendments to the Solid Waste Disposal Act (PL 98-616), which reauthorized the Resource Conservation and Recovery Act of 1976, that land disposal of waste, particularly landfills and surface impoundments, should be the least favored method for the management of hazardous waste disposal; these waste types pose a substantial hazard, as defined by the USEPA (See 45 FR 33066, May 19, 1980). These findings dictate their restriction from final land disposal and are consistent with the intent of N.J.S.A. 13:1E-61.

In addition, Congress has also mandated that the USEPA evaluate, within the next 52 months, each of the listed hazardous waste types and classes for possible restriction from land disposal. The rationale for the restriction will be based on the properties of the waste, taking into account:

1. toxicity/degree of hazard
2. persistence
3. mobility
4. bioaccumulation

Consistent with this, it is the Department's intent to examine each hazardous waste class/type to determine if similar restrictions are necessary based on the waste properties as outlined above. These proposed amendments are the initial step of a more comprehensive review and are based on the toxicity and degree of hazard of the waste type.

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

7:26-7.4 Hazardous waste generator responsibilities

(a) General requirements for generators not exempted pursuant to N.J.A.C. 7:26-8[.1 et seq.] are as follows:

1.-9. (No change.)

10. As of (180 days from adoption), no generator shall offer for final land disposal in New Jersey acute hazardous waste (H), as listed in N.J.A.C. 7:26-8.15(e), and toxic waste (T), as listed in N.J.A.C. 7:26-8.15(f), except in accordance with the following:

i. Where the final land disposal method is a land treatment unit, as approved in accordance with N.J.A.C. 7:14A and N.J.A.C. 7:26, to accept such waste; or

ii. Where the final land disposal method is a surface impoundment or landfill, the generator shall demonstrate and obtain prior Departmental approval in accordance with 11 below that the following requirements are met:

(1) The waste has been rendered non-acute hazardous or non-toxic; or

(2) The waste cannot be rendered non-acute hazardous or non-toxic, destroyed by chemical, biological or thermal processes, recycled or reclaimed, in accordance with N.J.A.C. 7:26, at an authorized hazardous waste facility, and the waste has been chemically stabilized and completely encapsulated to eliminate its leaking potential to the environment.

11. Documentation of the demonstration required by 10ii above shall be submitted for Department approval and shall include, but not be limited to, the following:

i. For treatment methods to render the waste non-acute hazardous or non-toxic and for the stabilization and encapsulation methods to eliminate the leaking potential to the environment, the generator shall submit:

(1) A statement of the generator's interest and need for the proposed action;

(2) A description of the waste and an estimate of the average and maximum monthly and annual quantities of the waste generated;

(3) A description of the treatment method(s) or stabilization and encapsulation method(s);

(4) The justification for this action including any supporting tests, acceptable scientific publications or completed public or private research projects; and

(5) Certification by the generator which states the following:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

ii. For waste which cannot be rendered non-acute hazardous or non-toxic, destroyed by chemical, biological or thermal processes, recycled or reclaimed, the generator shall submit:

(1) Information detailing the specific markets that have been explored and the basis for the conclusion that there are no treatment, destruction, recycling or reclamation methods available for this waste. This information may include, but shall not be limited to, information available through the New Jersey Hazardous Waste Facilities Plan (see N.J.S.A. 13:1E-58) as published by the New Jersey Hazardous Waste Facilities Siting Commission or other state hazardous waste plans; and

(2) Certification, by the generator of the waste, which states the following:

"I certify, under penalty of law, that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete; that available technically feasible treatment, destruction, reclamation or recycling processes have been explored and that the following wastes (listed by waste code) to be disposed of in New Jersey authorized hazardous waste landfills or hazardous waste surface impoundments cannot be treated, destroyed, recycled, or reclaimed. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

iii. The certification required by i(5) and ii(2), above, shall be signed as follows:

(1) For a corporation, by a principal executive officer of at least the level of vice president;

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official.

(b)-(i) (No change.)

7:26-8.3 Special requirements for hazardous waste generated by small quantity generators

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

(f) In order for hazardous waste generated by a small quantity generator to be excluded from full regulation under this section, the generator must:

1.-2. (No change.)

3. Either treat or dispose of the generator's hazardous waste in an on-site facility, or ensure delivery to an off-site storage, treatment or disposal facility, either of which is:

i.-iii. (No change.)

iv. Permitted, licensed or registered by the Department to manage New Jersey Waste Type No. 27, **unless the waste is prohibited from final land disposal in accordance with N.J.A.C. 7:26-9.2(d);** or

v.-vi. (No change.)

(g)-(i) (No change.)

7:26-8.15 Discarded commercial chemical products, off-specification species, containers, [and] spill residues, **and process waste or mixtures of process waste containing substances thereof**

(a)-(g) (No change.)

(h) **Where the Department has determined that a process waste or mixture(s) of process waste containing substances listed in (e) above is hazardous, the waste shall be managed in accordance with N.J.A.C. 7:26-7. These wastes and their corresponding Hazardous Waste Numbers shall be prefaced by the letter R. For example:**

P023—Acetaldehyde, chloro shall be designated as R023—Acetaldehyde, chloro

(i) **Where the Department has determined that a process waste or mixture(s) of process waste containing substances listed in (f) above is hazardous, the waste shall be managed in accordance with N.J.A.C. 7:26-7. These wastes and their corresponding Hazardous Waste Numbers shall be prefaced by the letter W. For example:**

U001—Acetaldehyde (I) shall be designated as W001—Acetaldehyde (I)

7:26-9.2 General prohibitions

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

(d) **As of (180 days from adoption) final land disposal of acute hazardous waste (H), as listed in N.J.A.C. 7:26-8.15(e), and toxic waste (T), as listed in N.J.A.C. 7:26-8.15(f), is prohibited by any person unless:**

1. **The final disposal method is a land treatment unit, regulated in accordance with N.J.A.C. 7:14A-4, to treat and dispose of one or more of the wastes listed in N.J.A.C. 7:26-8.15(e) or (f); or**

2. **The owner or operator receives from the generator a copy of documentation that the waste type(s) have been approved by the Department for final land disposal in accordance with N.J.A.C. 7:26-7.4(a)10 and 11.**

7:26-10.6 Surface impoundments

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

(e) Operational and maintenance standards for surface impoundments include the following:

1.-9. (No change.)

10. **The following shall not be placed in a hazardous waste surface impoundment for final disposal:**

i. **Acute hazardous waste (H), listed in N.J.A.C. 7:26-8.15(e), and toxic waste (T), listed in N.J.A.C. 7:26-8.15(f), unless:**

(1) **The surface impoundment is approved in accordance with N.J.A.C. 7:14A and N.J.A.C. 7:26 to treat and/or store one or more of the above listed waste types and will close in accordance with (h)1, below; or**

(2) **The owner or operator receives from the generator a copy of documentation that the waste type(s) have been approved by the Department for final land disposal in accordance with N.J.A.C. 7:26-7.4(a)10 and 11.**

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

(h) **An owner or operator of a surface impoundment shall comply with the following closure requirements:**

1. (No change.)

2. **For existing surface impoundments (as defined in N.J.A.C. 7:26-1.4), which do not comply with (b)1 above and which have not received acute hazardous waste (H) listed in N.J.A.C. 7:26-8.15(e) or toxic waste (T) listed in N.J.A.C. 7:26-8.15(f), the removal of the materials specified in (h)1ii and 1iii above may be deferred pending the approval by the Department of a containment plan for a total, permanent entombment of referenced materials in such a fashion that no release of contaminants into the environment shall occur during the post-closure period. In order to obtain such approval, the owner or operator shall:**

i. **Provide evidence that there has not been any contamination of soil or groundwater to date and that acute hazardous waste (H) listed in N.J.A.C. 7:26-8.15(e) or toxic waste (T) listed in N.J.A.C. 7:26-8.15(f) was not placed in the surface impoundment;**

ii.-viii. (No change.)

3.-6. (No change.)

7:26-10.8 Hazardous waste landfills

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

(e) **Operational standards for hazardous waste landfills shall include the following:**

1.-9. (No change.)

10. **The following shall not be placed in a hazardous waste landfill:**

i.-iii. (No change.)

iv. **Acute hazardous waste (H) as listed in N.J.A.C. 7:26-8.15(e) and toxic waste (T) as listed in N.J.A.C. 7:26-8.15(f), unless the owner or operator receives from the generator a copy of documentation that the waste type(s) have been approved by the Department for final land disposal in accordance with N.J.A.C. 7:26-7.4(a)9 and 10.**

11.-20. (No change.)

(f)-(j) (No change.)

(a)

DIVISION OF ENVIRONMENTAL QUALITY

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

**Proposed Amendments: N.J.A.C. 7:27-15.4
Proposed New Rule: N.J.A.C. 7:27B-4.6
Proposed Repeal: N.J.A.C. 7:27B-4.6**

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

DEP Docket No.: 014-85-03.

Proposal Number: PRN 1985-184.

A public hearing concerning this proposal will be held at the following time and location.

May 2, 1985 at 10:00 A.M.
New Jersey State Library
First Floor Meeting Room
West State Street
Trenton, New Jersey

Submit comments by May 3, 1985 to:

John Elston
Division of Environmental Quality
New Jersey Department of
Environmental Protection
CN 027
Trenton, New Jersey 08625

Copies of this proposal are being deposited and will be available for inspection during normal office hours until May 3, 1985 at:

Atlantic County Health Department
1200 Harding Highway
Mays Landing, New Jersey 08330

N.J. Bureau of Air Pollution Control
Room 1108, Labor and Industry Building
John Fitch Plaza
Trenton, New Jersey 08625

N.J. Bureau of Air Pollution Control
Northern Regional Office
1259 Route 46
Parsippany, New Jersey 07054

N.J. Bureau of Air Pollution Control
Southern Regional Office
100A Larwin Road
Cherry Hill, New Jersey 08034

N.J. Bureau of Air Pollution Control
Metropolitan Regional Office
1110 Raymond Boulevard—Fifth Floor
Newark, New Jersey 07102

Warren County Health Department
151 West Washington Avenue
Washington, New Jersey 07882

The adopted rules become operative 180 days after the Commissioner signs the notice of adoption (see N.J.S.A. 26:2C-8.2).

The agency proposal follows:

Summary

On November 5, 1984, the New Jersey Department of Environmental Protection proposed amendments to N.J.A.C. 7:27-15 entitled "Control and Prohibition of Air Pollution From Gasoline-Fueled Motor Vehicles", and also proposed the new rule, N.J.A.C. 7:27B-4, entitled "Air Test Method 4: Testing Procedures for Motor Vehicles". After receipt of public comments the proposals were adopted by the department on December 28, 1984. The notices of adoption were published at 17 N.J.R. 190 and 17 N.J.R. 194, and the adoptions will become operative July 1, 1985.

These adoptions strengthened New Jersey's mobile source emission control program by establishing more stringent standards for post-1980 model year light-duty gasoline-fueled motor vehicles and by establishing emission standards for heavy-duty gasoline-fueled motor vehicles. In addition, they

established an emission control system anti-tampering/anti-fuel switching standard for light-duty gasoline-fueled motor vehicles. This provision is contained in N.J.A.C. 7:27-15.4(c). By reference, compliance with this standard is determined according to the inspection test procedure established in N.J.A.C. 7:27B-4.6.

During the comment period for the proposals, the U.S. Environmental Protection Agency (EPA) identified a problem. EPA pointed out that the proposed anti-tampering/anti-fuel switching program failed to provide the reduction in emissions of volatile organic compounds which are projected in the State Implementation Plan (SIP). EPA stressed that in order to attain the SIP emission reductions a more comprehensive program 1) must be implemented before the end of calendar year 1985, 2) must demonstrate an annual reduction of 6,267 tons in emissions of volatile organic compounds, and 3) must establish stringent reexamination procedures.

The department and the Division of Motor Vehicles (DMV) reviewed EPA's comments and agreed that the anti-tampering/anti-fuel switching program needed to be strengthened in order to meet New Jersey's SIP commitments. DMV's consulting engineers were engaged to study the possibilities for strengthening the anti-tampering/anti-fuel switching program. The DMV consultant worked with EPA during a two-day study to examine the alternatives for modifying the inspection program in order to incorporate the expanded anti-tampering/anti-fuel switching program.

Therefore, the department is now proposing to repeal the current text of N.J.A.C. 7:27B-4.6, and new language at that citation, and amend N.J.A.C. 7:27-15.4(c). The proposed new rule and amendment will establish anti-tampering/anti-fuel switching inspection test procedures for post-1974 model year gasoline-fueled motor vehicles weighing less than 8,501 pounds. The procedures will include:

1. A visual check to determine the presence of properly installed catalytic converters;
2. An examination consisting of lead test paper to determine the presence of lead in the vehicle exhaust; and
3. An examination consisting of a visual inspection for the presence of, or malfunction of, the fuel filler neck inlet restrictor.

The proposed procedure will apply to all post-1974 model year gasoline-fueled motor vehicles weighing less than 8,501 pounds which are subject to vehicle inspection during annual and random roadside examinations. The proposal will supersede the anti-tampering/anti-fuel switching inspection procedures adopted December 28, 1984 which will be implemented on July 1, 1985 and be effective until the new procedures become operative. The target date for implementation of the more comprehensive program is December 1, 1985.

The department is seeking comments regarding the proposal. Additionally, information regarding the lead content of unleaded fuels, accidental lead contamination of unleaded fuel systems, and the accuracy and repeatability of the lead test paper procedure is requested.

Social Impact

The social impact of this proposal is positive. By adopting and implementing these testing procedures, the State of New Jersey will be able to fulfill the commitments of the 1982 ozone SIP revisions and will be able to demonstrate attainment of the ozone National Ambient Air Quality Standard by December 31, 1987. The result of this proposal will be the assurance for each of New Jersey's motorists that others are operating vehicles which conform with the U.S. Clean Air

PROPOSALS

Interested Persons see Inside Front Cover

ENVIRONMENTAL PROTECTION

Act, 42 U.S.C. 7401 et seq. Modification of the State lane configuration of inspection stations will be necessary. Vehicle owners of cars which do not satisfy the requirements set forth in the rules will have to modify their vehicles to conform.

Economic Impact

According to the 1982 tampering survey conducted by EPA, the New Jersey tampering rates for the three items proposed to be examined are 2.66 percent for catalytic-equipped converters, 4.78 percent for the fuel filler neck inlet restrictor, and 7.35 percent for the exhaust lead test. Assuming 85 percent of the 3,800,000 automobiles and light trucks registered in New Jersey are catalyst-equipped vehicles, the proposed examination procedure will apply to 3,230,000 motor vehicles annually. Applying the tampering rates observed by EPA, the program can be expected to identify approximately 86,000 vehicles with missing catalysts, 154,000 vehicles with damaged fuel filler neck inlet restrictors, and 237,000 vehicles with lead contamination of the exhaust.

Assuming \$200 for catalyst replacement (including materials and labor) and \$100 for replacement of the fuel filler neck inlet restrictor (including materials and labor, plus steam cleaning the fuel tank to allow welding), the following total costs per item are anticipated for the owners of tampered vehicles:

Item	Cost
Catalytic converter	\$ 17,200,000
Fuel filler neck inlet restrictor	46,200,000
Lead contamination	47,400,000
TOTAL	\$110,800,000

The current vehicle owner will be responsible for compliance with the established regulations in order to properly fulfill all DMV inspection requirements. For the most part, this is a one-time cost which will occur during the phase-in period (December 1, 1985-May 1, 1987) of this proposal. The department believes that once enforcement is implemented, the program will serve to deter further tampering with these items. Consequently, these corrective costs are associated with those vehicles which have been damaged prior to program implementation.

Environmental Impact

The 1987 Statewide mobile source emission reduction of volatile organic compounds resulting from this proposal is estimated by EPA's Field Operations and Support Division to be 6,131 tons. EPA performed this analysis using its 1984 tampering data collected in New Jersey in the MOBILE 3 computer model. This reduction is equivalent to 15.2 metric tons/day. It fulfills the requirements of the 1982 ozone SIP revision commitments, makes possible the attainment of the National Ambient Air Quality Ozone Standard by December 31, 1987 and leads to better air quality for the people of New Jersey.

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

7:27-15.4 Motor vehicle inspection standards

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

(c) Any [light-duty] **post-1974 model year** gasoline-fueled motor vehicle **weighing less than 8501 pounds** which is subject to inspection by the State of New Jersey in accordance with the provisions of N.J.S.A. 39:8, as a condition of compliance with said inspection, shall have properly functioning and

properly maintained emission control apparatus as determined according to the inspection test procedure established at N.J.A.C. 7:27B-4.6.

Table 1 (No change.)

[7:27B-4.6 Light-duty gasoline-fueled motor vehicle emission control apparatus compliance examination procedure

(a) The examination of the motor vehicle emission control apparatus of light-duty gasoline-fueled motor vehicles to determine compliance with N.J.A.C. 7:27-15.4(c), when conducted during annual inspection, shall consist of the following:

1. A visual check of the emission control apparatus failure and service indicator on the interior driver control panel. The activation of such indicator shall be cause for vehicle rejection. Rejected vehicles shall be required to be properly serviced in order to deactivate the indicators and subsequently reexamined. The reexamination procedure shall be the same as the one used for the original examination.

(b) The examination of motor vehicle emission control apparatus of light-duty gasoline-fueled motor vehicles to determine compliance with N.J.A.C. 7:27-15.4(c), when conducted during random roadside inspection, shall consist of the following:

1. A visual check of the emission control apparatus failure and service indicator on the interior driver control panel. The activation of such indicator shall be cause for vehicle rejection. Rejected vehicles shall be required to be properly serviced in order to deactivate the indicators and subsequently reexamined. The reexamination procedure shall be the same as the one used for the original examination.

(c) The examination of the catalytic converter equipment on all post-1974 model year light-duty gasoline-fueled motor vehicles designed and marketed by the vehicle manufacturer with catalytic converters as original equipment to determine compliance with N.J.A.C. 7:27-15.4(c), when conducted during random roadside inspection, shall consist of the following:

1. A visual check to determine the presence of properly installed catalytic converters. The absence of such properly installed catalytic converters, shall be cause for vehicle rejection. Rejected vehicles shall be required to be properly equipped with catalytic converters certified by the U.S. Environmental Protection Agency and subsequently reexamined. The reexamination shall include presentation of a work order to document purchase and proper installation of a new catalytic converter.

(d) The examination of the catalytic converter equipment on all post-1985 model year light-duty gasoline-fueled motor vehicles to determine compliance with N.J.A.C. 7:27-15.4(c), when conducted during random roadside inspection, shall consist of the following:

1. An examination consisting of either the use of lead test paper to determine the presence of lead in the vehicle exhaust and/or a visual inspection for the presence of, or malfunction of the fuel filler neck inlet restrictor. Rejected vehicles shall be required to be properly equipped with new catalytic converters certified by the U.S. Environmental Protection Agency and, in the case of rejection for a missing or malfunctioning fuel filler neck inlet restrictor, shall be required to be properly equipped with a new fuel filler neck inlet restrictor. Reexamination shall include presentation of a work order to document purchase and proper installation of a new catalytic converter, and fuel filler neck inlet restrictor if applicable.

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i. If the lead test paper examination is performed, the following steps are to be used:

- (1) Turn engine off; the tailpipe is to be warm; clean section of inside of tailpipe.
- (2) Remove test paper from package and moisten with three drops of distilled water.
- (3) Immediately press moistened paper firmly onto cleared surface of tailpipe with finger or clip and hold for two to five minutes.
- (4) Remove paper and allow to dry.

(5) The presence of lead in the vehicle exhaust as indicated by the lead test paper shall be cause for vehicle rejection.

ii. If the examination consists of a visual inspection for the presence of the fuel filler neck inlet restrictor, the following steps are to be used:

- (1) Attempt to insert a dowel, with a diameter equivalent to that of a standard leaded fuel pump nozzle, into the fuel filler neck.
- (2) The absence of the fuel filler neck inlet restrictor is verified if the dowel can be inserted and shall be cause for vehicle rejection.]

7:27B-4.6 Gasoline-fueled motor vehicle emission control apparatus compliance examination procedure

(a) The examination of the motor vehicle emission control apparatus of all post-1974 model year gasoline-fueled motor vehicles under 8501 pounds to determine compliance with N.J.A.C. 7:27-15.4(c), when conducted during annual and random roadside inspection, shall consist of the following three examinations:

1. A visual check to determine the presence of properly installed catalytic converters on motor vehicles designed and marketed by the vehicle manufacturer with catalytic converters as original equipment. The absence of such properly installed catalytic converters, shall be cause for vehicle rejection. Rejected vehicles shall be required to be properly equipped with catalytic converters certified by the U.S. Environmental Protection Agency and subsequently reexamined. The reexamination shall consist of a visual check to document proper installation of a new catalytic converter.

2. An examination consisting of lead test paper to determine the presence of lead in the vehicle exhaust on motor vehicles designed and marketed by the vehicle manufacturer for operation with unleaded fuel only. Rejected vehicles shall be required to be properly equipped with new catalytic converters certified by the U.S. Environmental Protection Agency. Reexamination shall consist of a visual check to document proper installation of a new catalytic converter.

i. The lead test paper examination shall be conducted in the following manner:

- (1) Remove test paper from package and moisten with distilled water;
- (2) Attach moistened paper onto surface of tailpipe with clip;
- (3) Remove paper;
- (4) The presence of lead in the vehicle exhaust is indicated by the lead paper changing to a pink or red color. This color change shall be cause for vehicle rejection.

3. An examination consisting of a visual inspection for the presence of, or malfunction of the fuel filler neck inlet restrictor on motor vehicles designed and marketed by the vehicle manufacturer for operation with unleaded fuel only. Rejected vehicles shall be required to be properly equipped with new catalytic converters certified by the U.S. Environmental Protection Agency and a new fuel filler neck inlet restrictor. Reexamination shall consist of a visual check to document

proper installation of a new catalytic converter and fuel filler neck inlet restrictor.

i. The fuel filler neck inlet restrictor examination shall be conducted in the following manner:

- (1) Attempt to insert a dowel, with a diameter equivalent to that of a standard leaded fuel pump nozzle, into the fuel filler neck;
- (2) The absence of the fuel filler neck inlet restrictor is verified if the dowel can be inserted and shall be cause for vehicle rejection;
- (b) Inspection of gasoline-fueled motor vehicles for (a) above shall be implemented by model year and registered weight in accordance with the following schedule:

Date	Model Year	Registered Weight
December 1, 1985	1985 and later	Under 6001 pounds
May 1, 1986	1982 and later	Under 6001 pounds
July 1, 1986	1982 and later	Under 8501 pounds
January 1, 1987	1979 and later	Under 8501 pounds
May 1, 1987	1975 and later	Under 8501 pounds

HEALTH

(a)

PUBLIC HEALTH COUNCIL

**State Sanitary Code: Chapter II
Reportable Diseases**

**Proposed Readoption with Amendments:
N.J.A.C. 8:57-1**

Authorized By: Evelyn Geddes, Chairperson, Public Health Council.

Authority: N.J.S.A. 26:1A-7.

Proposal Number: PRN 1985-180.

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

May 13, 1985 at 9:30 A.M.
Room 603—Conference Room
Health/Agriculture Bldg., John Fitch Plaza
Trenton, NJ 08625

Submit comments by May 1, 1985 to:
Ronald Altman, M.D.
Assistant Commissioner
Division of Epidemiology and Disease Control
New Jersey State Department of Health
CN 360
Trenton, New Jersey 08625
(609) 292-4046

The readoption of N.J.A.C. 8:57-1 becomes effective upon acceptance for filing by the Office of Administrative Law of a notice of adoption. The amendments to the readoption become effective upon publication in the Register of a notice of adoption.

The agency proposal follows:

Summary

This subchapter was originally filed and became effective prior to September 1, 1969. Revisions to this subchapter were filed and became effective on May 26, 1974 as R.1974 d.121. See 6 N.J.R. 140(a), 6 N.J.R. 241(c). Further revisions were filed and became effective on December 13, 1977 as R.1977 d.467. See 10 N.J.R. 12(a), October 1, 1978 as R.1978 d.293. See 10 N.J.R. 146(a), 10 N.J.R. 358(b), and December 27, 1982 as R.1982 d.483. See: 10 N.J.R. 1277(a).

Pursuant to the requirements and criteria of Executive Order No. 66(1978), this subchapter shall expire on October 30, 1985. After review, the Department has found that this subchapter is necessary and proper, and therefore proposes that it be readopted.

The N.J.S.A. 26:1A-7 empowers the Public Health Council to amend the list of reportable diseases. It is, therefore, proposed that the list of reportable diseases, at N.J.A.C. 8:57-1.2, be amended by adding Acquired Immunodeficiency Syndrome (AIDS). In the past three years AIDS has developed from an obscure disease that affects certain segments of the general population to a significant public health problem. This is particularly true in New Jersey, which currently ranks fourth in the number of cases identified nationwide. The Department of Health initiated surveillance on AIDS three years ago. This activity, in addition to research and control measures to prevent spread of diseases, will be greatly enhanced by making AIDS a reportable condition in the State. The currently accepted laboratory test for the viral agent most commonly linked with AIDS is the anti human T-cell lymphotropic virus III antibody (HTLV III antibody). The results of this serologic test, which will be available commercially, and therefore accessible to laboratories and health providers, would be reportable to the New Jersey State Department of Health under N.J.A.C. 8:57-1.10.

It is further proposed that the list of reportable diseases by telephone in N.J.A.C. 8:57-1.2(b) be expanded to include Meningitis, Infectious, etiology: *Hemophilus influenzae*. It is imperative that infectious meningitis secondary to *Hemophilus influenzae* be reported immediately because of the necessity to administer prophylactic antibiotics to those who were exposed and at risk of the disease. This is particularly true for cases in children attending day care centers, and in cases living with other young children in the household.

This proposal readopts N.J.A.C. 8:57-1, otherwise known as Chapter II of the State Sanitary Code, with amendments to N.J.A.C. 8:57-1.2 Reportable Diseases by adding Acquired Immunodeficiency Syndrome (AIDS) to the list of reportable diseases, and Meningitis, Infectious, etiology: *Hemophilus influenzae* as a reportable disease immediately by telephone.

Social Impact

The proposed rules would have a beneficial social impact. The readoption of Chapter II of the State Sanitary Code, N.J.A.C. 8:57-1 would expedite the reporting of certain diseases or outbreaks of disease so that appropriate action can be taken to stem the outbreak, prevent the further spread of diseases, and thus, protect the health of the general public.

In the past, this rule has aided in saving lives by preventing and containing the spread of communicable diseases. Effective control of these diseases has been expedited through the early recognition of such outbreaks because of the requirement that they immediately be reported to the Department. During 1984, 6,000 cases of diseases, excluding venereal disease, and approximately 25,000 cases of venereal disease, were reported in New Jersey. Effective control in the community of communicable diseases depends largely on the exis-

tence of reporting procedures. Readoption of the rule is necessary so that the beneficial impact of the rule can continue.

The amendment to N.J.A.C. 8:57-1.2 Reportable Diseases would have a beneficial social impact as well. This would allow the Department of Health to gather more data on AIDS, facilitate research, and disseminate meaningful information to the medical community and the public at large. Disease control measures would also be enhanced through the accumulation of pertinent epidemiologic data on this condition. The laboratory confirmation of the presence of HTLV III antibody on individuals would be very useful for disease control. These individuals, under the current recommendations from the United States Public Health Service (USPHS) and the American Association of Blood Banks, would be prevented from donating blood to prevent further cases of AIDS in blood recipients.

The amendment to N.J.A.C. 8:57-1.2(b) would allow the Department of Health early access to reports of *Hemophilus influenzae* meningitis to effectively recommend prophylaxis for those at risk of the disease.

Economic Impact

In the past, considerable amounts of money have been saved through the control of disease through the early recognition of such outbreaks. Readoption of the rule would continue to expedite reporting of diseases so that the further spread of illness would be prevented, thus resulting in a savings of unnecessary expense to the public.

The proposed amendment, if adopted, would not add unnecessary medical expenditure incurred in the diagnosis and management of any case. This amendment would further save the general public and health agencies the financial burden of caring for cases of *Hemophilus influenzae* meningitis, and all other complications of the disease, which would be prevented by early prophylactic intervention.

The immediate deferral of individuals positive for HTLV III antibody and discarding blood products positive for HTLV III antibody in blood banks would considerably decrease the risk of AIDS in blood recipients. The prevention of AIDS cases from occurring is economically beneficial to the public, health care delivery system and public health agencies.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:57-1.1 to 1.12.

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

8:57-1.2 Reportable diseases

(a) The following diseases are declared to be reportable to the State Department of Health for purposes of this code. All diseases listed herein are to be reported in the manner prescribed by 8:57-[1.2], 1.3, 1.4, 1.5, **1.6** and [1.9] **1.10** of this Chapter.

Acquired Immunodeficiency Syndrome (AIDS)

Amebiasis
Anthrax
Atypical Mycobacterioses
Babesiosis
Botulism
Brucellosis
Campylobacter fetus
Diseases
Dengue
Diphtheria

HIGHER EDUCATION

PROPOSALS

Encephalitis, Infectious
(Specify)
Food/Waterborne Disease
Giardiasis
Guillain-Barre Syndrome
Hepatitis
Type A
Type B
Non-A, Non-B
Unspecified
Hydatid Disease
Kawasaki Disease
(Mucocutaneous Lymph Node Syndrome)
Legionellosis, including
Legionnaires' Disease,
Pontiac Fever, and diseases
caused by atypical *Legionella-like*
organisms
Leprosy
Leptospirosis
Lyme Disease
Malaria
Measles
Meningitis, Infectious (Specify)
Meningococcal Disease
Mumps
Pertussis
Plague
Pneumocystis carinii pneumonia
Poliomyelitis
Psittacosis
Rabies
Rat Bite Fever
Relapsing Fever, Louse-Borne
Reye's Syndrome
Rickettsial Diseases, including
Q Fever
Rickettsialpox
Rocky Mountain Spotted Fever
Typhus Fever
Rubella (German Measles), including
Congenital Rubella Syndrome
Salmonellosis
Shigellosis
Smallpox
Tetanus
Toxic Shock Syndrome
Trachoma
Trichinosis
Tuberculosis
Tularemia
Typhoid Fever
Venereal Diseases
Chancroid
Gonorrhea
Granuloma Inguinale
Lymphogranuloma Venereum
Ophthalmia Neonatorum
Syphilis
Viral Hemorrhagic Fevers
including (not not limited to)
Ebola
Lassa
Marburg

Diseases caused by *Vibrio*
species, including Cholera
Yersiniosis
Yellow Fever

(b) The following diseases are declared to be reportable immediately by telephone in the manner described in 8:57-1.3, 1.4, 1.5, 1.6 and 1.10.

Botulism
Cholera
Diphtheria
Food/Waterborne Disease
Measles
Meningitis, Infectious, etiology: *Hemophilus influenzae*
Meningococcal Diseases
Plague
Poliomyelitis
Rabies
Smallpox
Syphilis, Infectious
Viral Hemorrhagic Fevers,
including (but not limited to)
Ebola
Lassa
Marburg

(c) (No change.)

HIGHER EDUCATION

STUDENT ASSISTANCE BOARD

Proposals numbered PRN 1985-183 and 187 are authorized by the Student Assistance Board, Joseph Streit, Chairman.

Submit comments by May 1, 1985 to:

Grey J. Dimenna, Esq.
Administrative Practice Officer
Department of Higher Education
225 West State Street
CN 542
Trenton, NJ 08625

AGENCY NOTE: The Student Assistance Board wishes to express its reservation concerning the provision contained in N.J.A.C. 9:7-2.9 and 9:7-4.1 that treats the Educational Opportunity Fund Program as mutually exclusive from the Distinguished Scholars and Garden State Scholarship Programs. In approving these regulations for noticing, the Board requested that staff analyze the implications of permitting students to qualify for the Distinguished Scholars, Garden State Scholarship and Educational Opportunity Fund Programs. The Board expects to examine that question as it considers the final adoption of these regulations. The Board notes that the language prohibiting a student from holding both awards may be deleted in final adoption of the regulations without further noticing and solicits interested individuals to submit their comments to Mr. Dimenna.

(a)

**Student Assistance Programs
Determination of Eligibility For and Value
of Student Assistance; Award
Combinations**

**Proposed Amendments: N.J.A.C. 9:7-2.4
and 2.9**

Authority: N.J.S.A. 18A:71-26.5, 18A:71-26.8,
18A:71-26.11, 18A:71-47(a), 18A:71-48 and P.L.
1984, c.94.

Proposal Number: PRN 1985-183.

The agency proposal follows:

Summary

The proposed amendments further define the difference in eligibility criteria for the need based Tuition Aid Grant and Garden State Scholarship Programs as opposed to the non-need based Distinguished Scholars Program and align program regulations with legislative changes that were enacted in July 1984. These amendments also provide further clarification with respect to the allowable combination of the various grants and scholarships administered by the Student Assistance Board which students may receive at one time.

Social Impact

The proposed amendments provide students and postsecondary institutions with a better understanding of the difference in eligibility requirements for the various grants and scholarships administered by the Student Assistance Board as well as additional information on the combination of these awards in financing their undergraduate education and in developing financial aid packages.

Economic Impact

The proposed amendments further define the financial need and eligibility criteria in qualifying for the various grant and scholarship programs in efforts to maintain equity in the distribution of these funds.

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

9:7-2.4 Determination of eligibility for and value of student assistance

In order to receive a need-based award [S]tudents must have demonstrated financial need through submission of a New Jersey Financial Aid Form in accordance with annually established deadline dates. The information on the Financial Aid Form will be evaluated by employing the national Uniform Methodology, as represented in the College Scholarship Service system or by approaches modified to meet the purposes of the New Jersey student assistance programs. The evaluation results in an estimate of the family or student's ability to contribute to the cost of education. This estimate is then used to determine eligibility for and value of **need-based** student assistance. Students may not receive assistance under the programs administered by the Student Assistance Board if information is made known that they owe a refund on a grant or scholarship previously received from a state or federal program through any institution or are in default on any student loan made or insured by the Federal government at any institution.

9:7-2.9 Award combinations

Students receiving a Tuition Aid Grant award may also accept a Garden State Scholarship or an Educational Opportunity Fund Grant if offered by the institution they attend or plan to attend. Students cannot simultaneously hold an Educational Opportunity Fund Grant and a Garden State Scholarship or **Distinguished Scholarship** in any single semester. The total amount of financial aid received by a student may not exceed the college budget as defined by the institution. Tuition Aid Grants will in general be reduced so that the student's resources will not exceed the financial aid officer's estimate of the student's need, to a minimum grant of \$100.00. This policy will permit students to accept other offers of student assistance as well as facilitate their acceptance into the Educational Opportunity Fund Program.

(b)

**Garden State Scholars
Eligibility Requirements: Fiscal
Responsibilities; Renewal of Scholarships
Awarded Prior to March 1, 1978**

**Proposed Amendments: N.J.A.C. 9:7-4.1
and 4.7**

Proposed Repeal: N.J.A.C. 9:7-4.8

Authority: N.J.S.A. 18A:71-26.6, 18A:71-26.8 and
P.L. 1984, c.94.

Proposal Number: PRN 1985-187.

The agency proposal follows:

Summary

The proposed amendments incorporate the basic eligibility requirements and institutional fiscal recordkeeping for the newly enacted Distinguished Scholars Program which are consistent with the existing Garden State Scholarship and Garden State Graduate Fellowship Programs. Further clarification is also given to the total resources which may be available to a student in the determination of financial need. The repeal of N.J.A.C. 9:7-4.8 is due to the expiration of the grandfathering clause for the previous State scholarship recipients prior to March 1, 1978, at which time newly enacted legislation established the existing Tuition Aid Grant and Garden State Scholarship Programs.

Social Impact

The proposed amendments provide students and postsecondary institutions with more specific information concerning the eligibility requirements for the newly enacted Distinguished Scholars Program which may be an additional source of aid in financing and packaging for an undergraduate education as well as the additional fiscal recordkeeping responsibilities of institutions associated with this new program.

Economic Impact

The proposed amendments increase costs to the extent of establishing a new scholarship program as required by P.L. 1984, c.94 and provide for continued equity in the distribution of all grants and scholarships administered by the Student Assistance Board.

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

9:7-4.1 Eligibility requirements

(a) Undergraduate Garden State [Scholars] **Scholarship recipients** must meet minimum academic requirements as defined below, demonstrate financial need as defined herein, and be selected by the institution they attend or plan to attend. In addition to the financial need determination explained in N.J.A.C. 9:7-2.4 and 2.9, undergraduates must have demonstrated financial need to qualify for an award. Demonstrated financial need is the difference between the applicant's **total resources** (Estimated Family Contribution **and other aid**) and the total cost of college attendance (college budget). The undergraduate's demonstrated financial need will be reviewed annually by the institution to determine renewal eligibility.

(b) **Distinguished Scholarship recipients must meet the academic requirements as defined by the Student Assistance Board. Such scholarships may be awarded on the basis of indicators of academic merit defined by the Board, without consideration of financial need, and must satisfy the requirements as stipulated in N.J.A.C. 9:7-2.9. Distinguished Scholarship recipients must attend an eligible New Jersey institution and are eligible to receive a Garden State Scholarship. This scholarship may not be awarded in conjunction with an Educational Opportunity Fund Grant. Distinguished Scholarship recipients will be selected without regard to their course of study and awards will not be limited by institutions. Distinguished Scholarships are renewable for up to 4 or 5 years, depending upon the course of study and providing the student continues to achieve satisfactory academic progress. Eligible scholars may receive assistance under the Tuition Aid Grant Program.**

(c) Garden State Scholarship **and Distinguished Scholarship** recipients who transfer to another eligible New Jersey institution may transfer their [Garden State Scholarship eligibility status] **awards** provided they have demonstrated satisfactory academic progress and, **in the case of Garden State Scholarship recipients**, have demonstrated financial need at the institution they will attend. Graduate fellows will be selected primarily on the basis of academic merit. [In academic year 1978-79, only initial awards will be made. The program will be phased in one year at a time thereafter.]

9:7-4.7 Fiscal responsibilities

Institutions must maintain [a] separate accounts [of Garden State Scholarships awarded.] **for Garden State Scholarship, Distinguished Scholarship, and Garden State Graduate Fellowship funds received.** [The] **Institutional** records must include full student identification including name, address, social security number, date and amount of the award, the academic index, [and] estimated family contribution (**Garden State Scholars**), **and other information defined by the Student Assistance Board.** [A balance] **An accounting** must be kept of expended and unexpended funds, **the latter being promptly refunded to the State of New Jersey in accordance with the most recent administrative directive.**

9:7-4.8 [Renewal of Scholarships Awarded Prior to March 1, 1978] **(Reserved)**

[Students receiving scholarships and incentive grants prior to March 1, 1978, will continue to receive their scholarship and incentive grant assistance for their remaining period of eligibility as long as they continue to meet the eligibility criteria in effect on July 1, 1977. Students wishing to renew their scholarship and incentive grant must annually file a New Jersey Financial Aid Form.]

LABOR

(a)

DIVISION OF WORKPLACE STANDARDS OCCUPATIONAL AND ENVIRONMENTAL HEALTH SERVICES

Asbestos Licenses and Permits Procedures to Obtain Licenses and Permits

Jointly Proposed New Rules: N.J.A.C.

12:120-1, 2, 3, 4, 5, and 7; 8:60-1, 2, 3, 4, 5 and 7

Authorized By: Charles Serraino, Commissioner, Department of Labor, and J. Richard Goldstein, M.D., Commissioner, Department of Health.

Authority: N.J.S.A. 34:5A-39 (P.L. 1984, c.173).
Proposal Number: PRN 1985-179.

Submit comments by May 1, 1985 to:

William J. Clark, Director
Division of Workplace Standards
New Jersey Department of Labor
CN 054
Trenton, New Jersey 08625-0054

with a copy to:

Joseph Schirmer
Occupational Disease Prevention
and Information Program
New Jersey Department of Health
CN 360
Trenton, New Jersey 08625-0360

Summary

The Asbestos Control and Licensing Act (P.L. 1984 c.173) requires that all employees engaged in asbestos application, enclosure, removal, or encapsulation obtain a permit from the Department of Labor. Permit applicants (except those meeting the criteria for "experienced asbestos workers") must successfully complete a training program certified by the Department of Health. Employers performing asbestos work must obtain a license from the Department of Labor.

The Departments of Health and Labor are jointly proposing rules covering permitting of employees, licensing of contractors, and the certification of training courses.

The chapter consists of seven subchapters. Subchapter 1 is rules relating to purpose, scope, and general provisions. Subchapter 2 covers definitions and has been adopted on an emergency basis and concurrently proposed (along with subchapter 6) in the March 18, 1985 New Jersey Register. Subchapter 3 addresses administration. Subchapter 4 contains the standards for the licensing of asbestos contractors. Subchapter 5 contains the standards for the permitting of asbestos employees. Subchapter 6 covers certification of training courses and has been adopted on an emergency basis and concurrently proposed (along with subchapter 2) in the March 18, 1985 Register. Subchapter 7 addresses the availability of standards and publications referred to in this chapter.

PROPOSALS

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Social Impact

Licensing of asbestos contractors and permitting of asbestos workers, upon successful completion of a certified training program, will reduce the public's exposure to life-threatening asbestos by assuring that asbestos operations are performed by knowledgeable and competent workers in accordance with scientifically accepted work practices.

Building owners contracting with licensed asbestos contractors and contractors hiring permitted asbestos workers will know that the work is being performed by individuals who have received adequate training and demonstrated competency in correct asbestos handling procedures.

Certification of training programs will assure license and permit applicants that successful completion of such a program means they have the information necessary to perform asbestos work without endangering either their health or that of other building occupants.

The public will be assured that buildings in which asbestos work is performed will be safe for occupancy.

Economic Impact

Building owners will benefit from the assurance that they are paying qualified, competent and knowledgeable personnel to perform asbestos work.

Licensed contractors and permitted workers will benefit from the elimination of unfair competition from unqualified contractors and their employees performing asbestos work in violation of accepted good practice.

The public will benefit from reductions in wage loss, insurance, medical expenses, disability compensation payments and other costs resulting from asbestos-related disability and death.

License and permit fees are reasonable. The costs incurred due to compliance with mandated work practices are more than offset by the benefits set forth above.

Full text of the joint proposal follows.

**CHAPTER 120
ASBESTOS LICENSES AND PERMITS**

SUBCHAPTER 1. GENERAL PROVISIONS

12:120-1.1 (8:60-1.1) Title and citation

This chapter shall be known and may be cited as N.J.A.C. 12:120, Asbestos Licenses and Permits.

12:120-1.2 (8:60-1.2) Authority

These rules are promulgated pursuant to the authority of the Asbestos Control and Licensing Act, N.J.S.A. 34:5A-32 et seq.

12:120-1.3 (8:60-1.3) Purpose

(a) The purpose of this chapter is to provide reasonable standards for:

1. Licensing of asbestos contractors;
2. Permitting of asbestos employees; and
3. Certifying training courses.

12:120-1.4 (8:60-1.4) Scope

(a) This chapter shall apply to:

1. The licensing of asbestos contractors;
2. The examination and issuance of permits to asbestos employees;
3. Certification of training courses;
4. Contractors having a contractual relationship for asbestos work with the owner of a building or structure; and

5. Employers using their own employees for the application or enclosure or encapsulation or safe removal or disposal of asbestos.

(b) This chapter shall not apply to:

1. The minor repair or maintenance of asbestos installations; or
2. The stripping or removal of 10 feet or less of asbestos from piping; or
3. The stripping or removal of 25 square feet or less of asbestos from any duct, boiler, tank, structural member or similar equipment; or
4. The sale, storage or use of asbestos.

12:120-1.5 (8:60-1.5) Documents referred to by reference

The availability of standards and publications referred to in this chapter is explained in N.J.A.C. 12:120-7.

12:120-1.6 (8:60-1.6) Validity

Should any section, paragraph, sentence or word of this chapter be declared for any reason to be invalid, such decision shall not affect the remaining portions of this chapter.

OFFICE OF ADMINISTRATIVE LAW NOTE: The following subchapter 2 concerning definitions has been adopted on an emergency basis and concurrently proposed in the March 18, 1985 Register. The subchapter has been republished here to aid the understanding of this proposal.

SUBCHAPTER 2. DEFINITIONS

12:120-2.1 (8:60-2.1) Definitions

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

“Act” means the Asbestos Control and Licensing Act, N.J.S.A. 34:5A-32 et seq.

“Approved” means acceptable to the Commissioner of Labor.

“Asbestos” means the asbestiform varieties of chrysotile; crocidolite; amosite; anthophyllite; tremolite; or actinolite and includes any asbestos containing material.

“Asbestos containing material” means any material which contains more than one percent asbestos by weight.

“Asbestos employee” means an employee performing asbestos work.

“Asbestos work” means the application or enclosure or encapsulation or safe removal or disposal of asbestos.

“Commissioner” means the Commissioner of Labor or his authorized agent.

“Commissioner of Health” means the Commissioner of Health or his authorized agent.

“Contractor” means an asbestos employer.

“Control” means to exercise restraint or direction over any activity concerning asbestos for the purpose of reducing the number of airborne asbestos fibers.

“Division of Workplace Standards” means the Division of Workplace Standards of the New Jersey Department of Labor, CN 054, Trenton, N.J. 08625-0054.

“Employee” means any person including supervisory personnel suffered or permitted to work by an employer.

“Employer” means a body, board, person, corporation, partnership, proprietorship, joint venture, fund, authority or similar entity employing, permitting or suffering another to work. This term shall apply to private employers and to the State, its political subdivisions and any boards, commissions, schools, institutions or authorities created or recognized thereby.

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“License” means a certificate documenting acceptance by the commissioner of a contractor as competent to perform the application or enclosure, or encapsulation or safe removal of asbestos.

“N.J.A.C.” means the New Jersey Administrative Code.

“N.J.S.A.” means the New Jersey Statutes Annotated.

“Permit” means a certificate documenting acceptance by the commissioner of an employee as competent to perform the application or enclosure or encapsulation or safe removal of asbestos.

“Shall” means a mandatory requirement.

“Subcontractor” means an employer.

SUBCHAPTER 3. ADMINISTRATION

12:120-3.1 (8:60-3.1) Scope of subchapter

This subchapter shall apply to the administration of the licensing and permitting standards mandated by this chapter.

12:120-3.2 (8:60-3.2) Compliance

(a) Every employer doing the application or enclosure or encapsulation or safe removal of asbestos shall comply with the provisions of this chapter and shall have a license.

(b) Every employee doing the application or enclosure or encapsulation or safe removal of asbestos shall comply with the provisions of this chapter as they pertain to the employee and shall have a permit.

(c) Every employer shall take all prudent measures to comply with written recommendations made by the Commissioner of Labor or the Commissioner of Health, as the case may be.

12:120-3.3 (8:60-3.3) Interface of State agencies

(a) The Department of Labor shall under the provisions of this chapter:

1. Issue licenses to qualified asbestos contractors;
 2. Issue permits to qualified asbestos employees;
 3. Collect the fees for licenses and permits;
 4. Determine that asbestos contractors have a valid license;
- and
5. Determine that asbestos employees have a valid permit.

(b) The Department of Health shall under the provisions of this chapter:

1. Certify the course of training and the examination thereon given to the asbestos employee;
 2. Determine that asbestos contractors have a valid license;
- and
3. Determine that asbestos employees have a valid permit.

12:120-3.4 (8:60-3.4) Disorderly persons offense

(a) In accordance with N.J.S.A. 34:5A-41, any person who violates a provision of this chapter is guilty of a disorderly persons offense and liable to a fine of \$1,000.00 or imprisonment not in excess of six months, or both.

(b) The Commissioner of Labor or the Commissioner of Health, as the case may be, in addition to the fines and imprisonment specified in (a) above, may impose administrative penalties in accordance with N.J.A.C. 12:120-3.5.

12:120-3.5 (8:60-3.5) Administrative penalties

(a) Contractors shall be required to pay the administrative penalties of Table 3.5(a) for each violation of the act or this chapter.

Table 3.5(a)
Contractor Penalties

Contractor Violation	Penalty Up To
1. Performing as asbestos contractor without license	\$1000.00
2. Allowing an asbestos employee to work without a permit	\$1000.00
3. Submitting false information on application for license	\$1000.00
4. Failure to perform quality asbestos work	\$1000.00
5. Other violations of the act or this chapter	\$ 500.00

(b) Employees shall be required to pay the administrative penalties of Table 3.5(b) for each violation of the act or this chapter.

Table 3.5(b)
Employee Penalties

Employee Violation	Penalty Up To
1. Working as an asbestos employee without a permit	\$ 500.00
2. Submitting false information on application for a permit	\$ 200.00
3. Other violations of the act or this chapter	\$ 100.00

(c) When the Commissioner of Labor or the Commissioner of Health, as the case may be, assesses a penalty pursuant to (a) or (b) above, the contractor or employee shall have the right to a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

SUBCHAPTER 4. LICENSING OF ASBESTOS CONTRACTORS

12:120-4.1 (8:60-4.1) Scope of subchapter

This subchapter shall apply to the procedures required to obtain a license as an asbestos contractor.

12:120-4.2 (8:60-4.2) Application for license

(a) The application to obtain a license as an asbestos contractor shall be typewritten or neatly and legibly printed in ink.

(b) All applications shall be carefully completed.

(c) Applicants applying for a license in accordance with the terms of N.J.A.C. 12:120-4.3(a)1 shall furnish evidence of applicable full-time experience. This experience shall have been completed within five years of the filing of the application.

(d) Incomplete or improper applications shall not be accepted.

(e) An application for a license shall be made on forms provided by the Division of Workplace Standards.

(f) No license shall be granted to a contractor:

1. If he is less than 18 years of age;
2. If he has been found in non-compliance with N.J.A.C. 12:120-4.3; or
3. Unless he furnishes evidence that his asbestos employees hold employee permits.

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(g) All correspondence relative to applications for licenses shall be addressed to the Division of Workplace Standards.

(h) The Division of Workplace Standards shall be notified by the contractors of any change of residence. When writing, the license number shall be specified.

(i) The application fee for a license shall be \$100.00.

(j) The fee shall accompany the application.

(k) The fee for a license shall be a check or money order made payable to the order of the Commissioner of Labor.

(l) No liability shall be assumed by the Division of Workplace Standards for loss in the transmission of the fee.

12:120-4.3 (8:60-4.3) Eligibility for license

(a) To be eligible for a license as an asbestos contractor, the applicant:

1. Shall demonstrate reliability and responsibility as an asbestos contractor as provided in (b) below; and

2. Shall provide evidence of having successfully completed the supervisor's training course approved by the Commissioner of Health; or

3. Shall have with the firm a principal or job supervisor who can comply with (a)2 above; or

4. Shall have with the firm an "experienced asbestos worker" who has received a permit under N.J.A.C. 12:120-5.4(b) and who serves in a supervisory capacity.

(b) In order to demonstrate reliability and responsibility as provided in (a)1 above to receive a license, the contractor shall disclose and attach all information in the application form supplied by the Department of Labor including but not limited to:

1. A copy of his Certificate of Insurance stipulating the name of insurance carrier, policy number, and policy period under which the entire New Jersey Worker's Compensation and employer's liability obligations are insured;

2. A listing of respiratory protective equipment including serial numbers and proof of purchase or availability;

3. A list of all other equipment and its location specific to asbestos abatement including serial numbers and proof of purchase or availability;

4. Any and all citations of violations issued by the Occupational Safety and Health Administration;

5. Any and all citations of violations issued by the Environmental Protection Agency;

6. Any previous and pending civil litigation;

7. Any previous and pending criminal litigation;

8. A list of all public and private asbestos abatement projects performed within the past five years; and

9. Any previous and pending litigation pertaining to other state, Federal and local laws and/or regulations.

12:120-4.4 (8:60-4.4) Granting of license

(a) A license shall be granted when an asbestos contractor can comply with N.J.A.C. 12:120-4.3.

(b) The license for an asbestos contractor shall:

1. Be in writing;

2. Contain the date of issuance;

3. Contain an expiration date;

4. Contain the name and address of the contractor to whom it is issued; and

5. Be signed by the Commissioner of Labor or his designee.

(c) The license shall be valid for one year from the date of issuance.

12:120-4.5 (8:60-4.5) Identification of license

(a) The license shall be available at the worksite for examination by the Commissioner of Labor or Health, the contracting agency, and the owner or the owner's representative.

(b) Licensed contractors shall post a sign indicating in letters more than four inches in height "LICENSED BY THE STATE OF NEW JERSEY FOR ASBESTOS WORK" readily visible outdoors at the worksite.

(c) All commercial vehicles used in connection with the application or enclosure or encapsulation or safe removal of asbestos shall be visibly marked with the asbestos contractor's license number.

(d) The contractor shall have a duplicate original license available at each job. This duplicate of the original license shall be available at a cost of \$50.00.

(e) All business correspondence shall display the asbestos contractor's license number.

12:120-4.6 (8:60-4.6) Quality of work

(a) Every licensee shall assure that work performed conforms to the following standards:

1. Section 1910.1001 Asbestos of 29 CFR Part 1910;

2. Section 1910.20 Access to Employee Exposure and Medical Records of 29 CFR Part 1910;

3. Subpart E, Personal Protective Equipment of 29 CFR 1926 Construction Industry Standards;

4. Subparts A and B of 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants; and

5. N.J.A.C. 7:26, Non-Hazardous Waste Regulations.

(b) Every licensee who performs work-described in (a) above shall provide for supervision and inspection while the work is in progress and a final inspection upon completion of the work. This supervision shall include visual inspection and air monitoring.

(c) Every licensee shall be responsible for correcting immediately and at no additional charge to the customer, any violation of the standards of (a) above discovered in the work performed by the licensee.

12:120-4.7 (8:60-4.7) Suspension or revocation of license

(a) Any contractor may have his license suspended or revoked for:

1. Incompetence; or

2. Negligence; or

3. Failure to comply with N.J.A.C. 12:120-4.7(a); or

4. Failure to comply with contract specifications; or

5. Lending his license to any other employer; or

6. Being debarred under the act or any other State law;

7. Any valid reason establishing that the licensee is unfit to hold a license; or

8. Any good cause within the meaning and purposes of the act.

(b) The license shall be surrendered and immediately revoked if, for any purpose, it is loaned, abandoned or allowed to pass from the personal control of the owner.

(c) All licenses shall expire unless renewed on or before the anniversary month of the original license.

(d) A license shall be automatically cancelled on the date of its expiration. Any person performing the duties of a licensee and holding an expired license shall be subject to the penalty provisions of the act.

(e) Any person using fraudulent means to obtain a license shall be subject to prosecution under the act. Any license acquired through such means shall be invalid.

12:120-4.8 (8:60-4.8) Renewal of license

(a) When applying for the annual renewal of a license it shall be necessary to submit a fee of \$100.00.

(b) An application for renewal of a license shall not be approved until all outstanding penalties lawfully imposed on the applicant under the Act have been paid.

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(c) An application for renewal of a license shall be submitted at least 30 days prior to the date of its expiration. When the application for renewal of a license is submitted within the required time period, the license shall continue in effect until the Department of Labor renders a determination on the application.

(d) An application for renewal of a license that has expired may be treated as an original application.

(e) A duplicate, altered, defaced, mutilated, or lost license shall be replaced at a cost of \$50.00 only after review by the Division of Workplace Standards. Photostats, photographs or reproduction of a license shall have no status, and shall not be recognized.

(f) A duplicate of the original license for use at other job sites shall cost \$50.00 per job site.

12:120-4.9 (8:60-4.9) Hearings

When the Department proposes to revoke or suspend a license, refuses to review a license or denies an application for a license, the contractor shall have the right to a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

SUBCHAPTER 5. PERMITTING OF ASBESTOS EMPLOYEES

12:120-5.1 (8:60-5.1) Scope of subchapter

This subchapter shall apply to the procedures required to obtain a permit as an asbestos employee.

12:120-5.2 (8:60-5.2) Application for permit

(a) The application to obtain a permit as an asbestos employee shall be typewritten or neatly and legibly printed in ink.

(b) All applications shall be carefully completed.

(c) Incomplete, improper, or false applications shall not be accepted.

(d) An application for a permit shall be made on forms provided by the Division of Workplace Standards.

(e) No permit shall be granted to a person less than 18 years of age.

(f) All correspondence relative to applications for permits shall be addressed to the Division of Workplace Standards.

(g) The Division of Workplace Standards shall be notified by the employee of any change of his address. When writing, the permit number shall be specified.

(h) The applicable fee for a permit shall be \$10.00.

(i) The fee shall accompany the application.

(j) The fee for a permit shall be a check or money order made payable to the order of the Commissioner of Labor.

(k) No liability shall be assumed by the Division of Workplace Standards for loss in the transmission of the fee.

12:120-5.3 (8:60-5.3) Examinations

(a) An applicant for a permit as an asbestos employee, other than an experienced asbestos worker, shall successfully complete a training course as required by N.J.A.C. 12:120-6 (8:60-6) and an examination thereon.

(b) Examination shall be held on the first Wednesday of each month at Trenton or at various other times and places throughout the State when warranted.

(c) Applicants shall be notified when and where to appear for examination.

(d) An applicant who fails to appear at the appointed time for the examination shall forfeit the application fee, unless the

applicant can present to the Commissioner of Health a satisfactory explanation for the failure to appear.

(e) Failure to appear for examination or to obtain a passing grade shall not entitle the applicant to a refund of any fee.

(f) Examinations for an asbestos employee's permit shall be conducted in a written form and shall consist of as many questions and be of such nature as the Commissioner of Health shall consider appropriate.

(g) An applicant may, upon prior request be examined through a reader or interpreter accompanying the applicant, provided the reader or interpreter is acceptable to the Commissioner of Health.

(h) Questions used in an examination shall not be copied by any applicant or retained by the applicant after examination, or taken from the presence of the authorized agent of the Commissioner of Health during the examination. Violation of this subsection shall be sufficient cause for disapproving the application for the permit.

(i) Evidence of the successful completion of the training course and examination thereon shall be issued in the name of the employee and transmitted directly to the employee.

12:120-5.4 (8:60-5.4) Granting a permit

(a) A permit shall be granted by the commissioner to an employee who has demonstrated the ability to perform the application or enclosure or encapsulation or safe removal of asbestos in accordance with the current state-of-the-art technology:

1. When the commissioner receives evidence of successful completion of a training course and examination thereon approved by the Commissioner of Health; or

2. When the conditions of (b) below are met.

(b) A permit shall be granted to an "experienced asbestos worker" without examination provided the asbestos employee:

1. Knows the mechanics of application or enclosure or encapsulation or safe removal of asbestos; and

2. Has submitted proof of having completed a training course prior to promulgation of these rules with a minimum of 24 hours of instruction which has been approved by the Commissioner of Health substantially complying with asbestos training programs as provided in N.J.A.C. 12:120-6; and

3. Has submitted proof of having had a qualitative fit test of a respirator administered by a qualified industrial hygienist or health professional.

4. Submits the application in accordance with N.J.A.C. 12:120-5.2; and

5. Submits the application on or before November 1, 1985.

(c) The permit for an asbestos employee shall:

1. Be in writing;

2. Contain the date of issuance;

3. Contain an expiration date;

4. Contain the name and address of the employee to whom it is issued;

5. Contain his social security number; and

6. Be signed by the Commissioner of Labor or his designee.

(d) The permit shall be valid for one year from the date of issuance.

12:120-5.5 (8:60-5.5) Identification of permittee

(a) The permit shall be carried upon the employee's person.

(b) The permit shall be available for examination by the Commissioners of Labor and Health, the contracting agency, owner and employees representative.

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12:120-5.6 (8:60-5.6) Suspension or revocation of permit
(a) Any permit may be suspended or revoked for incompetence, negligence, or for any other valid reason establishing that the permittee is unfit to hold a permit.
(b) The permit shall be surrendered and immediately revoked if, for any purpose, it is loaned, abandoned or allowed to pass from the personal control of the owner.
(c) All permits shall expire unless renewed on or before the anniversary month of the original permit.
(d) A permit shall be automatically cancelled on the date of its expiration. Any person performing the duties of a permittee and holding an expired permit shall be subject to the penalty provisions of the act as is his employer.
(e) Any person using fraudulent means to obtain a permit shall be subject to prosecution under the act. Any permit acquired through such means shall be invalid.

12:120-5.7 (8:60-5.7) Renewal of permit
(a) When applying for the annual renewal of a permit, the permittee, except as otherwise provided by (b) below:
1. Enclose the fee of \$10.00; and
2. Provide evidence of any continuing education that may be required by the Commissioner of Health in consultation with the Commissioner of Labor.
(b) When applying for the first renewal of a permit, a permittee who is an "experienced asbestos worker" shall:
1. Enclose the fee of \$10.00; and
2. Provide evidence of successful completion of the training course and examination thereon described in N.J.A.C. 12:120-5.4(a)1.
(c) A permit shall be renewed within 30 days prior to the date of its expiration.
(d) An application for a renewal of an expired permit shall be approved provided:
1. A fee of \$10.00 is enclosed for one year;
2. The application is made within three years of the expiration date of the expired permit; and
3. All penalties lawfully imposed on the applicant under the act have been paid.
(e) Application for renewal of a permit expired more than three years shall be treated as an original application.
(f) An altered, defaced, mutilated or lost permit shall be replaced at a cost of \$10.00 only after review by the Division of Workplace Standards. Photostats, photographs or reproduction of a permit shall have no status, and shall not be recognized.

12:120-5.8 (8:60-5.8) Hearings
When the Department proposes to revoke or suspend a permit, refuses to renew a permit or denies an application for a permit, the employee shall have the right to a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

SUBCHAPTER 6. CERTIFICATION OF TRAINING COURSES

OFFICE OF ADMINISTRATIVE LAW NOTE: This subchapter concerning certification of training courses has been

adopted on an emergency basis and concurrently proposed in the March 18, 1985 Register. Please see that issue of the Register for the text of those rules.

SUBCHAPTER 7. STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

12:120-7.1 Documents referred to by reference
(a) The full title and edition of each of the standards and publications referred to in this chapter are as follows:
1. 29 CFR Part 1910, General Industry Standards
2. 29 CFR Part 1926, Construction Industry Standards
3. 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants
4. N.J.A.C. 7:26 Non-Hazardous Waste Regulations
5. N.J.S.A. 34:5A-32 et seq., Asbestos Control and Licensing Act.

12:120-7.2 Availability of documents for inspection
A copy of each of the standards and publications referred to in this chapter is on file and may be inspected at the following office of the Division of Workplace Standards between the hours at 9:00 A.M. and 4:00 P.M. on normal working days:

New Jersey Department of Labor
Division of Workplace Standards
36 West State Street, Room 313
Trenton, New Jersey 08625

12:120-7.3 Availability of documents from issuing organization
Copies of the standards and publications referred to in this chapter may be obtained from the organizations listed below. The abbreviations preceding these standards and publications have the following meaning, and are the organizations issuing the standards and publications listed in N.J.A.C. 12:120-7.1.

CFR— Code of Federal Regulations
Copies available from:
Superintendent of Documents
Government Printing Office
Washington, D.C. 20402

N.J.A.C.— New Jersey Administrative Code
Copies available from:
Division of Workplace Standards
New Jersey Department of Labor
CN 386
Trenton, N.J. 08625-0386

N.J.S.A.— New Jersey Statutes Annotated
Copies available from:
Division of Workplace Standards
New Jersey Department of Labor
CN 386
Trenton, N.J. 08625-0386

LAW AND PUBLIC SAFETY

(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Product Information Filing: Brand Registration

Proposed Readoption with Amendments: N.J.A.C. 13:2-33

Authorized By: John F. Vassallo, Jr., Director, Division of Alcoholic Beverage Control.

Authority: N.J.S.A. 33:1-2, 1-3, 1-10, 1-11, 1-12, 1-23, 1-39, 1-43, 1-79 and 1-88.

Proposal Number: PRN 1985-188.

Submit comments by May 1, 1985 to:
John F. Vassallo, Jr., Director
Division of Alcoholic Beverage Control
Richard J. Hughes Justice Complex
CN 087
Trenton, New Jersey 08625

The readoption of N.J.A.C. 13:2-33 with amendments becomes effective upon publication in the Register of a notice of adoption.

The agency proposal follows:

Summary

By amendments on April 4, 1979, effective May 1, 1979 (11 N.J.R. 143(a), 11 N.J.R. 259(c)), almost all of the then existing provisions of Subchapter 33, which dealt with a system of filing the minimum price of every alcoholic beverage to be sold at retail to the consumer, were deleted. Retained and supplemented on April 4, 1979, were the current provisions contained in N.J.A.C. 13:2-33.1. The existing regulation was readopted on April 25, 1984, (16 N.J.R. 1279(d)) pursuant to a readoption proposal on March 19, 1984 at 16 N.J.R. 499(a).

On December 28, 1984, Governor Kean signed S-517 (A-355), thereby codifying the brand registration policies which are embodied in N.J.A.C. 13:2-33.1. The new law, P.L. 1984, c. 233, which is an amendment to N.J.S.A. 33:1-2, became effective 30 days after enactment, or January 27, 1985. N.J.S.A. 33:1-2,c was patterned on the existing N.J.A.C. 13:2-33.1. That section provides that no licensee shall knowingly sell, offer for sale, deliver or purchase, for resale in New Jersey, any alcoholic beverage (including private label and exclusive brands) unless the brand owner or the authorized agent of the brand owner files with the Director of the Division of Alcoholic Beverage Control a brand registration schedule containing such information as the Director shall by rule or regulation require.

N.J.S.A. 33:1-2,d now provides that each person who files a brand registration schedule, and amendments thereto shall pay a filing fee to cover the reasonable costs incurred by the Director in connection with the filing, but not in excess of \$10.00 per filing.

The purpose of this amendment to N.J.A.C. 13:2-33 is to revise and clarify the contents of the brand registration sched-

ule and to bring the existing regulation into conformity with the new statute. Since the changes parallel the statute and substantially amend the current rule, the division has reviewed the entire rule again in compliance with Executive Order No. 66(1978) and readopted with the required changes.

The introductory language to N.J.A.C. 13:2-33.1(a) has been amended to conform the language to the provisions of N.J.S.A. 33:1-2,c. The existing regulation provides for a separate filing for each calendar year, but the statute has deleted that and only requires a one-time filing. The amendment to N.J.A.C. 13:2-33.1(a) therefore also deletes the provision for a filing for each calendar year. The section also clarifies the information that is to be furnished on the brand registration schedule. No new information is being required, but the language of the regulation becomes more specific so that information which is presently required by the Division's brand registration form is clarified in the regulation.

N.J.A.C. 13:2-33.1(b) is amended to conform the regulation to N.J.S.A. 33:1-2(c), which provides that the brand registration schedule is to be filed by the brand owner or his authorized agent. The presently existing N.J.A.C. 13:2-33.1(b)3 has added to the authorized filers, in addition to the brand owner or the authorized agent, any wholesaler with the approval of the Director in the event that the owner of the brand does not file or is unable to file a brand registration schedule or to designate an agent for such purpose. Since the recently-enacted statute does not make provision for such a filing, and since Senate Bill 517, which became P.L. 1984, c. 233, was specifically amended while still in the legislature to delete such provision, this provision is deleted from the amended regulation.

N.J.A.C. 13:2-33.1(c) is added to the regulation to clarify that an amended brand registration schedule must be filed whenever any change occurs in the information on the original brand registration schedule, and further provides that such amendment must be filed with the Division within 10 days after the occurrence of such change.

N.J.A.C. 13:2-33.2, as presently exists, provides that the schedule of product filing shall be filed in such form and on such dates and upon payment of such fees as shall be prescribed by the Director. This section is being amended to specifically set forth the fees to be charged. The brand registration filings have been computerized. Such process requires reviewing of the filings by the Division and preparation of them for keypunching. They are then transmitted for such keypunching and entry into the computers, and lists are prepared for the Division and use by the public or members of the industry who wish to utilize them. It is estimated that a \$10.00 fee is necessary to cover the reasonable costs incurred by the Director in connection with the filing, in conformity with the authorization in N.J.S.A. 33:1-2,d. Since the basic information is already existing in the files for an amended brand registration schedule, it is estimated that the reasonable costs incurred by the Director in connection with such filing of an amended brand registration schedule will be covered by a fee of \$7.00. Therefore, N.J.A.C. 13:2-33.2(a) provides for the payment of such fees. N.J.A.C. 13:2-33.2(b) is added to provide that all filings must be made on a form which the Director shall provide, although it further provides that photocopies of the form may be utilized. The Director has, in fact, provided a form and the form is being revised to conform to the statutory provisions cited above.

The subchapter, N.J.A.C. 13:2-33, has been constantly reviewed within the Division, and the existing regulations, as amended by this proposal to conform with the new statute,

are necessary, adequate, reasonable, efficient, understandable, and responsive to the objectives and purposes that exist today, and which objectives and purposes are noted hereafter.

Social Impact

The concept and specific provisions in N.J.A.C. 13:2-33 have been subject to both judicial and administrative review as to validity and purpose. In *Joseph H. Reinfeld, Inc. v. Schieffelin & Co.*, 94 N.J. 400, 411 (1983), the New Jersey Supreme Court reiterated the Division's previous determination that Subchapters 25 and 33 ". . . are designed to assist the State in identifying the distributive network of alcoholic beverages to insure tax integrity." See also *Heir v. Degnan*, 82 N.J. 109 (1980) which affirmed the regulatory authority of the Director to adopt most of the "deregulation" amendments in April 1979, of which N.J.A.C. 13:2-33 was a part. The provisions of N.J.A.C. 13:2-33 were subject to extensive hearings on June 1, 1983 and July 6, 7, 8, 11, 12, 13 and 14, 1983, before the Director which resulted in Findings and Conclusions Confirming Validity of Regulations, N.J.A.C. 13:2-25.2(a), 13:2-25.3(b) and 13:2-33.1. In the Matter of Petition Proceedings of Todd Seifert, t/a Seifert Distributing Company, et al., 4 N.J.A.R. 294 (1984); ABC Bulletin 2433, Item 3 (decided December 5, 1983). Within that declaratory ruling, affirmed on October 11, 1984, by an unreported per curiam opinion of the Appellate Division (Docket No. A-345-82T3), there was a full and complete development of the public purposes and goals served by the regulation and the impact of the regulations. Identification of products, stability of the industry, enhanced interbrand competition with concomitant price competition, protection of the significant tax base alcoholic beverage sales provide the State and recognition of product quality control systems, which are all fostered or insured through a product and entity identified registered distribution regulation, were some of the objectives, goals and impacts identified.

As a result of the aforesaid hearings and the identification of such objectives, goals and impacts, the Legislature felt that brand registration was so important that it should be included in the statute. The statement to S-517, which ultimately became P.L. 1984 c. 233, included the following language:

"If this bill is enacted, the Division of Alcoholic Beverage Control will gain complete control over alcoholic beverages from the time of their importation into the State until they are sold at retail. This bill will insure that the product meets all standards necessary for the protection of the consumer.

"Wholesalers are now able to purchase brands of alcoholic beverages from the brand owner. Because there is no connection between the brand owner and the unauthorized wholesaler, the Division of Alcoholic Beverage Control exercises little control over the unauthorized wholesaler to insure compliance with proper health standards, to avoid deceiving the consumer and to maintain proper quality control.

"This bill would insure the orderly distribution of alcoholic beverages in New Jersey and would be of additional help in the assessment, collecting and auditing of taxes imposed by New Jersey on alcoholic beverages and collected at the wholesale level.

"Similar statutes and regulations have been enacted and adopted in 18 states."

Economic Impact

The comments noted in the Social Impact statement above intertwine economic considerations which are incorporated herein. Whatever economic constraints an individual licensee experiences as a consequence of these regulations is significantly outweighed by the numerous public purposes and benefits achieved for all citizens and licensees of this State through a registered distribution system. Additionally, the State has a need to know and an obligation to the citizens of New Jersey to specifically identify what alcoholic beverage products are being sold or offered for sale in this State to insure their fitness as a beverage alcohol. The regulation provides that the cost of making this information available to the State is covered by the filing fees paid by the owners or agents of owners filing the registrations.

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

SUBCHAPTER 33. PRODUCT INFORMATION FILING: BRAND REGISTRATION

13:2-33.1 [Schedule of product filing] **Brand registration schedule**

(a) No licensee shall **knowingly** sell, [or] offer for sale, [or] deliver, [or] receive or purchase [at wholesale or retail], **for resale in New Jersey**, any alcoholic beverage, including private label brands owned by a retailer and exclusive brands owned by a manufacturer or wholesaler and offered for sale or sold by such manufacturer or wholesaler exclusively to one New Jersey retailer **or affiliated retailers**, unless there is first filed with the Director of the Division of Alcoholic Beverage Control [for each calendar year] a schedule, **for each separate alcoholic beverage product**, listing the following:

1. [Its] **The full and correct brand or trade name**;
2. Its nature and type;
3. Its age **or vintage** and proof **or percentage** of alcoholic content when stated on the label;
4. The **sizes of standard packaging and the standard number of unit containers per standard case**;
5. [The capacity of each unit container] **The date of label approval granted by the Federal Bureau of Alcohol, Tobacco and Firearms (B.A.T.F.), together with a copy of the B.A.T.F. Form 1649; [and]**
6. The names **and license numbers** of [all] **each New Jersey Class B** [licensees acknowledged] **licensee designated** by the filer to be an authorized distributor of the product at wholesale[.];
7. **The full name, address, telephone number, taxpayer identification number and New Jersey license number (if any) of the filer; and**
8. **An indication whether the schedule is an original filing or an amendment to any existing one.**

(b) The **brand registration** schedule shall be filed by:

1. The manufacturer, **importer** or wholesaler who owns [such] the brand[;] **or trade name and label**; or
2. [A] **An importer or a wholesaler** selling such brand who is appointed as [exclusive] **authorized** agent by the brand owner for the purpose of filing [such] **the brand registration schedule**; or
3. Any wholesaler with the approval of the director in the event that the owner of such brand does not file or is unable to file a schedule or designate an agent for such purposes; or]

[4.] 3. In the case of private label brands, by the manufacturer or wholesaler supplying such private label brand to the retailer or by any wholesaler having authority, in writing, from the retailer or affiliated retailers owning such private label brand, except where the alcoholic beverages are imported by the retailer under a special permit issued by the director, in which case the retailer shall file the schedule and the labels.

(c) Whenever any change occurs, including but not limited to the addition or deletion of an authorized wholesaler, the filer of the brand registration schedule shall file an amended brand registration schedule within ten days after the occurrence of such change.

13:2-33.2 [Schedule filing dates] Filing fees and forms

(a) [The schedule of product filings shall be filed in such form and on such dates and upon payment of such fees as shall be prescribed by the director.] Each filing of an original brand registration schedule shall be accompanied by a non-refundable fee of \$10.00, and each filing of an amendment to a previously filed brand registration schedule shall be accompanied by a non-refundable fee of \$7.00. Such fees shall be payable to the Division of Alcoholic Beverage Control.

(b) All filings shall be made on a form which the director shall provide for the filing of brand registration schedules. Filers, however, may utilize a photocopy of the form.

[13:2-33.3 (Reserved)]

(a)

BOARD OF MEDICAL EXAMINERS

Standards of Practice for a Physician Working with Nurse Anesthetist

Proposed New Rule: N.J.A.C. 13:35-2.15

Authorized By: Edward W. Luka, M.D., President, Board of Medical Examiners.

Authority: N.J.S.A. 45:9-2.

Proposal Number: PRN 1985-193.

Submit comments by May 1, 1985 to: Charles A. Janousek, Executive Secretary Board of Medical Examiners 28 West State Street Trenton, New Jersey 08608

The agency proposal follows:

Summary

The proposed new rule clarifies the circumstances under which a licensed physician may delegate certain anesthesia responsibilities to a non-physician, specifically a certified registered nurse anesthetist (CRNA) and sets forth the minimum requirements for such delegation and for the ongoing supervision of the anesthesia for the protection of patients.

Social Impact

The Board anticipates a beneficial social impact from the proposed new rule in that it will provide more specific guidance to physicians, to nurse anesthetists, and to patients of

the minimum qualifications and training of any individual to whom a licensed physician in this State would be permitted to delegate anesthesia responsibilities. It is believed that virtually all physicians supervising CRNAs are presently observing the requirements established in this rule regarding assurance of minimum training. However, a sufficient number of incidents have come to the Medical Board's attention regarding substance abuse and diversion of Controlled Dangerous Substances by physicians and/or by CRNAs to warrant specifying requirements for chart documentation regarding anesthesia drugs signed out ostensibly for the use of particular patients. Board information also supports the need to specify the maximum number of CRNAs who can reasonably be supervised by one anesthesiologist, in order to assure the likelihood of prompt physician availability in the event of complications arising in a patient undergoing surgery. Other portions of the rule were selected to conform with existing requirements imposed by the New Jersey Board of Nursing. The exception to supervision by an anesthesiologist in subsection (d) is based upon the nature of the patient population involved in the procedures described therein, the difference in health status for patients undergoing those procedures versus those in surgery in acute care hospitals; and the apparent reasonable safety record indicated in lack of reported problems.

Economic Impact

No adverse economic impact is expected because current standards of the professionals in the field of anesthesia appear to largely conform to the requirements of this rule, and Board research discloses that nearly all New Jersey hospitals using nurse anesthetists reported that each of those persons were already certified. To the extent that malpractice or negligence situations would be avoided by observing the requirements of this rule, the economic impact on patients, on clinics and on hospitals will be beneficial.

Full text of the proposed new rule follows.

13:35-2.15 Standards of practice for a physician working with nurse anesthetist

(a) The following words and terms shall have the following meanings unless the context clearly indicates otherwise.

"Anesthesiologist" for the purpose of this rule, shall mean a physician licensed by the New Jersey Board of Medical Examiners, trained and specializing in the practice of anesthesiology, and possessing appropriate privileges at a hospital or other licensed health care facility in New Jersey.

"Certified Registered Nurse Anesthetist" (CRNA) shall mean a registered professional nurse who has completed the educational requirements of the Council on Accreditation of the American Association of Nurse Anesthetists; has passed the certifying examination administered by the American Association of Nurse Anesthetists; and is in current compliance with all certification and recertification requirements of the New Jersey Board of Nursing and of the licensed health care facility where the anesthesia services shall be rendered.

"Registered professional nurse" shall mean a registered professional nurse licensed by the New Jersey Board of Nursing.

(b) An anesthesiologist may permit a registered professional nurse to administer anesthesia to the doctor's patients pursuant to N.J.S.A. 45:9-21(k) under the following circumstances only:

- 1. The registered professional nurse is a CRNA functioning under the supervision of the anesthesiologist; and

2. The anesthesiologist has performed a pre-operative evaluation of the patient; and

3. The anesthesiologist is in the operating suite and within visual and/or auditory range of the CRNA throughout the period of administration of anesthesia; and

4. The anesthesiologist is not supervising more than two CRNAs in cases under anesthesia at the same time; and

5. The anesthesiologist is free from other professional duties at the time of the anesthesia administration by the CRNA; and

6. The CRNA is administering topical anesthesia, endotracheal anesthesia, inhalation or intravenous anesthesia. Only the anesthesiologist shall administer spinal, regional, epidural or caudal anesthesia, or perform any unusual or non-routine anesthesia procedures; and

7. The anesthesiologist is responsible for all services delegated to the CRNA including those rendered in the recovery room; and

8. The anesthesiologist shall assure that specific documentation is made in the patient chart of the services performed by the named CRNA under supervision, in addition to documenting services performed by the anesthesiologist personally; and

9. Chart documentation shall include all controlled drugs signed out, specifying name of patient, identity of drug, quantity signed out, amount used in the procedure, and amount of wastage which shall be properly accounted for according to protocol.

(c) In addition to all of the above circumstances, an anesthesiologist may also permit anesthesia to be administered by a registered professional nurse who is a student in, or an uncertified graduate of, an accredited, organized training program for registered nurse anesthetists recognized by the New Jersey Board of Nursing. Such person shall function under the close supervision of the anesthesiologist. For the purpose of this rule, such student or graduate status shall be deemed to be invalid at such time as is required by the New Jersey Board of Nursing, that is, upon failure to apply and sit for, or failure to pass the first scheduled A.A.N.A. certifying examination following completion of an approved program in nurse anesthesia.

(d) The physician supervising a CRNA need not be an anesthesiologist in the following circumstances only:

1. The procedure is for termination of pregnancy procedures as permitted by N.J.A.C. 13:35-4.2;

2. The surgical procedure is performed in a licensed clinic;

3. The physician is licensed in this State and possesses privileges in a hospital located in the immediate vicinity;

4. The office has an established protocol and ability to initiate immediate emergency measures in the event of anesthesia complication;

5. The physician maintains current certification in advanced cardiac life support, and is properly trained in and responsible for the performance of the anesthesia procedure to be utilized;

6. The physician permits the CRNA to administer the above-said type of anesthesia under the physician's personal direction and supervision.

(e) Performance of any anesthesia procedures by persons, or in circumstances, not complying with this rule shall be deemed engaging in or aiding and abetting the unlicensed practice of medicine, or professional misconduct, as pertinent.

(a)

BOARD OF MORTUARY SCIENCE

Rules of the Board of Mortuary Science

Proposed New Rules: N.J.A.C. 13:36-2.12 and 4.13

Proposed Amendments: N.J.A.C. 13:36-2.10, 4.4, 5.1 and 5.6

Proposed Repeals: N.J.A.C. 13:35-5.9, 6.8, 7.1 and 7.2

Authorized By: Board of Mortuary Science, Paul Ippolito, President.

Authority: N.J.S.A. 45:7-38.

Proposal Number: PRN 1985-189.

Submit comments by May 1, 1985 to:

Maurice W. McQuade

Executive Secretary

Board of Mortuary Science

1100 Raymond Boulevard, Room 513

Newark, New Jersey 07102

The agency proposal follows:

Summary

The Board of Mortuary Science is proposing amendments to four sections of its regulations, two new regulations and the repeal of two sections and one subchapter of its regulations. N.J.A.C. 13:36-2.10 is being amended to delete the provision which allowed interns to apply for permission to extend their period of practical training for a one year period following completion of the statutorily required one or two year period of internship. Proposed new rule N.J.A.C. 13:36-2.12 will provide that no internship may last more than three years. This change is consistent with the recent amendment (eff. August 6, 1984) to N.J.A.C. 13:36-2.1 requiring interns who are serving their internship concurrently with their required completion of two years of college to take a minimum of eight credits a semester. Students taking eight credits per semester in a part time program will thus have completed the required 48 credits in three years. These provisions are designed to avoid lengthy traineeships in which the part-time student-trainee takes only one or two courses a semester and extends his or her traineeship for as many as six years. Not only is this practice administratively burdensome to the Board but it also may result in inadequate academic training for the applicant for licensure.

Pursuant to N.J.S.A. 45:7-55 any person who utilizes a mortuary owned by another in the regular and usual course of his practice of mortuary science must apply for a separate certificate of registration for that mortuary. Proposed new rule N.J.A.C. 13:36-4.13 will permit occasional use of another's mortuary at least three times a year, without the need for registration. At the same time the rule imposes a reporting requirement for such use to enable the Board to determine when such use becomes frequent enough to amount to the kind of regular use that requires a dual registration of the facility. N.J.A.C. 13:36-4.4 is amended to refer to new section 4.13 to make it clear that registration is only required for a facility belonging to another when that use exceeds three times a year.

LAW AND PUBLIC SAFETY**PROPOSALS**

N.J.A.C. 13:36-5.1 has required that all mortuaries have a sign displayed at or near the entrance to the premises containing the name of the licensed manager and his or her title "manager" in letters not less than one and one half inches in height. This sign was required to be clearly visible from the street. However, many modern establishments are set back from the street and landscaped in such a way that the requirement that the manager's name be visible from the street is very burdensome. The Board determined that the purpose of the rule, which is to ensure that clients of funeral homes be informed about the identity of the licensee in charge, can be effectuated by the less burdensome requirement of a sign of a reasonable size at the entrance of the establishment without requiring that it be visible to all passersby on the street.

Similarly, the Board determined that licensees who prefer the title "senior director" to "manager" may use that title on the sign and in other forms of advertising since the use of the alternative title also clearly designates the person who is in charge. The Board is therefore proposing to amend N.J.A.C. 13:36-5.1 to eliminate the requirement that the sign be visible from the street and to permit the use of the alternative title "senior director".

N.J.A.C. 13:36-6.8 has required that all equipment used in the preparation room be kept in a sanitary manner and sterilized after each use. The Board is proposing to repeal this section and add these same requirements to N.J.A.C. 13:36-5.6 which describes the equipment necessary for preparation rooms to make it clear that the equipment referred to in section 6.8 is that described in section 5.6.

N.J.A.C. 13:36-5.9 is proposed for repeal as an obsolete rule since the problem it was designed to address, that of a licensee attempting to manage two establishments in locations separated "in distance and time" has not arisen in recent years because of the improvements in the State highway systems and in communications generally. Licensees attempting to register as licensed managers for more than one mortuary will, of course, still be responsible to be available to personally supervise and control each establishment pursuant to N.J.S.A. 45:7-61(d).

N.J.A.C. 13:36-7 is being proposed for repeal. Sections 7.1 and 7.2 have provided that the Board could investigate and inspect embalming schools and that such schools were required to report to the Board when students were dismissed or suspended. Pursuant to N.J.S.A. 45:7-49 applicants for licensure as practitioners of mortuary science must have been trained for one year in a school of mortuary science approved by the Board, but the Board has no authority to license or regulate such schools. In fact, at the present time the only "schools" offering courses in mortuary science in New Jersey are under the control of the Department of Higher Education. Therefore this subchapter is being proposed for repeal since it is obsolete and unnecessary.

Social Impact

The repeal of subchapter 7. concerning embalming schools and N.J.A.C. 13:36-5.9 concerning the management of two or more branch mortuaries by the same licensees will have no social impact since these regulations are obsolete and unnecessary. The repeal of N.J.A.C. 13:36-6.8 and the placement of its requirements in amended N.J.A.C. 13:36-5.6 will also have no impact except that of clarification of the regulations.

The changes in subchapter 2. which prohibit extension of the period of licensed internship for applicants for licensure will impact on those applicants who wish to serve their internship concurrently with their college education in that they will

no longer be able to extend a concurrent internship for more than three years. They will, of course, still be able to attend college on a part-time basis for longer than three years, but in cases where the required minimum of eight credits is not maintained, the internship will have to be served subsequent to the completion of the equivalent of the required two years of college and in no case will more than three years of internship be permitted. These proposed changes will ease the administrative burden of the Board in monitoring extended internships and will ensure that all applicants have adequate practical training and academic training.

The proposed amendment to N.J.A.C. 13:36-5.1 will eliminate an unnecessarily burdensome requirement concerning licensee's signs and permit an alternative title to be used by establishment "managers" without any adverse impact on the Board or the public who will still be adequately informed of the identity of the licensee responsible for the management and supervision of each funeral home.

The amendments proposed for subchapter 4 will impose a minimally burdensome reporting requirement on funeral directors who use a funeral home owned by another. At the same time such licensees are benefitted by the provisions of N.J.A.C. 13:36-4.13 which effectively interpret when dual registration is required for a funeral home which is used by more than one funeral director pursuant to N.J.S.A. 45:7-55. The reporting requirement will assist the Board in the enforcement of the provisions of N.J.S.A. 45:7-55.

Economic Impact

The proposed repeals of N.J.A.C. 13:36-5.9, 7.1 and 7.2 will have no economic impact since these rules are obsolete and unnecessary. The repeal of section 6.8 and the placement of its requirements in section 5.6 will also have no economic impact.

The proposed changes in subchapter 2 which prohibit extension of registered internship beyond three years may have an economic impact on interns who had in the past been able to combine part time attendance at college with work as an intern in a funeral parlor for a longer period of time. However, only a one or two year internship is required for licensure and the three years now permitted by the Board should be adequate for most student-interns in the concurrent program to complete their academic requirements while working at a funeral parlor. The proposed change should have a beneficial economic impact on the Board in that the administrative costs of monitoring the internship program will be lessened.

The proposed amendments to section 5.1 will ease the economic burden on some funeral parlors of maintaining signs containing the name of the firm manager in letters large enough to be visible from the street.

The reporting requirement of proposed new section 4.13 will impose a minimal economic burden on licensees who wish to use another's funeral parlor occasionally, but this burden is necessary to enable the Board to effectively enforce the statutory provision concerning dual registrations.

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

13:36-2.10 Return of intern identification card

Upon completion or termination of an internship for any reason, the intern shall be charged with the responsibility of returning his intern identification card immediately to the Board. [When an internship is completed and the intern is eligible for examination, permission may be requested to carry the intern card and to continue the period of practical

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training for a period not exceeding one year from the date the required internship is completed.]

13:36-2.12 [(Reserved)] Extension of internship

No intern shall be permitted to continue his or her period of practical training as a registered intern for more than three years.

13:36-4.4 New installations

(a) **Except as provided in N.J.A.C. 13:44-4.13, [A]ny person desiring to operate, maintain or use a mortuary after adoption of these rules and regulations, shall first apply to the Board for a new installation inspection and an application for certificate of registration.**

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

13:36-4.13 Use of a registered mortuary owned by another

(a) **A person who owns a registered mortuary may use another registered mortuary without obtaining a certificate of registration or complying with new funeral home installation requirements, provided, however, that the number of times an owner may permit such use of the owner's mortuary by another or that the owner of a registered mortuary shall use a mortuary owned by someone else shall be limited to three times a year, regardless of location. The Board may waive this limit upon receipt of a special application showing good cause for the waiver.**

(b) **All parties involved in such a special use agreement shall immediately forward written notice to the Board by certified mail before each use of the establishment. This notice shall include the following information:**

- 1. Title and address of the firm being used and the name of the manager;**
- 2. The name and address of the firm using the establishment and the name of the licensee in charge;**
- 3. Name of decedent and date of death;**
- 4. The exact date(s) the establishment is to be used; and**
- 5. A brief explanation of why the facility is needed.**

(c) **The name of the establishment using the facility is not to be inserted in obituary and death notices unless the name of the firm registered at that location is also inserted.**

13:36-5.1 Display of "Manager" sign

(a) **Whenever a firm is required to be operated under the supervision, management and control of a licensed manager, the name of the manager shall be conspicuously displayed with the title "manager" on a sign at or about the main entrance of the establishment or on the firm sign, provided, however, that at the option of the firm the term "senior director" may be substituted for "manager". This sign shall contain legible letters that are no less than 1-1/2 inches in height.**

[(b) Said sign shall be clearly visible from the street, and shall contain legible letters that are no less than 1-1/2 inches in height.]

[(c)] (b) **The name of the licensee in charge must also appear with the title "manager" or "senior director" on all stationery, billheads, advertising and in all other instances where the firm name is used.**

[(d)] (c) **Whenever the manager's services are terminated, the Board is to be notified, in writing, immediately by the manager and the establishment.**

13:36-5.6 Equipment requirements

(a) (No change.)

(b) **All instruments and appliances used in embalming shall be thoroughly cleansed and sterilized immediately after the conclusion of each individual case.**

13:36-5.9 [Branch mortuaries] (Reserved)

(a) **On application by licensees to conduct a branch mortuary, in determining whether the mortuary shall be under the immediate and personal supervision, direction, management and control of the licensee as the branch manager thereof, the Board may take into consideration:**

- 1. The distance in time and space between the mortuaries to be managed;**
- 2. The average annual volume or contemplated case volume of the respective mortuaries;**
- 3. The opportunity of said licensee in person, without intervention of another, to deal directly with the clientele of the mortuary;**
- 4. The physical condition and ability of the licensee to supervise, direct, manage and control more than one mortuary, other vocations and business activities of the licensee.]**

13:36-6.8 [Sterilizing instruments] (Reserved)

All instruments and appliances used in embalming shall be thoroughly cleansed and sterilized immediately after the conclusion of each individual case.]

SUBCHAPTER 7. [EMBALMING SCHOOLS] (RESERVED)

[13:36-7.1 Investigation and inspection

The Board may make or cause to be made such investigation or inspections of embalming schools as it may deem necessary.

13:36-7.2 Notice of suspension of students

If at any time a school shall dismiss or suspend a student it shall immediately notify the State Board of Mortuary Science, in writing, and furnish a statement of the reasons which resulted in such action.]

(a)

BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Reporting of Incidents of Professional Misconduct; Notification of Change of Address; Service of Process; Preparation of Land Surveys

Proposed New Rules: N.J.A.C. 13:40-3.2 and 13:40-4.1

Proposed Amendment: N.J.A.C. 13:40-5.1

Authorized By: New Jersey Board of Professional Engineers and Land Surveyors, Marcia Forman, President.

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

Proposal Number: PRN 1985-190.

Submit comments by May 1, 1985 to:

**Cathleen A. McCoy,
Secretary Director
State Board of Professional Engineers and
Land Surveyors
1100 Raymond Boulevard, Room 317
Newark, New Jersey 07102**

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The agency proposal follows:

Summary

The proposed new rule, N.J.A.C. 13:40-3.2, would require a licensee of the Board of Professional Engineers and Land Surveyors, having knowledge of or reason to believe that a violation of a statute or rule administered by the Board has occurred, to report such incident to the Board and cooperate in any further proceedings as required.

The proposed new rule, N.J.A.C. 13:40-4.1, would require a licensee to notify the Board, by certified mail, return receipt requested, of any change of address within 30 days following such change of address.

The proposed amendment to N.J.A.C. 13:40-5.1(d)3 is simply a codification of the Board's interpretation of a rule requiring that all property corner markers set by licensed surveyors, including those monuments set pursuant to the map filing law, be identified with a durable cap, disc or shiner bearing the name of the survey or firm responsible for setting such corner.

Social Impact

Proposed rule N.J.A.C. 13:40-3.2 should have a positive social impact by assuring that licensees who might otherwise be reluctant to report known or probable violations of the professional misconduct rules will be put on notice of their affirmative duty to do so. In many instances, known violations may only be apparent to other licensees of the Board. Unless reported by licensees, such violations may never be addressed and corrected.

Various other professions, including, for example, attorneys, have rules of professional conduct requiring the reporting of professional misconduct by other such professionals. The experience of the bar has generally been positive in improving the quality of services to the public by assuring that known violations will be reported.

Proposed new rule N.J.A.C. 13:40-4.1 clarifies the responsibility of a Board licensee to notify the Board as to any change of address. From time to time, it is necessary for the Board to contact its licensees. For example, the Board periodically publishes a roster which includes the current rules and regulations. Keeping a current address on file with the Board thus assures receipt of a roster and gives a licensee notice of all current rules and statutes governing the practice of his or her profession. Although application forms and biennial renewal forms specify that any changes in address must be communicated to the Board, the proposed rule will place an affirmative duty on a licensee to provide such notice and failure to comply may result in disciplinary action pursuant to N.J.S.A. 45:1-21(h).

The proposed amendment to N.J.A.C. 13:40-5.1(d)3 codifies the Board's interpretation of this provision to require that monuments set pursuant to the map filing law be identified with a durable caps, disc or shiner bearing the name of the surveyor or firm responsible for its setting. Such identification should have a positive social impact in improving the quantity and quality of evidence available to a subsequent surveyor. Comparison of monuments noted on a filed map with those found in the field and bearing the name of the surveyor or firm who performed the original subdivision survey and prepared the filed map will assure the subsequent surveyor that he or she has located the strongest evidence available for the establishment of the boundaries of the property in question.

Thus, the proposed rule will improve the quality of surveys to the public and, in many instances, may lessen the chances

of inconsistent or insufficient evidence resulting in a boundary dispute.

Economic Impact

The proposed rule requiring licensees to report instances of professional misconduct should have no adverse impact on the public. To the extent that professional services to the public may be improved through the appropriate disciplinary of known rule violators, the public may benefit economically.

The proposed rule requiring licensees to notify the Board of a change of address should have no significant economic impact on the public.

The amendment to the land surveyor rule clarifying the requirement that monuments set pursuant to the map filing law bear an identifying disc, cap or shiner should ultimately have a positive economic impact on the public. The immediate cost of a survey to a developer might increase by a few dollars. The cost for the identifiable markers to attach to monuments is approximately \$1.00 each and the total increase in cost to the surveyor for a typical four-sided lot would be limited to \$5.00 or \$6.00, multiplied by the number of lots within the subdivision. Ultimately, however, the benefit to the consumer would be substantial inasmuch as property corners of individual lots within subdivisions would be clearly marked. In addition to assuring the accuracy of the survey, a surveyor need spend less time investigating available evidence in the field to be assured that he or she has found the strongest piece of evidence for the establishment of the proper boundary. Moreover, identification of the original surveyor on the monument would alert a subsequent surveyor as to whom he or she can contact to do proper research in preparation of a survey or if a question arises.

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

13:40-3.2 Reporting incidents of professional misconduct

If a licensee has knowledge or reason to believe that another person or firm may be in violation of or has violated any of the statutes or rules administered by the Board of Professional Engineers and Land Surveyors, he or she shall present such information to the Board in writing and shall cooperate with the Board in furnishing such information or assistance as may be required by the Board.

SUBCHAPTER 4. [FORMS] GENERAL PROVISIONS

13:40-4.1 Notification of change of address; service of process

(a) A licensee of the Board of Professional Engineers and Land Surveyors shall notify the Board in writing of any change of address from that currently registered with the Board and shown on the most recently issued certificate. Such notice shall be sent to the Board by certified mail, return receipt requested, not later than 30 days following the change of address.

(b) Failure to notify the Board of any change of address pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h).

(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.

[13:40-4.1] **13:40-4.2** Uniform penalty letter
(No change.)

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13:40-5.1 Land surveyors; preparation of land surveys

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

(d) (No change.)

1.-2. (No change.)

3. In all cases listed in (d)2 above, **including monuments set in accordance with the map filing law**, the marker shall be identified with a durable cap, disc, or shiner, etc., bearing the name of the surveyor or firm responsible for setting the corner.



BOARD OF SHORTHAND REPORTING

Proposals numbered PRN 1985-191 and 192 are authorized by the State Board of Shorthand Reporting, Theodore Formaroli, President.

Submit comments by May 1, 1985 to:

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

(a)

Conditional Credit Rule

Proposed New Rule: N.J.A.C. 13:43-3.4

Authority: N.J.S.A. 45:15B-1 and -3.

Proposal Number: PRN 1985-191.

The agency proposal follows:

Summary

The proposed new rule allows candidates for Certified Shorthand Reporting certification to earn conditional credit for passing two sections of the examination provided they receive at least a grade of 93 percent in the one remaining section failed. The conditional credit may be carried only for six consecutive examinations, at which time the credit will be forfeited.

Social Impact

For a long time there have been complaints that the Certified Shorthand Reporting examination was made too difficult to pass as evidenced by the continually low passing rate. The prospect of failure had the effect of discouraging candidates from sitting for repeated examinations and decreasing the number of qualified certified shorthand reporters in this State. The proposed new rule will have a favorable social impact on the public because it will encourage candidates to sit for the Certified Shorthand Reporting examination until they pass the entire examination. The rule will also serve to increase the number of certified shorthand reporters in this State without sacrificing minimal standards of proficiency necessary to function as a certified shorthand reporter in this State.

Economic Impact

The economic impact of this rule will be favorable. It will most likely lessen the number of times applicants will sit for the licensing examination and it will therefore lessen the time,

effort and money spent by the Board in processing these repeated applications.

Full text of the proposed new rule follows.

13:43-3.4 Conditional credit rule

(a) A candidate who passes two sections of the examination (by attaining at least 95 percent on each) may receive conditional credit for passing these sections provided a grade of at least 93 percent is received in the one remaining section failed.

(b) In the event that a candidate fails to receive a passing grade in the one remaining section for six examinations immediately following the examination at which conditional credit was earned, the candidate shall forfeit the conditional credit and shall revert to the status of a new applicant.



(b)

Change of Address

Proposed New Rule: N.J.A.C. 13:43-3.5

Authority: N.J.S.A. 45:15B-1.

Proposal Number: PRN 1985-192.

The agency proposal follows:

Summary

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

Social Impact

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

Economic Impact

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

Full text of the proposed new rule follows.

13:43-3.5 Change of address

A licensee of the Board of Shorthand Reporting shall notify the Board in writing of any change of address from that currently registered with the Board and shown on the most recently issued license. Such notice shall be given not later than 30 days following the change of address.



PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Pleadings Generally; Formal Requirements for Pleadings

Proposed Amendments: N.J.A.C. 14:1-5.2 and 5.3

Authorized By: Board of Public Utilities, Barbara A. Curran, President.

Authority: N.J.S.A. 48:2-12.

Proposal Number: PRN 1985-178.

Submit comments by May 1, 1985 to:

Michael S. Keszler
Assistant Secretary II
Board of Public Utilities
1100 Raymond Boulevard
Newark, New Jersey 07102

The agency proposal follows:

Summary

The proposed amendments change two of the formal requirements for pleadings and other papers filed with the Board of Public Utilities.

The current requirement of N.J.A.C. 14:1-5.2(a) is that all papers filed with the Board shall be 8¹/₂ × 13 inches in size. The amended version changes the paper size to 8¹/₂ × 11 inches.

The current requirement of N.J.A.C. 14:1-5.3(a) is that an original and three copies of a pleading must be filed. The amended version requires ten copies to be filed.

Social Impact

The amendment to N.J.A.C. 14:1-5.2 will bring the Board's requirements into conformity with the requirements of the State courts.

The amendment to N.J.A.C. 14:1-5.3 will permit the Board of Public Utilities to act more efficiently upon matters filed. Due to re-organization of the Board's staff, three copies of a filing are no longer sufficient.

Economic Impact

There is no economic impact expected as a result of the amendment to N.J.A.C. 14:1-5.2 since the required size paper is standard and in common use.

The impact of the amendment to N.J.A.C. 14:1-5.3 is expected to be slight as the cost of document reproduction is small, and the availability of the necessary equipment is widespread.

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

14:1-5.2 Formal requirements for pleadings

(a) The form and size for pleadings shall be as follows:

1. Except where otherwise specifically provided, all pleadings and other papers filed under these rules shall be typewritten or printed, cut or folded to 8¹/₂ × [13] **11** inches size,

with the left-hand margin 1¹/₄ inches, and shall be bound or fastened on the upper left-hand corner;

(b)-(f) (No change.)

14:1-5.3 Number of copies

(a) Unless otherwise required by the Board, there shall be filed with the Board for its own use, an original and [three] **ten** conformed copies of each pleading or other paper and amendment thereof.

(b) (No change.)

TRANSPORTATION

(b)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Routes 17 (Ridge Road) in Bergen County,
28 in Somerville, U.S. 30 in Camden and
Atlantic counties, 33 in Mercer County, 47
in Cumberland County, 71 in Monmouth
County, 77 in Cumberland County, U.S.
206 in Somerset and Mercer counties, and
U.S. 40-322 in Atlantic County**

Proposed Amendments: N.J.A.C.

**16:28A-1.9, 1.19, 1.21, 1.23, 1.33, 1.38,
1.41 and 1.57**

Proposed New Rule: N.J.A.C. 16:28A-1.104

Authorized By: John P. Sheridan Jr., Commissioner,
Department of Transportation.

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

Proposal Number: PRN 1985-172.

Submit comments by May 1, 1985 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments and new rule will establish "no parking" and "no parking bus stop" zones along Routes 17 (Ridge Road) in North Arlington Borough, Bergen County; 28 in Somerville; U.S. 30 in Oaklyn Borough, Camden County and Absecon City, Atlantic County; 33 in Hamilton Township, Mercer County; 47 in Millville City, Cumberland County; 71 in Deal Borough, Monmouth County; 77 in Upper Deerfield, Cumberland County; U.S. 206 in Hamilton Township, Mercer County and in Somerville Borough, Somerset County; and U.S. 40-322 in Pleasantville City, Atlantic

County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops. Additionally, a time limit parking zone is established along Route 71 in Deal Borough, Monmouth County where parking will be limited to two hours between the hours of 8:00 A.M. and 8:00 P.M.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "Time Limit Parking," "no parking" and "no parking bus stop" zones along the Routes indicated were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.9, 1.19, 1.21, -1.23, -1.33, -1.38, -1.41 and -1.57 and add new rule N.J.A.C. 16:28A-1.104 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments and new rule will establish "no parking" and "no parking bus stop" zones along Routes 17 (Ridge Road) in North Arlington Borough, Bergen County; 28 in Somerville; U.S. 30 in Oaklyn Borough, Camden County and Absecon City, Atlantic County; 33 in Hamilton Township, Mercer County; 47 in Millville City, Cumberland County; 71 in Deal Borough, Monmouth County; 77 in Upper Deerfield, Cumberland County; U.S. 206 in Somerville Borough, Somerset County and in Hamilton Township, Mercer County; U.S. 40-322 Pleasantville City, Atlantic County and a Time Limit Parking zone along Route 71 in Deal Borough, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no parking" zone signs and the local officials for "time limit parking" and "no parking bus stop" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.9 Route 17

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

(c) **The certain parts of State highway Route 17 (Ridge Road) described in this section shall be designated and established as "no parking" zones for street cleaning purposes during certain designated days and hours except as provided in N.J.S.A. 39:4-139. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs.**

1. No parking (Street Cleaning) in North Arlington Borough, Bergen County:

i. No parking 7:00 A.M. to 8:00 A.M. Tuesday and Friday, along the east side entire length of Ridge Road.

ii. No parking 7:00 A.M. to 8:00 A.M. Monday and Wednesday, along the west side entire length of Ridge Road.

16:28A-1.19 Route 28

(a) (No change.)

(b) The certain parts of State highway Route 28 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-14. (No change.)

15. Along the southerly (eastbound) side in Somerville Borough, Somerset County:

i. Far side bus stops:

(1) South Doughty Avenue (110 feet)

(2) South Bridge Street (11 feet)

(3) Hamilton Street (110 feet)

16. Along the northerly (westbound) side in Somerville Borough, Somerset County:

i. Far side bus stops:

(1) North Gaston Avenue (150 feet)

(2) Davenport Street (100 feet)

(3) North Doughty Avenue (90 feet)

ii. Near side bus stop:

(1) Grove Street (166 feet)

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

16:28A-1.21 Route U.S. 30

(a) (No change.)

(b) The certain parts of State highway Route U.S. 30 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1. (No change.)

2. Along the [E]eastbound on the southerly side [thereof] in [the City of] Absecon City, Atlantic County:[at:]

i. Near side bus stop:

[i.](1) Station Avenue [(nearside)]-[b]Beginning at the westerly curb line of Station Avenue and extending 105 feet westerly therefrom.

ii. Far side bus stop:

(1) Michigan Avenue—Beginning at the prolongation of the easterly curb line of Michigan Avenue and extending 100 feet easterly therefrom.

3. Along the westbound on the northerly side in Absecon City, Atlantic County:

i. Near side bus stop:

(1) Michigan Avenue—Beginning at the easterly curb line of Michigan Avenue and extending 105 feet easterly therefrom.

4. Along (White Horse Pike) southbound on the westerly side in Oaklyn Borough, Camden County:

i. Near side bus stop:

(1) West Holly Avenue (105 feet);

ii. Far side bus stop:

(1) West Clinton Avenue (140 feet);

5. Along (White Horse Pike) northbound on the easterly side in Oaklyn Borough, Camden County:

i. Far side bus stop:

(1) Haddon Avenue (100 feet);

(2) Beechwood Avenue (100 feet);

6. Along (White Horse Pike) westbound on the northerly side in Berlin Borough, Camden County:

i. Mid-block bus stops:

(1) Taunton Road—Beginning at a point 250 feet west of the westerly curb line of Taunton Road and extending 135 feet westerly therefrom.

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(2) Linden Avenue—Beginning 236 feet east of the prolongation of the easterly curb line of Linden Avenue and extending 135 feet easterly therefrom.

(3) Florence Avenue—Beginning 275 feet west of the prolongation of the westerly curb line of Florence Avenue and extending 135 feet westerly therefrom.

(4) Washington Avenue near Berlin Fire Company—Beginning 160 feet east of the easterly curb line of Washington Avenue and extending 135 feet easterly therefrom.

(5) Franklin Avenue in front of Mt. Carmel Church—Beginning 222 feet east of the easterly curb line of Franklin Avenue and extending 135 feet easterly therefrom.

ii. Far side bus stops:

(1) East Taunton Avenue—Beginning at the westerly curb line of East Taunton Avenue and extending 105 feet westerly therefrom.

(2) Broad Avenue—Beginning at the westerly curb line of Broad Avenue and extending 105 feet westerly therefrom.

(3) Thackara Avenue in front of Municipal Building—Beginning at the prolongation of the westerly curb line of Thackara Avenue and extending 116 feet westerly therefrom.

(4) North Cedar Avenue—Beginning at the westerly curb line of North Cedar Avenue and extending 105 feet westerly therefrom.

(5) North Arlington Avenue—Beginning at the westerly curb line of North Arlington Avenue and extending 105 feet westerly therefrom.

(6) Ellis Avenue—Beginning at the prolongation of the westerly curb line of Ellis Avenue and extending 105 feet westerly therefrom.

iii. Near side bus stops:

(1) Cross Keys Road—Beginning at the easterly curb line of Cross Keys Road and extending 105 feet easterly therefrom.

(2) Dill Avenue—Beginning at the easterly curb line of Dill Avenue and extending 105 feet easterly therefrom.

(3) Malan Avenue—Beginning at the easterly curb line of Malan Avenue and extending 105 feet easterly therefrom.

7. Along (White Horse Pike) eastbound on the southerly side in Berlin Borough, Camden County:

i. Far side bus stops:

(1) South Arlington Avenue—Beginning at the westerly curb line of South Arlington Avenue and extending 105 feet easterly therefrom.

(2) Dill Avenue—Beginning at the prolongation of the easterly curb line of Dill Avenue and extending 105 feet westerly therefrom.

(3) Cross Keys Road—Beginning at the easterly curb line of Cross Keys Road and extending 105 feet easterly therefrom.

(4) East Taunton Avenue—Beginning at the easterly curb line of East Taunton Avenue and extending 105 feet easterly therefrom.

(5) Broad Avenue—Beginning at the easterly curb line of Broad Avenue and extending 105 feet easterly therefrom.

ii. Mid-block bus stops:

(1) Washington Avenue—beginning 160 feet east of the easterly curb line of Washington Avenue and extending 135 feet easterly therefrom.

(2) Florence Avenue in front of K-Mart—Beginning 322 feet west of the westerly curb line of Florence Avenue and extending 135 feet easterly therefrom.

(3) Linden Avenue in front of Hospital—Beginning 236 feet east of the easterly curb line of Linden Avenue and extending 135 feet easterly therefrom.

(4) Taunton Road—Beginning 150 feet west of the westerly curb line of Taunton Road and extending 135 feet westerly therefrom.

iii. Near side bus stops:

(1) Ellis Avenue—Beginning at the westerly curb line of Ellis Avenue and extending 105 feet westerly therefrom.

(2) Malan Avenue—Beginning at the prolongation of the westerly curb line of the Malan Avenue and extending 105 feet westerly therefrom.

(3) North Cedar Avenue—Beginning at the prolongation of the westerly curb line of North Cedar Avenue and extending 105 feet westerly therefrom.

(4) Thackara Avenue—Beginning at the westerly curb line of Thackara Avenue and extending 105 feet westerly therefrom.

16:28A-1.23 Route 33

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

(c) The certain parts of State highway Route 33 described in [(c) of] this section shall be [and hereby are] designated and established as “no parking” zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is [hereby] granted to erect appropriate signs at the following established bus stops:

1.-3. (No change.)

4. Along (Greenwood Avenue—Nottingham Way) on the northerly (westbound) side in Hamilton Township, Mercer County:

i. Mid-Block bus stop:

(1) Ward Avenue—Beginning at a point 400 feet west of the westerly curb line of Ward Avenue and extending 135 feet west therefrom.

ii. Near side bus stop:

(1) Klockner Road—Beginning at the easterly curb line of Klockner Road to a point 120 feet east therefrom.

16:28A-1.33 Route 47

(a) (No change.)

(b) The certain parts of State highway Route 47 described in this section shall be designated and established as “no parking” zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1. (No change.)

2. Along the northbound (easterly) side in the City of Millville, Cumberland County:

i. Near side bus stop:

(1) East Vine Street—Beginning at the southerly curb line of East Vine Street and extending 105 feet southerly therefrom.

16:28A-1.38 Route 71

(a) The certain parts of State highway Route 71 described in this section are designated and established as “no parking” zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-6. (No change.)

7. No stopping or standing in Deal Borough, Monmouth County:

i. (No change.)

ii. Along the westerly (southbound) side:

(1) From 40 feet north of, to 40 feet south of the following intersections:

(A)-(B) (No change.)

(C) Parker Avenue.

(D) Phillips Avenue.

iii. Along the easterly (northbound) side:

(1) From the northerly curb line of Roosevelt Avenue to the Deal Borough—City of Long Branch Corporate Line.

(2) From 40 feet south of, to 40 feet north of the following intersections:

- (A) Brighton Avenue
- (B) Phillips Avenue
- (C) Poplar Avenue
- (D) Morgan Avenue
- (E) Parker Avenue

8.-9. (No change.)
 (b) (No change.)

(c) The certain parts of State highway Route 71 described in this section shall be designated and established as "Time Limit Parking" zones where parking is prohibited except as specified. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established Time Limit Parking Zones:

1. Time limit parking zone—2 hours, 8:00 A.M. to 8:00 P.M. in Deal Borough, Monmouth County:

- i. Along the east side (Norwood Avenue):
- (1) Between Poplar Avenue and Roosevelt Avenue.

16:28A-1.41 Route 77

(a) (No change.)

(b) The certain parts of State highway Route 77 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-2. (No change.)

3. Along the southbound (westerly) side in Upper Deerfield, Cumberland County:

i. Far side bus stop:

(1) Parsonage Road—Beginning at the southerly curb line of Parsonage Road and extending 100 feet southerly therefrom.

ii. Mid-block bus stop:

(1) Between Cornwell Drive and Logan Lane—Beginning 449 feet south of the southerly curb line and extending 135 feet southerly therefrom.

4. Along the northbound (easterly) side in Upper Deerfield, Cumberland County:

i. Mid-block bus stop:

(1) Between Landis Avenue and Rasenhayn Avenue—Beginning 440 feet south of the southerly curb line of Landis Avenue and extending 135 feet southerly therefrom.

ii. Near side bus stop:

(1) Parsonage Road—Beginning at the southerly curb line of Parsonage Road and extending 105 feet southerly therefrom.

(c) (No change.)

16:28A-1.57 Route U.S. 206

(a) The certain parts of State highway Route U.S. 206 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-24. (No change.)

25. No stopping or standing in Somerville Borough, Somerset County:

i. Along both sides:

(1) For the entire corporate limits of Somerville Borough, including all ramps and connections.

(b) The certain parts of State highway Route US 206 described [herein below] in this section shall be [, and hereby are,] designated and established as "no parking" zones where parking is prohibited at all times. [and in] In accordance with

the provisions of N.J.S.A. 39:4-199 permission is [hereby] granted to erect appropriate signs at the following established bus stops:

1.-9. (No change.)

10. Along the northerly (westbound) side (South Broad Street) in Hamilton Township, Mercer County:

i. Mid-block bus stop:

(1) Beech Avenue—Beginning at a point 130 feet west of the westerly curb line of Beech Avenue and extending 135 feet therefrom.

16:28A-1.104 Route U.S. 40-322

(a) The certain parts of State highway Route U.S. 40-322 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Pleasantville City, Atlantic County:

i. Along both sides (Black Horse Pike).

(1) Beginning at a point 700 feet west of the westerly curb line of Chestnut Avenue and extending easterly to a point 100 feet east of the easterly curb line of Hampden Court.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Police and Firemen's Retirement System Expiration of Chapter

Proposed Readoption as a New Rule: N.J.A.C. 17:4

Authorized By: Police and Firemen's Retirement System, Anthony Ferrazza, Secretary.

Authority: N.J.S.A. 43:16A-13(7).

Proposal Number: PRN 1985-175.

Submit comments by May 1, 1985 to:

Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions
20 West Front Street
CN 295
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), the Division of Pensions proposes to readopt N.J.A.C. 17:4 which expires on April 1, 1985. Because of the expiration of the rules, the current text found in the Code is being readopted as a new rule.

N.J.A.C. 17:4 contains the administrative rules governing the Police and Firemen's Retirement System. Such rules clarify and expand the mandates set forth in N.J.S.A. 43:15A-1 et

seq. concerning the benefits, requirements, related programs, etc., for members of the PFRS.

Chapter 4 contains seven subchapters dealing with administration, enrollment, insurance and death benefits, membership, purchases and eligible service, retirement and transfers. All eligible employees of the State, counties or municipalities who are employed in the covered positions specified in N.J.S.A. 43:16A-1 et seq. are required to enroll in the PFRS as a condition of employment.

The statutes cannot possibly consider all of the possible issues that may arise in the administration of the program and in the proper administration of the monies appropriate to the coverage provided under the plan. In such cases, regulations are required to do equity whenever the statute is silent or when the statute only generally supplies the specifics and is often subject to interpretation by the courts and the opinions of the Attorney General's office. Thus, rules are required and will always be required to provide equity, uniformity of treatment and administrative efficiency.

With every opinion of the Attorney General's office, an interpretation by the courts or a change in the statute, the rules are reviewed for the purpose of determining their continued applicability. All of the regulations are reviewed at least annually to determine compliance with the latest court and Attorney General's opinions, to improve upon the language, to clarify any issues which may have arisen in the course of the previous 12 months and to ensure the implementation of such rules in the day-to-day activities of the several bureaus of the Division of Pensions.

The Division of Pensions appreciates the significance of Executive Order Number 66(1978) and its review of the regulations has always been with the view of curtailing any rules which are no longer necessary because of changes in the statutes which may have implemented what had previously been only regulation or where the courts have disposed of the issue or where it was disposed of by opinions of the Attorney General, so that the regulation was deemed to be unnecessary. The most recent review of these rules indicates that they are still necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were promulgated. As the rules are adopted or amended for re-adoption, public comment and review are received. The Division is satisfied that such comments have been properly considered in the language of the current regulations to be readopted.

Social Impact

The rules in Chapter 4, as are the rules of all programs administered by the Division of Pensions, are pertinent to past and present participants in the Police and Firemen's Retirement System.

As a large financial undertaking involving the receipt of cash, the proper consideration of claims and the audited review of disbursements are all within the prescriptions of the regulations which have been adopted, explaining or interpreting the provisions of law, or providing for the proper administration of the program where the law is silent. Certainly, in terms of the large amounts of money and the very large numbers of people involved, every effort must be made to assure that there is a lack of discrimination in the performance of the program and that it services the beneficiaries equitably and uniformly.

Economic Impact

The Police and Firemen's Retirement System is established on an actuarially determined basis so that the proper employer contributions are made long before the money is needed to provide the benefits which have been promised. As a result, the money that is required to be established is much smaller than if there were no prefunding because the monies are invested and such earnings meet the contingencies required of the program.

If the rules contained in Chapter 4 were not readopted, then chaos would follow because the Division could not cite such rules in clarifying the policy of the board of trustees among the host of issues which the rules are designed to cover. While the proposed amendments have not yet been adopted, the program is continued by legislation and, in fact, there are several amendments to the statutes made each year which bear on this program. As a result, the opportunity for designing the best possible program requires changes and this leads to periodic alteration in the regulations which have been adopted. Without their re-adoption, it would be difficult to maintain a fair, equitable and cost effective administration of the program. The Division would find itself in court concerning disputes dealing with inequitable treatment and it would be involved with substantially increased costs of administration.

Full text of the proposed re-adoption appears in the New Jersey Administrative Code at N.J.A.C. 17:4.

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF RURAL RESOURCES

State Soil Conservation Committee Soil and Water Conservation Project Cost Sharing: Procedural Rules

Adopted New Rule: N.J.A.C. 2:90-3

Proposed: January 7, 1985 at 17 N.J.R. 7(a).

Adopted: March 11, 1985 by Arthur R. Brown, Jr.,
Chairman, State Soil Conservation Committee.

Filed: March 11, 1985 as R.1985 d.158 **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. 4:24-3 and 4:1C-24.

Effective Date: April 1, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): April 1, 1990.

Summary of Public Comments and Agency Responses:

The State Soil Conservation Committee (SSCC) has received written and oral comments regarding the proposal. The comments and responses were reviewed and are as follows:

Comment: Forest management practices should be included in the definition of "farm conservation plan."

Response: Language has been added under the definition of "farm conservation plan" in 2:90-3.2 to accomplish this. The addition highlights the availability of forest management practices (see N.J.A.C. 2:90-2.20 through 2.22).

Comment: Add and define the terms "soil and water conservation practice."

Response: The term "soil and water conservation practice" has been added and defined in 2:90-3.2; and has been made for purposes of clarification.

Comment: Identify where copies of standards and specifications can be obtained.

Response: The location of standards and specifications has been identified in the definition of standards and specifications in 2:90-3.2.

Comment: Add and define the term "system."

Response: The term "system" has been added and defined in 2:90-3.2.

Comment: Specify that agents responsible for technical standards and specifications shall be qualified by the SSCC.

Response: The Department is considering the formulation of language that will address this issue.

Comment: There should be a way for a farmer to investigate the feasibility of projects approved prior to formal enrollment in a Farmland Preservation Program.

Response: Language has been added in 2:90-3.3 to accommodate for this in an informal manner.

Comment: Clarify authority to establish local priorities regarding the installation of projects.

Response: New language has been added in 2:90-3.4 to indicate that the Soil Conservation District (SCD) may establish priorities for providing technical assistance for the installation of practices identified on the plan.

Comment: Clarify responsibility for advising the applicant of the project if determined not feasible.

Response: New language has been added in 2:90-3.5 to specify that the SCD will have that responsibility.

Comment: Project maintenance requirements should be indicated directly on the plan.

Response: Such language has been incorporated in 2:90-3.6(a).

Comment: Should the SCD have authority to require applicants to correct serious soil and water problems on the land prior to the initiation of other projects not related to the observed soil and water management problems and to also require prior installation of practices required for the successful installation and operation of other dependent practices?

Response: The Department is considering the proposal of appropriate language to address this issue.

Comment: Will the SCD grant an extension of time for applicants to install projects previously identified on the application?

Response: New language has been added in 2:90-3.6(d) specifying that the SCD may grant an extension of time from the original project schedule for the installation of projects. The SSCC is currently considering the formulation of rules to implement this provision.

Comment: Clarify in a more precise manner how joint funding for projects with other cost share programs shall be coordinated and documented.

Response: N.J.A.C. 2:90-3.7(e) has been expanded and section(g) has been added to further clarify procedure for joint State and Federal cost sharing of projects.

Comment: How will funding for projects be obligated?

Response: New language has been added in 2:90-3.9(b) to specify that the SSCC shall recommend State Agricultural Development Committee (SADC) approval and obligation of funds for the entire amount of the approved plan.

Comment: Clarify documentation required for payment.

Response: New language has been incorporated in 2:90-3.10(b) to specify the documentation required to substantiate all costs.

Comment: Clarify in a more precise manner the maintenance requirements.

Response: A new section has been added in 2:90-3.11 to clarify that the applicant shall be responsible for maintenance of projects for eight years following date of completion.

Comment: Clarify the frequency of inspections.

Response: New language has been added in 2:90-3.11 to specify that inspection shall be performed annually on at least 5 percent of each practice installed under the program within the SCD.

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Comment: Add a statement to assure access to inspect projects.

Response: A new section has been added in 2:90-3.11 requiring the applicant to allow reasonable access to the project for inspections.

NOTE: The Department is currently considering the formulation of rules for the implementation of N.J.A.C. 2:90-3.12(a) and 2:90-3.13.

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

SUBCHAPTER 3. WATER CONSERVATION PROJECT COST SHARING: PROCEDURAL RULES

2:90-3.1 Applicability

This subchapter contains State Soil Conservation Committee rules which describe procedures for soil conservation districts and other participating conservation agencies regarding the review and approval of applications for soil and water conservation projects pursuant to the ***[Agricultural]* *Agriculture*** Retention and Development Act, N.J.S.A. 4:1C-11 et seq., (P.L. 1983, C.32). These rules shall be utilized in conjunction with N.J.A.C. 2:90-2 and N.J.A.C. 2:76-5.

2:90-3.2 Definitions

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

“Agricultural Conservation Program” (ACP) means a Federal Cost Share Program administered by the Agricultural Stabilization Conservation Service of the United States Department of Agriculture.

“Agricultural Stabilization Conservation Service” (ASCS) means the Agricultural Stabilization Conservation Service of the United States Department of Agriculture.

“Application form” means a standard form adopted by the State Soil Conservation Committee.

“County ***[Agricultural]* *Agriculture*** Development Board” (CADB) means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agricultural retention board established pursuant to N.J.S.A. 4:1C-17.

“District” or “Soil Conservation District” (SCD) means a governmental subdivision of this State, organized in accordance with the provisions of N.J.S.A. 4:24-1 et. seq.

“Farm conservation plan” or “plan” means a plan which indicates needed land treatment and related conservation and resource management measures ***including approved forest management practices*** that are determined practical and reasonable for a particular farm to conserve and protect natural resources ***and to maintain*** and enhance agricultural productivity.

“Farmland Preservation Program” means any voluntary “Farmland Preservation Program” or “municipally approved farmland preservation program”, the duration of which is at least eight years, authorized by law enacted subsequent to the effective date of the “Farmland Preservation Bond Act of 1981,” P.L. 1981, c.276, which has its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., (P.L. 1983, c.32) and the maintenance and support of increased agricultural production as the first priority use of the land.

“New Jersey Bureau of Forest Management” means the Bureau of Forest Management, Division of Parks and Forestry of the New Jersey Department of Environmental Protection.

“Soil Conservation Service” (SCS) means Soil Conservation Service of the United States Department of Agriculture.

“Soil and Water Conservation Practice” means any individual component of a Soil Conservation Project identified on the Farm Conservation Plan. A group of practices when combined to resolve land treatment and related conservation problems are referred to as a “system.”

“Soil and water conservation project” means any project designated for the control and prevention of soil erosion and sediment damages, the control of pollution on agricultural lands, the impoundment, storage and management of water for agricultural purposes, or the improved management of land and soils to achieve maximum agricultural productivity. Definitions of individual projects are contained in United States Department of Agriculture, Soil Conservation Service standards and specifications, Technical Guide Section 4, which are incorporated herein by reference.

“State Agriculture Development Committee” (SADC) means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

“State Soil Conservation Committee” (SSCC) means an agency of the State established pursuant to N.J.S.A. 4:24-1 et seq.

“Standards and specifications” means the United States Department of Agriculture Soil Conservation Service standards and specifications, Technical Guide Section 4, which are hereby adopted by reference. All forest management type practices shall be in accordance with standards and specifications adopted by New Jersey Bureau of Forest Management. Where determined necessary, the State Soil Conservation Committee may develop and adopt additional standards and specifications for installation of projects. ***Copies of Standards and Specifications are on file and may be viewed at United States Department of Agriculture—Soil Conservation Service, Soil Conservation District, and New Jersey Department of Agriculture offices.***

“System” means a group of practices which when combined provide for the resolution of land treatment and related conservation problem(s).

“Technical agency” means the United States Department of Agriculture Soil Conservation Service or the New Jersey Bureau of Forest Management or other agents having responsibility for standards and specifications as identified above for soil and water conservation projects approved by the State Soil Conservation Committee.

“Technical agency” means the United States Department of Agriculture Soil Conservation Service or the New Jersey Bureau of Forest Management having responsibility for standards and specifications as identified above for soil and water conservation projects approved by the State Soil Conservation Committee.

2:90-3.3 Eligibility

Any landowner enrolled in a Farmland Preservation Program is eligible to apply for State funding assistance for soil and water conservation projects approved by the State Soil Conservation Committee and promulgated in N.J.A.C. 2:90-2. A farm operator may act as agent for the landowner when ***so*** designated in writing by the landowner. ***Upon the concurrence of the SCD, the landowner may request SCD review and recommendation for State funding assistance prior to formal enrollment in a Farmland Preservation Program pro-**

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vided he has expressed his desire in writing to enroll in such a program and has verified that his land is eligible to be enrolled in such a program as prescribed by the CADB.*

2:90-3.4 Application procedure

(a) An applicant shall apply to the appropriate SCD for up to 50 percent of the cost of installing a soil and water conservation project(s) on the application form as defined. N.J.A.C. 2:90-3.2.

(b) The SCD shall advise the applicant of program provisions and policies and may assist the applicant in providing the appropriate information to complete the application.

(c) The SCD may establish priorities for providing technical assistance for the plan.

(c)* *(d) A copy of the completed application shall be sent to the CADB for its information.

2:90-3.5 Feasibility review and technical agency referral

(a) The SCD shall seek the assistance of appropriate technical agencies or agent *s* * [having responsibility for standards and specifications]* to determine the applicability of the requested projects to the land.

(b) The technical agency shall review the application and recommend projects that are essential and applicable to the landowners' proposed operation. If the technical agency determines that the requested projects are not feasible and upon the SCD concurrence, the applicant shall be so advised*[*]* ***by the district.***

2:90-3.6 Preparation of conservation plan

(a) If the technical agency determines that the requested projects are feasible, it shall prepare a farm conservation plan in consultation with the landowner. The plan shall indicate the proposed projects, their location, schedule for installation, ***maintenance requirements,*** and estimated costs.

(b) Upon completion of the plan and application, the technical agency shall submit same to the SCD for review and approval. The landowner shall be advised by the SCD of action taken on the plan.

(c) The plan may be modified at the landowners request subject to technical agency concurrence and SCD approval. ***At the landowners request, and upon SCD concurrence, the SCD may grant an extension of time from the original project schedule for the installation of projects.***

2:90-3.7 Coordination with other cost share programs

(a) The SCD shall forward the plan and application to ASCS or other Federal agencies administering cost share programs to determine availability of funds for the project(s) in the approved plan.

(b) If the ASCS or other Federal agencies cannot share in the cost of projects, they shall return the plan and application to the SCD with appropriate ***[certification.]* *documentation*.**

(c) Where Federal ***or other*** cost-sharing is available, the SCD shall coordinate the appropriate integration of projects.

(d) If the project(s) in the approved plan can be entirely or partially cost-shared with ACP funds, the SCD shall secure ASCS coordination of potential joint State-ACP cost sharing and the completion of appropriate portions of the application form.

(e) The SCD shall advise the applicant of funding available via other programs and recommend appropriate division of projects in the approved plan to assure maximum utilization of all other funding sources. Applicants will be required to

seek maximum ACP and other Federal program funding on all projects. ***Where conservation systems or projects are separated into individual components, such components may be separately allocated to the respective funding sources. In any jointly cost-shared project or component, (f) and (g) below, shall be strictly adhered to.***

(f) No Federal cost share program may be used as the landowner's matching portion of costs for ***a* project(s) *or any component of a project(s)*** funded under the provisions of this program.

(g) No portion of the State cost share program may be used as the landowner's portion of costs for a project(s) or any component of a project funded under the provisions of any Federal cost share program.

2:90-3.8 District approval process

(a) Following review by the technical agencies and coordination with other cost share programs, the SCD shall review the application for program conformance.

(b) Upon verification that all eligibility criteria and other program provisions have been satisfied, the SCD shall approve or conditionally approve the application.

(c) The SCD shall promptly advise the applicant of its determinations in writing.

(d) For projects where the applicant provides at least 50 percent of the project cost without ***[assistance from the county,]* *county funding assistance,*** the approved application shall be forwarded by the SCD to the State Soil Conservation Committee for approval. The SCD shall send a copy of the approved application to the CADB for its information.

(e) For projects where the applicant receives financial assistance from County ***appropriated*** funds for the cost of projects, the SCD shall forward the approved application to the CADB for concurrence. Following it*[*]'s approval, the CADB shall forward the application to the SSCC for approval.

2:90-3.9 State review and approval process

(a) The SSCC shall review and verify that the application is in conformance with program guidelines.

(b) Following verification, the SSCC shall approve the application and recommend SADC approval ***[for funding.]* *and obligation of funds for the entire amount of the approved plan.*** The SSCC may delegate this authority to the appropriate staff.

(c) Following SADC approval the SSCC and the SCD shall be advised of project funding approval.

(d) The SCD shall advise the applicant and appropriate technical agencies of application approval.

2:90-3.10 Project completion and payment

(a) Upon project ***or project component*** completion, the applicant shall notify the SCD and request payment.

(b) The SCD shall secure technical agency verification that the project(s) ***or project component(s)*** has been completed in accordance with technical standards and specifications and also verify applicant*[*]'s payment claims. If payment claims are satisfactory, the SCD shall forward the payment request ***with the payment claim voucher, itemized bills, and related documentation that substantiates all costs incurred*** to the SSCC.

(c) The SSCC shall verify that program provisions have been satisfied prior to recommending SADC payment to the applicant.

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2:90-3.11 Maintenance

(a) The applicant shall be responsible for maintaining the project(s) for eight years following date of completion.

***[(a)]* *(b)* The SCD shall be responsible for inspecting the project(s) for maintenance in accordance with guidelines provided by the SSCC. *[In no instance shall s]* *S*uch inspections *shall* be performed *[at a frequency less than a five percent random selection of the total number of projects per year within the SCD.]* *annually on at least five percent of each practice installed under the program within the SCD*.**

(c) The applicant shall allow SCD and other program agents reasonable access to the project site for the purpose of site inspections.

2:90-3.12 Violations

***(a)* If the SCD determines that an applicant fails to comply with the provisions for maintenance of the project, the SCD shall advise the landowner of required corrective measures. The SCD shall forward a copy of such notification to the SSCC.**

(b) The landowner shall not be liable for inadequate maintenance or destruction of a project(s) if caused by a natural disaster that could not have been reasonably anticipated.

2:90-3.13 Records

The SCD shall retain application forms, plans, performance reports, and all other related information pertaining to the applicant and approved projects.

Full text of the adoption follows.

5:23-3.14 Building subcode

(a) Rules concerning subcode adopted are as follows:

1. (No change.)
2. The 1985 Supplement to the BOCA Basic/National Building Code/1984 is adopted by reference with modifications as cited in (c) below as part of the building subcode for New Jersey.

(b) (No change.)

(c) The following articles or sections of the 1985 Supplement to the building subcode are modified as follows:

1. The following amendment is made to Article 1 of the building subcode, entitled "Administration and Enforcement":

i. Sections 103.3, 103.4, 124.0 are deleted.

2. The following amendment is made to Article 5 of the building subcode, entitled "General Building Limitations":

i. Section 505.2 is amended to delete the words "Section 103.3" and substitute in lieu thereof "N.J.A.C. 5:23-2.4."

3. The following amendment is made to Article 14 of the building subcode, entitled "Fireresistive Construction Requirements":

i. Section 1405.8.1 exception is amended to delete the words "NFIPA 70 listed in Appendix A" and substitute in lieu thereof "the Electrical Subcode:"

4. The following amendment is made to Article 17 of the building subcode, entitled "Fire Protection Systems":

i. Section 1702.22 is amended to delete the words "fire official" and substitute in lieu thereof "fire subcode official."

5. The following amendments are made to Article 25 of the building subcode, entitled "Repair, Alteration, Addition to, and Change of Use of Existing Buildings.":

i. Section 2500.1 is amended to delete the words "this article" in the fourth line and substitute in lieu thereof "N.J.A.C. 5:23."

ii. Section 2501.2 is amended to delete the words "Section 120.0" and in lieu thereof substitute "N.J.A.C. 5:23-2.32".

6. The following amendments are made to Appendix A of the building subcode entitled "Reference Standards":

i. Delete the entire subheading "ASHRAE" and all titles under this subheading.

ii. Under the subheading "BOCA" delete the following titles:

- (1) Basic/National Plumbing Code;
- (2) Basic/National Existing Structures Code.

iii. Under the subheading "CABO" delete the following titles:

- (1) One and Two Family Dwelling Code;
- (2) Model Energy Code.

iv. Under the subheading "NFIPA" delete the title "National Electrical Code."

5:23-3.20 Mechanical subcode

(a) Rules concerning subcode adopted are as follows:

1. (No change.)

2. The 1985 Supplement to the BOCA Basic/National Mechanical Code/1984 is adopted by reference with modifications cited in (c) below as part of the mechanical subcode for New Jersey.

(b) (No change.)

(c) The following articles or sections of the 1985 Supplement to the Mechanical Subcode are modified as follows:

1. The following amendments are made to Article 1 of the mechanical subcode, entitled "Administration and Enforcement.":

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code Building and Mechanical Subcodes

Adopted Amendments: N.J.A.C. 5:23-3.14 and 3.20

Proposed: February 4, 1985 at 17 N.J.R. 239(a).

Adopted: March 7, 1985 by John P. Renna, Commissioner, Department of Community Affairs.

Filed: March 11, 1985 as R.1985 d.154, without change.

Authority: N.J.S.A. 52:27D-124.

Effective Date: April 1, 1985.

Operative Date: July 1, 1985.

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

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

ADOPTIONS

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i. Sections M-122.1, M-122.2, M-122.2.1, M-122.2.2, M-122.2.3, M-122.2.4, M-122.2.5, M-122.2.6, M-122.3, M-122.4, M-122.4.1, M-122.5, M-122.6, M-122.6.1, M-122.6.2, and M-122.7 are deleted.

ii. Section M-301.1 exception is amended to delete the phrase "building code listed in Appendix A" and "NFiPA 70 listed in Appendix A" and substitute, respectively, "Building Subcode" and "The Electrical Subcode."

iii. Section M-1602.2 is amended to delete the phrase "building code listed in Appendix A" and substitute in lieu thereof "Building Subcode."

2. The following amendments are made to Appendix A of the mechanical subcode entitled "Referenced Standards:"

i. Delete the entire subheading "ASHRAE" and all titles under this subheading.

ii. Under the subheading "BOCA" delete the following titles:

(1) Basic/National Plumbing Code.

iii. Under the subheading "NFiPA", delete the title "National Electrical Code."

EDUCATION

(a)

STATE BOARD OF EDUCATION

**School Districts; General Provisions
Board of School Estimate**

Adopted Amendments: N.J.A.C. 6:3-1.2

Proposed: January 21, 1985 at 17 N.J.R. 143(a).
Adopted: March 6, 1985 by the State Board of Education, Saul Cooperman, Secretary.
Filed: March 8, 1985 as R.1985 d.151, **without change.**

Authority: N.J.S.A. 18A:4-15, 18A:22-7 and 18A:22-10.

Effective Date: April 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): June 1, 1988.

Summary of Public Comments and Agency Responses:

The Department received one letter commenting on this proposal. The commentor was concerned about losing one of the two board of school estimate meetings in the few New Jersey school districts with an appointed board because of a specific lack of requirement in N.J.S.A. 18A:22-10. The commentor stated that the county superintendent should be called on to require input by the city officials as part of the review in January of the school budget.

The Department disagreed with the commentor. The Department felt that the rule must be consistent with the statutory requirements of N.J.S.A. 18A:22-10 which requires one meeting, concerning board of school estimate meetings. Further, if the county superintendent was required to seek input from city officials as part of the budget review process, it would not be in the best interest of a district board of educa-

tion. City officials have a responsibility for school budget review later in the budget process; therefore they should not be involved in the development of a school budget.

Full text of the adoption follows.

6:3-1.2 Board of school estimate

(a) In any district board of education operating under N.J.S.A. 18A:9-2, the mayor of the municipality comprising the school district shall be the presiding officer of the board of school estimate, and in the event of the absence of the mayor at any meeting of the board of school estimate, the members thereof present at such meeting shall proceed to elect a presiding officer pro tem.

(b)

STATE BOARD OF EDUCATION

**Thorough and Efficient System of Free
Public Schools
Evaluation and Certification**

Adopted Amendment: N.J.A.C. 6:8-6.2

Proposed: January 21, 1985 at 17 N.J.R. 143(b).
Adopted: March 6, 1985 by the State Board of Education, Saul Cooperman, Secretary.
Filed: March 8, 1985 as R.1985 d.149, **without change.**

Authority: N.J.S.A. 18A:4-15 and 18A:7A-1 et seq.

Effective Date: April 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): January 1, 1987.

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

Full text of the adoption follows.

6:8-6.2 Evaluation and certification

(a) Each school district within a county shall be monitored between January, 1984 and December 31, 1986, and if certified, every five years thereafter by a team of persons from the county office under the supervision of the county superintendent of schools.

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

(c)

STATE BOARD OF EDUCATION

**Business Services
Tuition Public Schools**

**Readoption with Amendments: N.J.A.C.
6:20-3**

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Proposed: January 21, 1985 at 17 N.J.R. 144(a).
Adopted: March 6, 1985 by State Board of Education,
Saul Cooperman, Secretary.
Filed: March 11, 1985, as R.1985 d.157, with **substan-
tive changes** not requiring additional public notice
and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:4-15 and 18A:38-19.

Effective Date for Readoption: March 11, 1985.

Effective Date for Amendments: April 1, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): March 11, 1990.

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

26 letters were received commenting on this proposal. 25 of the letters indicated that this proposal would cause tuition rates to increase excessively. Most of these commentators also indicated that they felt that the building use charge should be excluded from the tuition formula and that tuition increases should not exceed 10 percent per annum (N.J.A.C. 6:20-3.1). One commentator expressed concern that this proposal should not deal with the contractual agreement for the sending and receiving of special education pupils (N.J.A.C. 6:20-3.1).

The Department disagreed with all of the commentators and took the position that the use of the building use charge is appropriate in the formula, that tuition increases cannot be limited to 10 percent per annum and that contractual agreements for the sending and receiving of special education pupils should be included in this rule. The Department felt that the building use charge as it exists in the rule is appropriate because sending districts should pay a portion of the unaided cost of borrowing relative to the construction or acquisition of school facilities. The Department also responded that a tuition increase cannot be limited to 10 percent per annum since the statute requires that tuition be based upon the "actual cost per pupil." In regard to contractual agreements for sending and receiving of special education students, the Department felt that these agreements should be included within this rule to ensure uniformity of administration for such contracts for all district boards of education.

Three speakers indicated that they felt that the use of the building use charge in the tuition formula and no cap on tuition increases would cause tuition rates to increase excessively. The Department does not agree with the speakers and feels that the building use charge in the tuition formula is appropriate and tuition increases can not be capped under the law. In the Department's opinion, tuition rates will not be excessive.

The Department added new language between publication of the proposal and adoption to the method of determining tuition rates in a new district board of education program (N.J.A.C. 6:20-3.2(a)). The word "program" was added to clearly indicate that this rule is intended to deal with new programs, rather than with new district boards of education. The Department also added new language to this section in N.J.A.C. 6:20-3.2(c) and (d) in order to make the rule consistent with earlier amendments to N.J.A.C. 6:20-3.1(d). The new language exempts contractual agreements for pupils enrolled in special education classes from the requirement to only make adjustments in the third school year following the contract year. This is not a new concept, but merely added for consistency purposes.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 6:20-3.

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

SUBCHAPTER 3. TUITION PUBLIC SCHOOLS

6:20-3.1 Method of determining tuition rates

(a) The term "actual cost per pupil" for determining the tuition rate or rates for a given year referred to in N.J.S.A. 18A:38-19 shall mean the cost per pupil in average daily enrollment, based upon audited expenditures for that year for the purpose for which the tuition rate is being determined that is, four year high school, senior high school, junior high school, elementary school, and special education classes.

1. All expenditures for each purpose except Federal and State special project expenditures shall be included, regardless of the sources of revenue;

2. "Average daily enrollment" for the purpose of determining the "actual cost per pupil," shall be the sum of the days present and absent of all pupils enrolled in the register or registers of the program for which the rate is being determined during the year divided by the number of days school was actually in session.

(b) Whenever practicable, the actual amounts expended for each applicable item in the program for which the tuition rate is required, according to the prescribed bookkeeping and accounting system, shall be recorded and used in determining the "actual cost per pupil."

(c) Whenever it shall be impracticable to charge the actual amount expended for a particular item in the program for which the tuition rate is being determined then the share of such expenditure for each program shall be determined on a pro rata basis in accordance with the following ratios:

1. Administration: Ratio of number of teachers in each program to total number of teachers of the system.

2. Instruction:

i. Principals' salaries: Ratio of number of teachers in each program to total number of teachers of the system.

ii. Supervisors of instruction: Ratio of number of teachers in each program to total number of teachers of the system.

iii. Teachers' salaries shall be on an actual basis.

iv. Other instructional staff, secretarial and clerical assistants, and other salaries for instruction: Ratio of average daily enrollment in each program.

v. Textbooks, school library and audio-visual materials, teaching supplies, and other expenses:

Ratio of average daily enrollment in each program.

3. Attendance and health services: Ratio of average daily enrollment in each program. Attendance officer salary and expenses shall be excluded.

4. Transportation curricular activities: Ratio of average daily enrollment in each program. Transportation salaries and other expenses shall be excluded.

5. Operation; salaries and all other costs: Ratio of square feet of floor space used by each program. Such floor space shall not include: offices, boiler rooms, corridors, or other rooms not used by pupils. Whenever a room shall be used for two or more programs, such square footage shall be prorated as to time devoted to each program.

6. Maintenance; salaries and all other costs: Ratio of square feet of floor space used by each program.

7. Fixed charges: Ratio of average daily enrollment in each program.

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- 8. Tuition shall be excluded.
- 9. Food services; salaries and expenses: Ratio of average daily enrollment in each program.
- 10. Student body activities; salaries and expenses shall be on an actual basis.
- 11. Community services shall be excluded.
- 12. Building use charge: Ratio of square feet of floor space used by each program multiplied by the amount which remains after the following calculation:
 - i. Divide the amount of debt service State support received by the debt service paid for the school year to determine the ratio of State support;
 - ii. Multiply the debt service interest charges paid by the ratio of State support obtained in (c)12i. above;
 - iii. Subtract the amount obtained in (c)12ii. above from the debt service interest charges paid.
 - (d) A tentative tuition charge shall be established for budgetary purposes by written contractual agreement between the receiving district board of education and the sending district board of education, and such tentative charge shall equal an amount not in excess of the receiving district's estimated cost per pupil for the ensuing school year for the purpose or purposes for which tuition is being charged, multiplied by the estimated average daily enrollment of pupils expected to be received during the ensuing school year. Such written contract shall be on a form prepared by the commissioner.

1. The sending district board of education and the receiving district board of education shall enter into a written contractual agreement for tuition for the ensuing school year, except for a contractual agreement for a pupil enrolled in a special education class, no later than seven days prior to the date on which the proposed budget for the ensuing school year is required to be submitted to the county superintendent. Such contractual agreement shall require the sending district board of education to pay ten percent of the tentative tuition charge no later than an agreed upon date each month from September through June of the contract year. The contractual agreement, except for a contractual agreement for a pupil enrolled in a special education class, shall require that all adjustments which shall be made because of a difference in cost or in the number of pupils sent shall only be made during the third school year following the contract year. All contractual agreements shall contain a payment schedule for all adjustments which may be necessary.

2. The sending district board of education shall notify in writing the receiving district board of education of the estimated average daily enrollment of pupils in each tuition category expected to be sent during the ensuing school year no later than December 15 preceding the beginning of the ensuing school year. The receiving district board of education shall notify in writing the sending district board of education of the estimated cost per pupil in each tuition category for the ensuing school year and the tentative tuition charge no later than January 1 preceding the beginning of the ensuing school year. The receiving district board of education shall submit to the sending district board of education a copy of its calculations to determine the estimated cost per pupil in each tuition category for the ensuing school year no later than January 1 preceding the beginning of the ensuing school year. Such calculations shall be on a form prepared by the commissioner.

3. If the commissioner later determines that the tentative tuition charge established by written contractual agreement, except for a contractual agreement for a pupil enrolled in a special education class, was greater than the actual cost per pupil during the school year multiplied by the actual average

daily enrollment received, the receiving district board of education shall return to the sending district board of education in the third school year, following the contract year the amount by which the tentative charge exceeded the actual charge as determined above, or, at the option of the receiving district board of education shall credit the sending district board of education with the excess amount. Such adjustment for a contractual agreement for a pupil enrolled in a special education class shall be made no later than the end of the third school year, following the contract year.

4. If the commissioner later determines that the tentative charge established by written contractual agreement, except for a contractual agreement for a pupil enrolled in a special education class, was less than the actual cost per pupil during the school year multiplied by the actual average daily enrollment received, the receiving district board of education may charge the sending district board of education all or part of the amount owed by the sending district board of education, to be paid during the third school year following the school year for which the tentative charge was paid. Such adjustment for a contractual agreement for a pupil enrolled in a special education class shall be made no later than the end of the third school year, following the contract year. The county superintendent of schools of the county in which the sending district board of education is located may approve the payment of the additional charge over another period, if the sending district board of education can demonstrate that payment during the third school year following the school year for which the tentative charge was paid would cause a hardship.

(e) The commissioner shall prepare the necessary forms to certify the "actual cost per pupil" for each tuition category according to these rules. The commissioner shall also prepare the contract forms and the forms to be used by the receiving district board of education to establish the estimated cost per pupil for each tuition category for the ensuing school year.

(f) In any year in which the receiving district board of education can prove to the satisfaction of the commissioner that the maintenance charge for the use of the school facilities is not adequate, the commissioner may approve an additional charge for the use of such school facilities.

6:20-3.2 Method of determining tuition rate in a new district board of education

(a) During the first year of operation of a district board of education ***program*** which is to receive pupils, the estimated cost per pupil in each program for which the tuition rate is required shall be set by the receiving district board of education and shall be based on budgeted costs; the estimated cost or costs per pupil so established shall be submitted to the commissioner for approval or disapproval no later than January 1 preceding the beginning of the first year of operation.

(b) If the commissioner approves the estimated cost or costs per pupil each sending district board of education shall pay tentative tuition charges based upon these estimated costs per pupil during the first year of operation.

(c) If, after the first year of operation, the commissioner determines that the tentative tuition charge was greater than the actual cost, the receiving district board of education shall return, ***except if the tentative tuition charge was for a pupil who was enrolled in a special education class,*** in the third school year following the first year of operation to each sending district board of education the amount by which the tentative charge exceeded the actual cost, or, at the option of the receiving district board of education, shall credit each sending district board of education with the amount by which

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the tentative tuition charge exceeded the actual cost. * **The payment or credit for a pupil who was enrolled in a special education class shall be made no later than the end of the third school year, following the first year of operation.***

(d) If, after the first year of operation, the commissioner determines that the tentative tuition charge was less than the actual cost, the receiving district board of education may charge the sending district board of education all or part of the amount owed by the sending district board of education, to be paid, ***except if the amount owed is for a pupil who was enrolled in a special education class,*** during the third school year following the first year of operation. ***The amount owed for a pupil who was enrolled in a special education class shall be paid no later than the end of the third school year following the first year of operation.***

6:20-3.4 (Reserved)

6:20-3.5 (Reserved)

6:20-3.6 (Reserved)

(a)

STATE BOARD OF EDUCATION

Business Services

Purchase and Loan of Textbooks

Readoption with Amendments: N.J.A.C.

6:20-6

Proposed: January 21, 1985, at 17 N.J.R. 148(a).
Adopted: March 6, 1985 by the State Board of Education, Saul Cooperman, Secretary.
Filed: March 8, 1985 as R.1985 d.150, **without change.**

Authority: N.J.S.A. 18A:4-15 and 18A:58-37.1 et seq.

Effective Date of Readoption: March 8, 1985.
Effective Date of Amendments: April 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): March 8, 1990.

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

Full text of the readoption with amendments follows.

SUBCHAPTER 6. PURCHASE AND LOAN OF TEXTBOOKS

6:20-6.1 Eligibility

(a) N.J.S.A. 18A:58-37.1 et seq. requires all district boards of education in which a nonpublic school is located, to purchase and to loan, without charge, upon individual requests, textbooks to pupils in the nonpublic school or schools located within the district when such pupils are residents of the State.

(b) Children who are enrolled in a nonpublic school whose parents or legal guardians do not maintain a residence in this State shall not be eligible to receive such textbooks.

(c) Children who are enrolled in a nonpublic school whose tuition is paid by a district board of education shall not be eligible to receive such textbooks.

6:20-6.2 Responsibility of the district board of education

(a) Existing book stocks and newly purchased textbooks purchased pursuant to this statute shall be distributed among all pupils on an equitable basis.

(b) A district board of education shall not discriminate against pupils in either public or nonpublic schools.

6:20-6.3 Individual requests

(a) Individual written requests for the loan of textbooks shall be addressed to the district board of education in which the nonpublic school is located.

(b) Individual requests shall be submitted directly to the district board of education in which the nonpublic school is located or to the nonpublic school. In the latter case, the nonpublic school official shall forward such requests collectively to the district board of education.

(c) Individual requests shall be submitted on or before March 1 preceding the school year.

(d) Textbooks purchased shall be ordered in accordance with district board of education policy and purchasing practices.

(e) Pupils attending public schools are not required to submit such requests because public school officials know what textbooks are to be used.

6:20-6.4 Ownership and storage of textbooks

(a) All textbooks purchased under the provisions of N.J.S.A. 18A:58-37.1 et seq., shall remain the property of the district board of education. Such ownership shall be indicated in each book by a label.

(b) The district board of education shall be responsible for the collection and inventory of such textbooks.

(c) The district board of education may require that the textbooks be returned to the district board of education at the end of the school year, or may enter into agreements with the nonpublic schools to store such books. In the event of such an agreement the district board of education shall not pay storage charges of any kind to a nonpublic school for this service.

6:20-6.5 Accounting entries

(a) Expenditures for the purchase of textbooks may include the cost of freight or postage for transporting such books from the vendor to the public school district.

(b) The cost of textbooks for pupils enrolled in the public schools shall be entered in account 220.

(c) The cost of textbooks for nonpublic school pupils shall be entered in account 1161 Textbooks for Nonpublic School Pupils.

(d) State aid received by the district board of education pursuant to N.J.S.A. 18A:58-37.1 et seq. shall be recorded as regular current expense State aid.

6:20-6.6 Charge for textbook loss or damage

(a) District boards of education shall make reasonable rules and regulations governing the loan of textbooks, which may contain requirements for reimbursement by pupils to the school district for damage, loss or destruction of the loaned textbooks.

(b) Such rules and regulations shall be made applicable to both public and nonpublic school pupils.

6:20-6.8 (Reserved)

HEALTH

(a)

CONSUMER HEALTH SERVICES

Good Drug Manufacturing Practices

Adopted New Rule: N.J.A.C. 8:21A

Proposed: December 3, 1984 at 16 N.J.R. 3248(a).
 Adopted: February 26, 1985 by J. Richard Goldstein,
 M.D. Commissioner, Department of Health.
 Filed: March 1, 1985 as R.1985 d.141, **without change**.

Authority: N.J.S.A. 24:5-1.

Effective Date: April 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 1, 1990.

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

Full text of the readopted new rule appears in the New Jersey Administrative Code at N.J.A.C. 8:21A.

Full text of the adopted amendment to the readopted new rule follows.

8:21A-2.55 Distribution records

Distribution records shall contain the name and strength of the product and a description of the dosage form, name and address of the consignee, date and quantity shipped, and lot or control number of the drug product. For compressed medical gas products, distribution records are not required to contain lot or control numbers.

HIGHER EDUCATION

(b)

STUDENT ASSISTANCE BOARD

Tuition Aid Grant Program 1984-1985 Award Table 1985-1986 Award Table

Adopted Amendment: N.J.A.C. 9:7-3.1

Proposed: January 7, 1985 at 17 N.J.R. 23(a).
 Adopted: March 8, 1985 by Student Assistance Board,
 Joseph Streit, Chairman.
 Filed: March 11, 1985 as R.1985 d.155, **without change**.

Authority: N.J.S.A. 18A:71-47(b) and 18A:71-48.

Effective Date: April 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 13, 1988.

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

Full text of the adoption follows.

9:7-3.1 Tuition Aid Grant Award Table

The value of the grant is related to the tuition charges of the various institutional sectors in New Jersey and the student's ability to pay for educational costs. The award tables below show approximate award levels depending upon tuition and ability to pay:

(a) TUITION AID GRANT (TAG) AWARD TABLE FOR 1984-85 APPROXIMATE TUITION AID GRANT VALUES NEW JERSEY COLLEGES AND UNIVERSITIES

New Jersey Eligibility Index (NJEI)	County Colleges	State Colleges	Independent Institutions	Rutgers U. & UMDNJ ¹	NJ Inst. of Tech.	Renewal ^F Out-of-State Colleges & Universities
A	B	C	D	E	F	G
Under 750	\$750	\$1088	\$2000	\$1520	\$1796	\$450
750-1049	650	980	1900	1420	1690	260
1050-1349	550	880	1800	1320	1590	260
1350-1649	450	780	1700	1220	1490	260
1650-1949	350	680	1600	1120	1390	200
1950-2249	250	580	1500	1020	1290	0
2250-2549	200	480	1400	920	1190	
2550-2849	0	380	1300	820	1090	
2850-3149		280	1200	720	990	
3150-3449		200	1100	620	890	
3450-3749		0	1000	520	790	
3750-4049			900	420	690	
4050-4349			800	320	590	
4350-4649			700	200	490	
4650-4949			600	0	390	
4950-5249			500		290	
5250-5549			400		200	
5550-5849			300		0	
5850-6149			200			
Over 6149			0			

¹ Rutgers Engineering and Pharmacy students will have their awards increased to offset the higher tuition charged for these programs of study. Approved programs only at UMDNJ. Contact the financial aid office for details.

² "Renewals" are students who received a Tuition Aid Grant in 1981-82 or prior years.

(b) TUITION AID GRANT (TAG) AWARD TABLE FOR 1985-86 APPROXIMATE TUITION AID GRANT VALUES NEW JERSEY COLLEGES AND UNIVERSITIES

New Jersey Eligibility Index (NJEI)	County Colleges	State Colleges	Independent Institutions	Rutgers U. & UMDNJ ¹	NJ Inst. of Tech.
A	B	C	D	E	F
Under 950	\$750	\$1088	\$2300	\$1520	\$1796
950-1349	650	980	2150	1420	1670
1350-1749	550	880	2000	1320	1550
1750-2149	450	780	1850	1220	1430
2150-2549	350	680	1700	1120	1310
2550-2949	250	580	1550	1020	1190
2950-3349	200	480	1400	920	1070
3350-3749	0	380	1250	820	950
3750-4149		280	1100	720	830
4150-4549		200	950	620	710
4550-4949		0	800	520	590
4950-5349			650	420	470
5350-5749			500	320	350
5750-6149			350	200	200
6150-6549			200	0	0
Over 6549			0		

¹ Rutgers Engineering and Pharmacy students will have their awards increased to offset the higher tuition charged for these programs of study. Approved programs only at UMDNJ. Contact the financial aid office for details.

(a)

STUDENT ASSISTANCE BOARD

**Garden State Scholars
Award Amounts**

Adopted Amendment: N.J.A.C. 9:7-4.2

Proposed: December 3, 1984 at 16 N.J.R. 3281(a).
Adopted: March 8, 1985 by Student Assistance Board,
Joseph Streit, Chairman.
Filed: March 11, 1985 as R.1985 d.153, **with substantive
changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:71-26.8, 18A:71-26.10 and
P.L. 1984, c.94.

Effective Date: April 1, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): April 13, 1988.

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

Full text of the adoption follows (additions to proposal
indicated in boldface with asterisks ***thus***).

9:7-4.2 Award amounts

Undergraduate scholarship award amounts shall be a mini-
mum of \$200.00. The maximum award shall be established
annually by the Student Assistance Board. The exact amount
of the ***Garden State Scholarship*** award shall be determined
by the college financial aid officer and depend upon the stu-
dent's financial need taking into account the family contribu-
tion and other aid received, the total of which may not exceed
the college budget (as defined by the institution). ***The Gar-
den State Distinguished Scholarship award is made without
consideration of financial need.*** The maximum graduate fel-
lowship award amount shall be established annually by the
Student Assistance Board.

(b)

STUDENT ASSISTANCE BOARD

**Public Tuition Benefits Program
Eligibility Criteria**

**Adopted Amendments: N.J.A.C. 9:7-5.1 and
5.4**

Adopted New Rule: N.J.A.C. 9:7-5.10

Proposed: January 7, 1985 at 17 N.J.R. 24(a).
Adopted: March 8, 1985 by Student Assistance Board,
Joseph Streit, Chairman.
Filed: March 11, 1985 as R.1985 d.156, **without change.**
Authority: N.J.S.A. 18A:71-77.

Effective Date: April 1, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): April 13, 1988.

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

Full text of the adoption follows.

9:7-5.1 General provisions

(a) Chapter 229, Laws of 1979 as amended by Chapter 300,
Laws of 1981 and Chapter 4, Laws of 1983, provide that free
tuition will be available at any public institution of higher
education in the State and that portion of the tuition at an
independent institution in the State not to exceed the highest
tuition charged at a public institution of higher education in
this State through the Public Tuition Benefits Program (PTB)
to any child or surviving spouse of a member or officer of a
New Jersey volunteer fire company, volunteer first aid or
rescue squad or municipal fire, police, county police or park
police department, State Fire Service or of the Division of
State Police, or of a permanent, active and full-time officer
employee of this State or any political subdivision thereof
holding the following titles: State investigator, correction of-
ficer, recruit, senior correction officer, sergeant, lieutenant,
captain, correction officer duty keeper, court attendant and
sheriff's officer, court attendant and sheriff's officer lieuten-
ant, court attendant and sheriff's officer captain, court at-
tendant and sheriff's officer deputy chief, prosecutor's detec-
tive, prosecutor's investigator, narcotics officer, marine
patrolman, senior marine patrolman, principal marine patrol-
man, chief, bureau of marine law enforcement, or who is an
inspector, assistant, technician, supervisor or superintendent
with respect to the enforcement and regulation of weights and
measures, or civil defense or disaster control worker, which
member, officer or worker was killed in the performance of
his or her duties.

(b) General provisions for all programs administered by
the Student Assistance Board (N.J.A.C. 9:7-2) which pertain
to residency, foreign nationals, payments to students, student
withdrawal or dismissal during period of an award, check
endorsements, and fiscal responsibilities shall be in effect for
the Public Tuition Benefits Program.

9:7-5.4 Eligible institutions

Tuition benefits are available to eligible students at the
following institutions of higher education located in New Jer-
sey:

- County Colleges
- ...
- State Colleges
(No change.)
- Independent Institutions
- Assumption
- Berkeley (Garret Mtn)
- Bloomfield
- Caldwell
- Centenary
- College of Saint Elizabeth
- Don Bosco
- Drew
- Edward Williams
- Fairleigh Dickinson
- Felician
- Georgian Court

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- Monmouth
- Northeastern Bible
- Princeton
- Rabbinical
- Rider
- Saint Peter's
- Seton Hall
- Stevens Institute of Technology
- Upsala
- Westminster Choir
- Rutgers University, UMDNJ and NJ Institute of Technology
- ...
- UMDNJ
- ...

9:7-5.10 Enrollment status and terms of payment

Eligible students shall be enrolled on at least a one-half time basis during any term in order to receive payment. Recipients shall not be eligible for more than eight semesters of payment for full-time enrollment or the equivalent for halftime enrollment. Payment for half-time enrollment shall count as one half a semester of payment. Students enrolled in a program of study normally requiring five years to complete shall be eligible for ten semesters of payment.

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Prosthetic and Orthotic Services Manual

**Readoption: N.J.A.C. 10:55-1.1 through 1.6
Adopted Concurrent Amendments: N.J.A.C. 10:55-1.7 through 1.9**

Proposed: January 7, 1985 at 17 N.J.R. 26(a)
Adopted: March 7, 1985 by George J. Albanese, Commissioner, Department of Human Services.
Filed: March 11, 1985 as R.1985 d.152, **with substantive and technical changes** not requiring additional public notice and comment (N.J.A.C. 1:30-3.5).

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

Effective Date of Readoption: March 11, 1985.
Effective Date of Concurrent Amendments: April 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): March 11, 1990.

Summary of Public Comments and Agency Responses:

Comments were submitted by Jerome Kessler, President, Prosthetic and Orthotic Society of New Jersey. The commentator, Mr. Kessler, requested the language concerning resolving disputes by arbitration be retained. However, the Division

plans to continue with the deletion as indicated in the proposal. The statutorily prescribed method of resolving valid complaints arising out of the claims payment process is a hearing pursuant to N.J.S.A. 30:4D-7f. The commentator also requested section N.J.A.C. 10:55-1.8 be retained. The Division plans to continue with the deletion. The Division does not believe a regulation is necessary to require meetings with representatives of the provider (and patient) community. The Division prefers to schedule meetings, conferences, etc. whenever necessary to discuss issues of mutual concern.

The commentator also requested that the figure for prior authorization for repairs be increased from \$50.00 to \$100.00. This change is being made upon adoption (see N.J.A.C. 10:55-1.6). It should make it easier for Medicaid patients to have items and/or appliances repaired by providers of prosthetic and orthotic services. The Division should benefit because there may be fewer requests for prior authorization for repairs. There is no change in the fees for repairing prosthetic and orthotic appliances and/or items.

The commentator also requested that certain items, such as corsets, knee cages, and hand orthosis be issued only by certified prosthetists and orthotists. However, the Division plans to continue with its present policy of allowing other providers, such as pharmacies, to issue these items (see N.J.A.C. 10:55-1.4(d)).

Summary of Changes Between Proposal and Adoption:

There are two textual changes being made upon adoption. The correct citation (in N.J.A.C. 10:55-1.9) for the Billing Subchapter of the Prosthetic and Orthotic Services Manual is N.J.A.C. 10:55-2, not 10:52-2. The corrections appear in the text below.

Section 10:55-1.6(b) is being amended to raise the figure for prior authorization for repairs from \$50.00 to \$100.00.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:55-1.

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

10:55-1.6 Repairs and replacement of parts; prior authorization

(a) All repair and replacement of parts for custom-made prosthetic and orthotic appliances require a personally signed and dated order by the prescribing physician and must include the necessary information required in N.J.A.C. 10:55-1.3(b).

(b) Repairs or replacement of parts involving solely the mechanical aspects of an appliance (breakage, and so forth) which occur as an emergency and are under ***[\$50.00]*** ***\$100.00***, require no prior authorization.

(c) An amount of ***[\$50.00]*** ***\$100.00*** or over requires prior authorization by the local medical consultant.

10:55-1.7 Duties of the provider; guarantee

(a) (No change.)

(b) The provider is responsible for:

1. Delivery of the appliance to the recipient within 45 calendar days of receipt of authorization by the facility from the Medicaid District Office (MDO);

i. If it is not possible to provide an appliance within the stated time, the facility shall notify the Medicaid District Office that such time limit cannot be met in a particular case and state the reason(s) why;

ii. Liability for delinquency thereupon becomes a judgmental factor within the MDO which will act accordingly.

2. Providing that all appliances furnished by the approved facility will conform to the prescriber's prescription and the description of appliances set forth in the accepted nomenclature, will fit properly to the extent that the recipient's condition(s) permit, and will provide maximum efficiency and comfort consistent with the condition(s) of the recipient for whom the appliances are prescribed;

3. Assuming liability for material defects over which the provider has (or should have) control;

4. Agreeing to accept rejection of all appliances when the prescribing physician, after appropriate evaluation of the appliance(s), determines that the appliance(s) does not conform to the prescription and description of the appliance set forth in the accepted nomenclature, does not fit properly, is not of acceptable quality or does not provide maximum efficiency and comfort consistent with the conditions of the recipient(s) for whom it is prescribed;

5. (No change in text.)

10:55-1.8 (Reserved)

10:55-1.9 Policies and Procedures governing reimbursement for prosthetic and orthotic appliances

(a) For a new appliance, the provider shall submit a claim form to the Prudential Insurance Company in accordance with the procedures set forth at N.J.A.C. *[10:52-2]* *10:55-2*, entitled Billing Procedures.

1. The provider will be reimbursed in accordance with the Prosthetic and Orthotic Procedure Codes, Descriptions, and corresponding fee schedules which are cited but not reproduced at N.J.A.C. 10:55-3.1.

2. There will be no additional labor charge for a new item or appliance.

3. If it is necessary for the provider to visit the patient in their home, apartment or other community setting to measure, fit or deliver a new appliance, the following conditions apply:

i. The provider will be reimbursed according to the allowance that corresponds to the narrative description captioned portal to portal travel time. (Reference is made to procedure codes 6645 and 6941 which appear in the listing of Prosthetic and Orthotic Procedure Codes, Descriptions and Fee Schedules which is cited at N.J.A.C. 10:55-3.1.)

ii. A maximum of three "home visits" will be allowed, unless there is adequate documentation, including a prescription, justifying the need for additional visits.

(b) For an appliance that is being repaired, the following procedures apply:

1. The provider will submit a claim form to the Prudential Insurance Company in accordance with the procedures set forth at N.J.A.C. *[10:52-2]* *10:55-2*, entitled Billing Procedures.

i. The provider will be reimbursed in accordance with the Prosthetic and Orthotic Procedure Codes, Descriptions, and corresponding Fee Schedules which are cited but not reproduced at N.J.A.C. 10:55-3.1.

ii. A charge for labor will be allowed. (Reference is made to procedure codes 6644 and 6939 which appear in the listing of Procedure Codes, Descriptions, and Fee Schedules, cited at N.J.A.C. 10:55-3.1.)

iii. Reimbursement for home or community visits will be allowed in accordance with the same criteria that is used for new appliances. This criteria appeared previously at (b)3 above.

(c) In no event shall the allowance exceed the charge by the provider to other governmental agencies, or other groups or individuals in the community.

(d) Providers are entitled to request a hearing on any valid complaint or issue arising out of the claims payment process. The procedures for requesting a hearing are set forth in N.J.A.C. 10:49-5.1 et seq.

(a)

DIVISION OF PUBLIC WELFARE

Food Stamp Program

Work Registration and Voluntary Quit Amendments

Readopted Amendment: N.J.A.C.

10:87-2.19, 3.17, 3.18, 3.19 and 3.20

Proposed: January 21, 1985 at 17 N.J.R. 215(a).

Adopted: March 4, 1985 by George J. Albanese, Commissioner, Department of Human Services.

Filed: March 4, 1985 as R.1985 d.145, **without change**.

Authority: N.J.S.A. 30:4B-2, the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98), the Food Stamp Act Amendments of 1982 (P.L. 97-253) and 49FR39035.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): March 1, 1989.

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

Full text of the adoption follows.

10:87-2.19 Interview process

(a) All interviews for food stamp benefits shall meet the requirements below.

1. (No change.)

2. Responsibilities of interviewer: The interviewer shall not simply review the information which appears on the application, but shall explore and resolve with the household any unclear and incomplete information. Households shall be advised of their rights and responsibilities during the interview, including an explanation of the processing standards and the household's responsibility to report changes.

i. The interviewer shall explain to the applicant the consequences of the household's primary wage earner quitting his or her job without good cause (see N.J.A.C. 10:87-3.19(a)3).

3.-7. (No change.)

10:87-3.17 Registration procedure

(a) (No change.)

(b) Frequency of registration: Each nonexempt person shall be required to register at the time of application and at least once every 12 months thereafter. Re-registration shall be accomplished by the return of a completed information report form to the appropriate NJSES office.

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

ADOPTIONS**HUMAN SERVICES****10:87-3.18 Exemptions from the work registration requirement**

(a) Exemptions to the work registration requirement shall be determined when the household applies or reapplies for benefits, when there is a change in the employment status of any member of the household, and/or when the 12 month registration period is initiated or renewed. The applicant shall cooperate fully with regard to the establishment of his or her exemption from the work registration requirement. If an applicant fails to cooperate in the determination of his or her exempt status, the county welfare agency shall require the applicant to complete a work registration form.

(b) The following persons shall be exempt from the work registration requirement:

1. (No change.)
2. Essential persons: The following shall be exempt from work registration as essential persons:

i. Responsible for care of child under six or incapacitated person: One parent or other household member who has responsibility for the care of a dependent child under six years of age, or who cares for an incapacitated person, shall be exempt. If the child has its sixth birthday within a certification period, the individual responsible for the care of the child shall fulfill the work requirement as part of the next scheduled redetermination process, unless the individual qualifies for another exemption.

3.-7. (No change.)

8. Recipients of unemployment compensation: Persons in receipt of unemployment compensation and persons who have applied for, but have not yet begun receiving unemployment compensation shall be exempt.

i. Failure to comply: Persons failing to comply with an unemployment compensation requirement comparable to a food stamp work registration or job search requirement shall be treated as though they had failed to comply with the corresponding food stamp requirement.

9. (No change.)

10. WIN registrant: A household member subject to and participating in WIN shall be exempt.

i. Failure to comply: Persons failing to comply with a WIN requirement comparable to a food stamp work registration or job search requirement shall be treated as though they had failed to comply with the corresponding food stamp requirement.

(c) (No change.)

10:87-3.19 Additional registration requirements

(a) For the purposes of retaining eligibility for Food Stamp benefits, a nonexempt member of the household who is registered for work shall be required to comply with the following provisions:

1.-2. (No change.)

3. Voluntary quit: No household whose primary wage earner voluntarily quits his or her most recent job without good cause shall be eligible for participation in the Food Stamp program except as provided in (a)3ii below. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer shall not be considered as a voluntary quit. An employee of the Federal Government, or of a State or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike shall be considered to have voluntarily quit his or her job without good cause (see (a)7 below concerning strikers).

i. Determining whether a voluntary quit occurred: When a household files an application for participation, or when a participating household reports the loss of a source of income, the CWA shall determine if any currently unemployed (that is, employed less than 20 hours per week or receiving less than weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) household member who is required to register for full-time work has quit his or her most recent job (that is, employment involving 20 hours or more per week or having received weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) without good cause. For applicant households, the CWA shall determine if a voluntary quit occurred within the last 60 days. If the CWA learns that a household has lost a source of income after the date of application but before the household is certified, the CWA shall determine whether a voluntary quit occurred. For participating households, the CWA shall determine whether any household member voluntarily quit his or her job while participating in the program.

(1) (No change.)

(2) CWA Action: The CWA shall take the appropriate action, as outlined in (A) or (B) below, upon a determination that the primary wage earner voluntarily quit employment.

(A) Denial of application: Upon a determination that the primary wage earner voluntarily quit employment, the CWA shall determine if the voluntary quit was with good cause as defined below. If the voluntary quit was not for good cause, the household's application for participation shall be denied for a period of 90 days beginning with the date of application. The household shall be advised of the reason for the denial and of its rights to reapply at the end of the 90 day period and of its right to request a fair hearing.

(B) Disqualification of participating households: If the CWA determines that the primary wage earner of a participating household voluntarily quit his or her job while participating in the Food Stamp Program, the CWA shall provide the household with a notice of adverse action within 10 days of the date the determination of voluntary quit was made. The notice shall specify the period of the disqualification, the household's right to a fair hearing and that the household may reapply at the end of the disqualification period. The household shall be disqualified for three months beginning with the first month after normal adverse action procedures have been taken. If the household leaves the program before the sanction can be levied, the sanction shall not be imposed until the household returns to the program. If a household requests a fair hearing and the CWA determination is upheld, the disqualification period shall begin the first of the next month after the hearing decision is rendered.

(3) Application in third month of disqualification period: If an application for participation in the Food Stamp Program is filed in the third month of disqualification, the CWA shall (in accordance with N.J.A.C. 10:87-6.5) use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent months if all other eligibility criteria are met.

ii. Exceptions from voluntary quit provisions: Persons exempt from the work registration provisions as stated in N.J.A.C. 10:87-3.18 are exempt from the voluntary quit provisions.

iii. Good cause: Good cause for leaving employment includes the good cause provisions found in N.J.A.C. 10:87-3.20(d) and resigning from a job that does not meet the suitability criteria specified in (a)5 below. Good cause for leaving employment shall also include:

(1)-(8) (No change.)

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(9) Lack of adequate child care: Lack of adequate care of children who have reached age six but are under age 12.

iv. (No change.)

4. (No change.)

5. Accepting suitable employment: The registrant shall be required to accept any bona fide offer of suitable employment to which he or she has been referred by the appropriate NJSES office.

i. Unsuitable employment: Employment offered to a registrant shall not be considered suitable when any of the following conditions exist:

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

(4) The registrant lacks adequate child care for children who have reached age 6 but are under age 12.

ii. (No change.)

6.-7. (No change.)

(b) (No change.)

10:87-3.20 Failure to comply

(a) If the registrant fails to comply with any of the work registration or job search requirement provisions in this subchapter, without good cause, the appropriate NJSES office shall notify the county welfare agency within five working days of the date such information becomes known to the NJSES, citing specific facts and circumstances by means of an information report form.

(b) (No change.)

(c) Good cause for noncompliance: The CWA shall be responsible for determining good cause in those instances where the work registrant fails to comply with the work registration, job search or voluntary quit requirements of this subchapter. The county welfare agency shall take into consideration all of the facts and circumstances which existed at the time of the registrant's alleged failure to comply including information submitted by the employer and the household member involved. Good cause shall include circumstances beyond the control of the registrant.

(d) Good cause circumstances: Good cause for noncompliance shall include circumstances such as, but not limited to, the illness of the registrant or another household member, unavailability of transportation, an unanticipated emergency, and/or the lack of adequate care for children who have reached age six but are under age 12. Problems caused by inability of the registrant to speak or write English may constitute good cause. For example, a registrant who cannot read English would have good cause for not appearing for an NJSES interview if the appointment notice was written only in English.

1. (No change.)

(e) Penalty for noncompliance: If the CWA is informed by the NJSES Office that a household member has refused or failed, without good cause to comply with any of the work registration/job search requirements of this subchapter or the CWA determines that a registrant voluntarily quit a job without good cause, the appropriate penalty in (e)1 or (e)2 below shall apply:

1. Disqualification for failure to comply with work registration/job search requirements: The entire household shall become ineligible for a period of two months or until such member becomes exempt, or complies with the provisions for reestablishment of eligibility (see N.J.A.C. 10:87-3.21) whichever is earlier.

2. Disqualification for voluntary quit: The entire household shall be ineligible for a period of 90 days in cases of applicant households and three months in situations of partic-

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ipating households in accordance with (e)2i or (e)2ii below, as appropriate:

i. Applicant households: In the case of applicant households, the household's application shall be denied and a sanction imposed for 90 days starting from the date of application.

ii. Participating households: In the case of a participating household, the household shall be disqualified for three months beginning with the first of the month after all normal procedures for taking adverse action have been followed.

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Actuarial Services

Blindness; Partial Blindness or Other Physical or Mental Impairments; Unfair Discrimination

Adopted New Rule: N.J.A.C. 11:4-20

Proposed: January 21, 1985 at 17 N.J.R. 168(a).

Adopted: March 8, 1985 by Jasper J. Jackson, Acting Commissioner, Department of Insurance.

Filed: March 11, 1985 as R.1985 d.161, **without change.**

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:29B-1 et seq. and 17B:30-1 et seq.

Effective Date: April 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 1, 1990.

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

Full text of the readopted rule appears in the New Jersey Administrative Code at N.J.A.C. 11:4-20.

LABOR

(b)

THE COMMISSIONER

Contributions, Records and Reports

Adopted Repeal: N.J.A.C. 12:16-1.1 through 9.2; 12:16-11.1 through 15.3 and 12:19-1.1 through 2.1

Adopted New Rules: N.J.A.C. 12:16-1.1 through 9.3; 12:16-11.1 through 19.2

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Proposed: October 1, 1984 at 16 N.J.R. 2488(b).
Adopted: March 5, 1985 by Charles Serraino, Commissioner, Department of Labor.

Filed: March 7, 1985 as R.1985 d.147, **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. 43:21-1 et seq. (Chapter 24, L. 1984).

Effective Date: April 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 1, 1990.

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

Summary of Changes:

The proposed amendment to N.J.A.C. 12:15-1.1 which part of the original proposal has not been adopted here but will be proposed as a new rule.

Upon internal review of N.J.A.C. 12:16-4.8, it was determined that furnishing the employers with exact dollar and cents amounts, rather than having them make percentage calculations, would prove to be easier for them to accomplish the calculations. The difference between the percentage calculations and the exact figure amount occurs due to the rounding off of figures.

N.J.A.C. 12:16-4.9, Tips and Gratuities, has been added to the original proposal.

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

SUBCHAPTER 1. IDENTIFICATION OF COVERED WORKERS

12:16-1.1 Ascertainment of worker's Social Security account number

Each employer shall ascertain the Social Security account number of each worker employed by him in employment subject to the Unemployment Compensation Law and list such number on the employer's records.

12:16-1.2 Reporting of worker's Social Security account number

Each employer shall report a worker's Social Security account number in making any report required by the Department with respect to such worker.

12:16-1.3 Evidence of application for Social Security account number

(a) If an employer has in his employ a worker engaged in employment who does not have a Social Security account number, he shall request the worker to show him a receipt issued by an office of the Social Security Administration indicating that the worker has filed an application for an account number.

(b) The receipt shall be retained by the worker, but a copy or facsimile shall be retained by the employer.

12:16-1.4 Employer to inform worker without Social Security account number

An employer shall inform each worker who has not secured a Social Security account number that such number must be

filed on or before the seventh day after the date on which the worker first performs services in employment, except that the application shall be filed on or before the date the employment is terminated if such date precedes such seventh day.

12:16-1.5 Employer to inform worker in certain cases

An employer shall inform his worker that he should apply at any Social Security district office or branch office with respect to replacement of a lost Social Security account number card, change of name because of marriage or otherwise, or correction of any inaccurate information given when applying for a Social Security account number.

SUBCHAPTER 2. RECORDS

12:16-2.1 Payroll records

(a) Every employing unit having workers in employment, regardless of whether such unit is or is not an "employer" as defined in the Unemployment Compensation Law, shall keep payroll records which shall show, for each pay period:

1. The beginning and ending dates;
2. The full name of each employee and the day or days in each calendar week on which he performs services for remuneration;
3. The total amount of remuneration paid to each employee showing separately cash, including commissions and bonuses; the cash value of all compensation in any medium other than cash; gratuities received regularly in the course of employment if reported by the employee, or if not so reported, the minimum wage rate prescribed under applicable laws of this State or of the United States or the amount of remuneration actually received by the employee from his employing unit, whichever is the higher; and service charges collected by the employer and distributed to workers in lieu of gratuities and tips;
4. The total amount of all remuneration paid to all employees;
5. The number of weeks worked.

12:16-2.2 Individual worker records

(a) Each employing unit shall maintain a record for each worker engaged in employment containing:

1. His full name, address, and Social Security account number;
2. His total remuneration paid in each pay period showing separately cash, including commissions and bonuses; the cash value of all compensation in any medium other than cash; gratuities received regularly in the course of employment if reported by the employee, or if not so reported, the minimum wage rate prescribed under applicable laws of this State or of the United States, or the amount of remuneration actually received by the employee from his employing unit, whichever is the higher, and service charges collected by the employer and distributed to workers in lieu of gratuities and tips;
3. A recordation under the heading "special payments" the amount of any special payments such as bonuses and gifts which have been paid during the pay period but which relate to employment in a prior period. The following shall be showed separately under this heading: cash payments, cash value of other remuneration, the nature of such payments, the period during which the services were performed for which special payments were payable;
4. The date on which he was hired, rehired or returned to work after temporary layoff. The date he was separated from employment and the reason for such separation;
5. Such information as may be necessary to determine his remuneration on a calendar week basis.

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6. The number of base weeks (see N.J.S.A. 43:21-19 (t)) and wages.

12:16-2.3 Records defined

Records are defined as all books of original entry plus any summarizations or other media used to post to a general ledger or its equivalent as well as all Federal and State tax returns. Records shall also include machine sensible data media used for recording, consolidating, and summarizing accounting transactions within an employing unit's automatic data processing system.

12:16-2.4 Records Retention

All records required by these regulations shall be kept safe and readily accessible at the New Jersey place of business of the employing unit, unless it has been shown to the satisfaction of the Department that this would create an undue hardship. Such records shall at all reasonable times be open for inspection by authorized representatives of the Department and shall be retained for the current calendar year and for the four preceding calendar years.

SUBCHAPTER 3. POWER OF ATTORNEY

12:16-3.1 Power of attorney: requirements

(a) An employer may grant power of attorney to another person to represent the employer before the Employment Security Agency in all matters affecting quarterly contribution reports, experience rating, tax liability, and claims for benefits.

(b) The power of attorney document must contain the following:

1. The corporate seal unless the employer is an individual or a partnership;
2. The signature of the employer(s) or duly authorized corporate officer;
3. Specific mention of the Employment Security Agency as the entity before whom representation will be made on behalf of the employer;
4. The signature of a notary public and the expiration date of his commission;
5. The signature of the representative and a statement acknowledging power of attorney authorization.

(c) If the address of record for the employer is changed to that of the representative on the status (tax) file, the benefit file, or both, the representative must accept all reports, notices, billings, and correspondence pertinent to the particular file on which the address had been changed.

SUBCHAPTER 4. REMUNERATION

12:16-4.1 Remuneration defined

(a) The New Jersey Unemployment Compensation Law, at N.J.S.A. 43:21-19(p), states that "Remuneration" means all compensation for personal services, including commissions and bonuses and the cash value of all compensation in any medium other than cash.

(b) The following remuneration issues are discussed in N.J.A.C. 12:16-4.2 through *[4.8]* *4.9*:

1. Sick leave payments;
2. Fringe benefit payments;
3. Section 401(k) plans;
4. Push payments;
5. Officer's remuneration
6. Back pay awards;
7. Back pay, residuals, non-residents aliens;
8. Other remuneration*[.] * *;
- *9. Tips and gratuities.*

12:16-4.2 Sick leave payments

(a) Sick leave payments (also known as continuation pay) made by employers to employees for periods of disability are wages within the meaning of the Unemployment Compensation and Temporary Disability Benefits laws for both tax and benefit entitlement purposes.

(b) Those types of sick leave payments deemed wages and therefore taxable are:

1. Continuation of pay during periods of sickness or injury;
2. Payment of the difference between temporary disability benefits paid under the State Plan or an approved Private Plan and full salary;
3. Payment of the difference between Workers' Compensation benefits and full salary;
4. Payment of unused sick leave made to an employee while still in employment.

(c) Those types of sick leave payments deemed benefits and therefore not taxable are:

1. Benefits paid from the State Plan for temporary disability insurance;
2. Benefits paid by an insurance carrier under an approved Private Plan;
3. Benefits paid by a union under an approved Private Plan;
4. Benefits paid by the employer under an approved self-insured Private Plan;
5. Benefits paid for work related injury under Workers' Compensation;
6. Benefits paid to employees in the public sector for work related illness under Sick Leave Injury (SLI);
7. Payment of sick leave made after retirement or separation from employment.

12:16-4.3 Fringe benefit payments

(a) Fringe benefit payments which result in a direct benefit to the employee are generally taxable. Fringe benefit payments which take the form of a reimbursement or a health benefit are usually nontaxable.

(b) Taxable fringe benefits may include:

1. Vacation pay (both before and after dismissal);
2. Separation pay (if made under a contractual obligation or by custom);
3. Guaranteed annual wage payments;
4. Difference between regular salary and jury duty pay;
5. Employer payments to employees' IRA;
6. Draw against future earnings (taxable when paid) unless the employer takes legal steps to recoup the over-payments;
7. Payment of employee's portion of Federal or State income tax unemployment/disability insurance taxes, or social security tax.

(c) Non-taxable fringe benefits may include:

1. Employer payments to retirement plans including, SEP-IRA plans (See (d) below);
2. Payments to hospitalization and medical/dental plans, and payments made under such plans;
3. Payments to union welfare funds;
4. Life insurance premiums;
5. Tuition reimbursements and payments.

(d) In general, the entire gross remuneration for services rendered by an employee is taxable up to the maximum yearly wage base including amounts deducted for payment into a deferred savings program that lets the employee set aside money for his or her retirement.

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12:16-4.4 Section 401(k) Plans

Effective January 1, 1984, employer contributions to cash or deferred arrangements under Section 401(k) of the Internal Revenue Code will be taxable to the extent that the employee could have elected to receive cash in lieu of making the contribution. In addition, employer contributions to an annuity contract covered under Section 403(b) of the Internal Revenue Code are taxable.

12:16-4.5 Push payments

(a) Push payments are commission or bonus type payments made by a manufacturer to sales persons for "pushing" a certain product or product lines. These may also be referred to as push money, premiums, or incentive payments. Push payments take differing formats and are made in varying manners.

1. Push payments made directly by a manufacturer to its own salespersons are taxable.

2. Payments made by one entity to employees of another are taxable remuneration to the actual employer when made pursuant to a contractual obligation, written or oral, expressed or implied.

12:16-4.6 Officer's remuneration

(a) For the purpose of the Unemployment Compensation and Temporary Disability Benefits Laws, each officer of a corporation receiving remuneration for any personal services performed for that corporation shall be considered to be in its employ, and such payments shall be taxable.

(b) An election to report under the Small Business Corporation provisions of Title 26 of the Internal Revenue Code whereby corporate profits may be distributed as dividends to shareholders, commonly referred to as Subchapter S or 1120S corporations, shall not affect (a) above. Remuneration paid to officers of corporations having made such an election shall be considered wages for benefit and contribution purposes if the officers perform any services.

12:16-4.7 Back pay, residuals, non-resident aliens

(a) Back pay awards are taxable remuneration where the discharge from employment was held invalid and reinstatement of the job ordered. Back pay is not taxable if considered damages for an illegal act without job reinstatement.

(b) Residual payments made to entertainers for reuse of commercial recordings are taxable if the original services were performed in this State.

(c) Under Regulation 31.3306(c)(18)-1 of the Federal Unemployment Tax Act, services performed by non-resident aliens while they are in the United States on a temporary basis as non-immigrant students generally are not permitted to work for a wage or salary while they are in the United States. This type of service would be employment if the individual was hired to replace a regular employee; perform the same type of work, or if they were under any obligation to perform any service other than those incidental to training either during or after the training program.

12:16-4.8 Other remuneration

(a) Payments in kind ***for personal services*** such as ***meals,*** board, lodging or any other payment in kind received by a worker from his employing unit in addition to or in lieu of (rather than as a deduction from) money wages shall be deemed to be remuneration paid by his employing unit.

(b) The Assistant Commissioner for Finance and Controller of the New Jersey Department of Labor (hereinafter, cited as the Controller), shall determine or approve the cash value of such payments in kind, and such cash value shall be used in

determining the wages payable or paid to such worker and in computing contributions due under the law.

(c) Money value for board and room meals and lodging shall be treated as follows:

1. Where a money value for board and room, meals and lodging, or for any of such items, furnished a worker is agreed upon in a contract of hire, the amount so agreed upon shall*[, if more than the rates specially determined by the Controller or the rates prescribed herein,]* be deemed the cash value of such item or items.

*[2. Unless and until rates in a given case are determined by the Controller, board and room, meals and lodging, or any of such items, furnished in addition to, or in lieu of, money wages, shall be deemed to have not less than the following values:

- i. Full board and room: 35 percent of the current taxable wage base
- ii. Meals: 20 percent of the current taxable wage base
- iii. Lodging: 15 percent of the current taxable wage base]*

***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, as follows:**

- i. Full board and room, weekly \$65.00**
- ii. Meals per day 7.80**
if less than 3 meals per day the individual meals shall be valued as follows:
Breakfast 2.30
(meals served between 12:01 A.M. and 11:00 A.M.)
Lunch 2.30
(meals served between 11:00 A.M. and 4:00 P.M.)
Dinner 3.20
(meals served between 4:00 P.M. and 12:00 P.M.)
- iii. Lodging per week 28.00**

12:16-4.9 Tips and gratuities

If a worker receives gratuities and/or tips regularly in the course of his employment from others than his employer, the gratuities and/or tips so received, if reported in writing to his employer, shall be considered taxable. The entire amount of charge tips are covered wages and are taxable to the maximum base even though the employee has not reported the entire amount to the employer. If the employee omits reporting tips, but the employer considers tips as part of an hourly rate for meeting the requirements of a Federal or State minimum wage law, it is considered that, in effect, tips have been reported to the employer to that extent and are therefore included as taxable wages.*

SUBCHAPTER 5. CONTRIBUTIONS BY EMPLOYERS

12:16-5.1 Accrual as remuneration earned

(a) Employers' contributions shall accrue as remuneration is earned by workers in covered employment, but will not become due until payment or payment in kind is actually or constructively made.

(b) Payment of employers' contributions shall be made as prescribed within this Chapter.

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

September 30	October 31
December 31	January 31

(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, or Sunday, or legal holiday, the due date will be the next succeeding day which is not a Saturday, Sunday, or legal holiday.

12:16-5.3 Bases of contribution payments

(a) The payment for each reporting period shall include contributions computed with respect to wages paid for employment in all work periods (weekly, biweekly, semi-monthly, monthly) ended within the reporting period.

(b) In computing and paying employer contributions to the Unemployment Compensation Fund or the State Disability Benefits Fund, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

12:16-5.4 First contributions of newly subject employer

(a) Except as to liability by election as provided in N.J.A.C. 12:3 (Election of Coverage), the first contribution payment of an employer who becomes newly liable in any calendar year shall be payable on or before the due date of the reporting period in which the subject status occurs.

(b) The first payment of such an employer becoming liable in the course of a calendar year shall include his own contributions with respect to all wages paid for employment from the first day of subjectivity in the calendar year. Subjectivity is defined as the employer's contribution date as determined by the Controller. (See N.J.A.C. 12:16-5.2 with respect to due dates).

12:16-5.5 Installment payments

The Controller may permit the payment of liability in installments, but if any installment is not paid on or before the due date, the total amount of the unpaid liability shall become payable upon notice and demand by the Controller.

12:16-5.6 Voluntary payment of additional contributions

(a) A voluntary payment of an additional contribution must be made within 30 days after the date of mailing of the Notice of Employer Contribution Rate unless, for good cause, the date of payment has been extended by the Controller for not more than an additional 60 days or October 28, whichever is earlier. A request for an extension for good cause must be made in writing to the Controller within the initial 30 day period.

(b) No payment forwarded as an additional contribution will be applied to the recomputation of an employer's rate for the current tax year (July 1-June 30) if the employer has any reporting or payment delinquency as to any period prior to the current tax year. In such case, the remittance will be first applied to the past indebtedness and the balance, if any, will be considered as an additional contribution.

(c) Any adjustment resulting from the payment of an additional contribution shall be made only in the form of a credit against accrued or future contributions.

(d) The voluntary payment of additional contributions will not affect employers having one of the following:

1. The basic rate which is assigned where an employer has not been subject to the Law during some period in each of the last three consecutive calendar years.

2. An assigned or special rate, determined by the employer's reserve balance and the unemployment trust fund reserve

ratio, which rate is assigned where during the past three calendar years, there has been, at least, one calendar year with respect to which no contributions were paid.

(e) The determination of the amount of an additional contribution is the sole responsibility of the employer.

12:16-5.7 Payment in guaranteed funds

The Controller may require payment in guaranteed funds of any amount required to be paid under the Unemployment Compensation Law of New Jersey, the Temporary Disability Benefits Law of New Jersey or rules or regulations promulgated thereunder, in any case in which he considers such type of payment necessary or desirable.

12:16-5.8 Seamen's wages

(a) For the purpose of this section, the term "work period" means the period of a voyage or engagement of the crew of a vessel under "Articles of Agreement" pursuant to Title 46 of the United States Code.

(b) Notwithstanding any other provisions of N.J.A.C. 12:16-5.2 (Due dates) and 12:16-5.3 (Bases of contribution payments), if a work period as defined in (a) above began in one calendar quarter and ended in another calendar quarter, the total amount of wages for such work period may be reported for the calendar quarter in which such work period terminated, and contributions with respect to wages so earned paid accordingly.

12:16-5.9 Special fringe benefit agent accounts

(a) Special fringe benefit agents accounts may be approved by the Controller for the purpose of reporting payments such as vacation and holiday payments which have been negotiated in union-management contracts. Approval will only be given when it is shown that to do otherwise would create a hardship on the employer.

(b) The agent is assigned the basic rates for a new employer and is responsible for:

1. The timely submission of quarterly reports with payment of all contributions attributed to special fringe benefit payments; and

2. The submission of a quarterly benefit payment allocation schedule listing the employers it represents and their corresponding taxable wages.

(c) The primary employer will maintain his own individual rates based on his own employment experience and is responsible for:

1. The submission of quarterly reports timely with payment of all contributions due exclusive of the reporting of the agent account; and

2. The annual submission of a request for refund of excess employer contributions together with a listing which outlines in detail names of employees, Social Security numbers, taxable wages by the employer, taxable wages by the agent, unemployment contributions deducted by the agent.

(d) Upon auditing and verifying the claim, the Controller will make proper transfers of taxable wages and payments to the primary employer's account and issue a refund of any net credits outstanding. The refund is to be computed at the unemployment rate of the employer or the basic rate whichever is the lesser.

SUBCHAPTER 6. REIMBURSEMENT OPTION FOR NON-PROFIT ORGANIZATIONS

12:16-6.1 Application

(a) Any non-profit organization, as described in Section 501(c)(3) of the Internal Revenue Code and which is exempt from income tax under Section 501(a) of the Internal Revenue

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Code, may elect to reimburse the Unemployment Trust Fund for benefits paid to its former employees by filing a written notice of its intention not later than 120 days immediately following the date of its subjectivity defined at N.J.A.C. 12:16-5.4(b), or not later than 30 days after the organization has been notified of its subjectivity, whichever is later.

(b) Any non-profit organization, as described in N.J.A.C. (a) above which has been paying contributions under the Unemployment Compensation Law and wishes to make such an election may do so by filing a written notice of its intention no later than February 1 of any calendar year.

(c) For good cause, the period within which a notice of election must be filed may be extended and a retroactive election may be permitted.

(d) Upon an employer's written notice of its intention to elect the reimbursement option, the Controller shall supply the form on which the employer will request the reimbursement option, and the form shall be completed and returned to the Controller within 30 days from the date of mailing.

(e) The employer shall be advised as to the disposition of its request and, if approved, such approval shall be conditioned upon the employer's meeting the security requirement as defined in N.J.A.C. 12:16-6.2(a) below.

(f) Other than the date of subjectivity defined in N.J.A.C. 12:16-5.4(b), an election for reimbursement in lieu of contributions shall be effective only as of the first day of January of any calendar year.

12:16-6.2 Financial security requirements

(a) A non-profit organization electing coverage under the reimbursement option may be required to file with the Controller, within 30 days after the effective date of its election, a surety bond or to deposit with the Controller monies or securities in an amount as determined by the Controller. This amount shall not be less than the organization's taxable wages for the preceding calendar year or the estimated taxable wages for the current calendar year, whichever is the greater, multiplied by the maximum employment insurance contribution rate in effect at the beginning of the calendar year.

1. If the surety requirement is not met within the prescribed time limits, the previously issued conditional approval shall be withdrawn retroactively to its effective date, and the employer shall be liable for contributions as if such approval had not been issued.

2. The Controller may make a periodic review of the adequacy of the security furnished by the non-profit reimbursable employer to determine if any adjustment is necessary.

3. The Controller may deduct from any monies deposited under (a) above by a non-profit organization, or may sell the securities so deposited to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest or penalties.

4. The Controller may extend for good cause the applicable filing, deposit or adjustment period by not more than 90 days.

12:16-6.3 Termination

(a) If any non-profit employer fails to meet the security requirements as set forth in N.J.A.C. 12:16-6.2(a) the Controller may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for no less than 24 calendar months beginning with the first quarter in which such termination becomes effective.

(b) Any non-profit organization which has been making payments in lieu of contributions for a minimum of two calendar years and wishes to change to the contribution method of payment may do so by filing a written notice of its intentions no later than February 1 of any calendar year.

(c) When an election to make payments in lieu of contributions is terminated, and the non-profit organization begins or resumes payments under the contribution method, it may not revert to the reimbursement option for at least two full calendar years after such termination.

12:16-6.4 Liability

(a) If a non-profit organization's election to make payments in lieu of contributions is terminated by the Controller, the non-profit organization shall remain liable for payments in lieu of contributions with respect to all benefits paid based on base year wages earned during the effective period of the election.

(b) As of the effective date of the termination of an election to make payments in lieu of contributions, a non-profit organization shall become liable to pay unemployment contributions on taxable wages paid to its employees.

SUBCHAPTER 7. CONTRIBUTORY OPTION FOR GOVERNMENTAL EMPLOYERS**12:16-7.1 Application**

(a) Any governmental entity or instrumentality which is or becomes subject to the Unemployment Compensation Law and wishes to elect to pay contributions rather than to reimburse the Unemployment Trust Fund for benefits paid may do so by filing a written notice of its intention not later than 120 days immediately following the date of its (defined at N.J.A.C. 12:16-5.4(b)) subjectivity or not later than 30 days from the date such entity or instrumentality is notified of its subjectivity, whichever is the later.

(b) Any governmental entity or instrumentality which has been reimbursing the Unemployment Trust Fund and wishes to change its method of financing by electing to pay contributions as of January 1 of any year, may do so by filing a written notice of its intention no later than February 1 of such calendar year.

(c) The employer shall furnish the Controller with a copy of the ordinance, minutes, resolutions, or other substantiating document which confirms the election of the contributory option.

12:16-7.2 Finance

(a) On or before September 1 of each year, the Controller shall review the composite benefit cost experience of all governmental entities and instrumentalities electing to pay contributions and shall recommend a contribution rate for the following calendar year to the Commissioner.

(b) The Commissioner of Labor shall establish the contribution rate for the following calendar year after considering the recommendation of the Controller.

(c) Any covered governmental entity or instrumentality electing to pay contributions shall appropriate each year, out of its general funds, monies to pay the projected costs of benefits at the rate determined under (b) above. These funds are to be held in a trust fund by the governmental entity strictly for this purpose. Any surplus in the fund shall be retained in reserve for payment of benefits costs for subsequent years either by contributions or payments in lieu of contributions.

12:16-7.3 Termination

(a) Any governmental employer which has been paying contributions for a minimum of two calendar years and wishes to change to making payments in lieu of contributions may do so by filing a written notice of its intention no later than February 1 of any calendar year.

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(b) When an election to pay contributions is terminated and the governmental employer resumes making payments in lieu of contributions, it may not revert to the contributory option for at least two full calendar years after such termination.

12:16-7.4 Liability

(a) The change of financing options shall have no effect upon the liability incurred under the prior financing option.

(b) If the governmental employer's election to pay contribution is terminated, the governmental employer shall remain liable for all contributions incurred during the period of its election to pay contributions.

(c) As of the effective date of the termination of an election to pay contribution, a governmental employer shall become liable to make payments in lieu of contributions.

SUBCHAPTER 8. GROUP ACCOUNTS

12:16-8.1 Establishment

(a) Two or more employers liable for payments in lieu of contributions may apply for the establishment of a group account for the purpose of sharing the risk of unemployment benefit costs.

(b) The group account will be established as of the first day of any calendar quarter and will remain in effect for not less than two calendar years unless otherwise determined by the Controller.

(c) The request for establishment of a group account shall be filed by the designated group agent listing the names and New Jersey registration numbers assigned by the Controller to the employers seeking group membership. The request shall be accompanied by consent documents executed by each applicant for membership authorizing the group agent to act in its behalf for the group account. The employers shall furnish the Controller with a copy of the ordinance, minutes, resolutions, or other substantiating document which confirms the intent of the employer to become a member of the group.

(d) In establishing the group account, the Controller may modify or waive the security required of any of the group members and in lieu thereof the Controller may establish a security requirement of the group as a whole.

12:16-8.2 Participation

(a) New members may be added to an established group at the request of the group. The request for the addition of a new member will require the filing of a consent document executed by the new applicant for membership authorizing the group agent to act in its behalf for the group account.

(b) No employer may become a member of a group if it has any reporting or payment delinquency.

(c) No employer may be a member of more than one group at a time.

12:16-8.3 Termination

(a) Group membership will be terminated for any employer upon the cancellation of its reimbursement payment option as of the effective date of the cancellation.

(b) With the approval of the Controller, membership in the group will be terminated for any member at the request of that member or at the request of the group agent. The membership will be terminated at the end of the calendar quarter in which the request for termination is received.

12:16-8.4 Liability

(a) The group account will provide risk sharing for its members only with respect to unemployment benefits liability and interest attributable thereto.

(b) Membership in the group will not relieve any member of any liability charged to its account.

(c) The group will be liable for payment of reimbursable unemployment benefits charged to its members' accounts during their period of membership in the group; plus the reimbursable unemployment benefits charged to any terminated member through the next two complete calendar quarters following the date of its membership termination.

(d) Amounts received in payment of liability payable through the group account will be applied against the outstanding liability of the group as a whole in each quarterly period, beginning with the outstanding liability in the earliest quarterly period.

12:16-8.5 Dissolution

(a) Request for dissolution of a group account will require the consent of two-thirds of its active members. The effective date of dissolution will be determined by the Controller.

(b) The group agent must advise the Controller of the ratio of each member's liability to the local liability of the group, if there is any group liability outstanding at the time of dissolution. Such liability will be due immediately from each employer in accordance with the balance of group liability remaining in its individual account as determined by the group agent.

(c) A group account may be dissolved by the Controller for reporting or payment delinquency, failure to post required bond or other security, or similar good cause.

(d) Except as required herein, the Controller is not a party to any agreement between the group, the group agent or any of its members.

SUBCHAPTER 9. CONTRIBUTIONS BY WORKERS

12:16-9.1 Workers' contribution-trust fund

(a) Every employer shall withhold workers' contributions from their wages at each time of payment of such wages.

(b) In withholding workers' contributions from their wages and in paying any contributions to the Unemployment Compensation Fund and the State Disability Benefits Fund, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(c) The moneys so withheld, while in the possession of the employer, shall constitute a trust fund and shall be accounted for apart from employer's contributions.

(d) Such account shall be kept posted up to date by the employer so as to show at all times the amount withheld from workers, the amount of each remittance to the Controller, and the amount of workers' contributions withheld but not remitted to the Controller.

12:16-9.2 Evidence of amounts withheld furnished workers

(a) Every employer, at the time of making each payment of wages, shall furnish to each of his workers a statement showing clearly the total amount deducted for contributions for the Unemployment Compensation Fund and the State Disability Benefits Fund.

(b) The statement shall be such as can be delivered to each worker in order to enable him to determine for himself whether the total amount of his contribution is correctly computed.

(c) A notation on a paycheck or a pay envelope showing the total wages and, as a separate item, the amount deducted for contribution to the Controller for the said funds will constitute compliance with the provisions of this section.

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12:16-9.3 Reporting and paying workers' contributions

(a) Every employer shall include on his contribution report the amount of contributions due and payable of behalf of his workers.

(b) Every contribution report shall be accompanied by a remittance for the amount of both the employer contributions and the contributions payable by the employer on behalf of his workers.

SUBCHAPTER 10. HEARINGS (See Notice of Adoption at 16 N.J.R. 2821(a).)

SUBCHAPTER 11. EXCESS WORKER DEDUCTIONS

12:16-11.1 Excess disability deductions

(a) If a worker receives wages from more than one employer, and:

1. The sum of the contributions required and deducted from his wages and deposited in the State Disability Benefits Fund, plus the contributions, if any, required and deducted from his wages, toward the costs of benefits under one or more plans approved under N.J.S.A. 43:21-33, or

2. The sum of all contributions required and deducted from his wages toward the costs of benefits under two or more such private plans, if covered only by said plans, exceeds an amount equal to one-half of one percent of the taxable wage base in any calendar year, the worker shall be entitled to a credit in the amount of the excess thereof against his New Jersey State Gross Income Tax, if the individual establishes his right to such credit and makes claim therefor within two calendar years after the end of the calendar year in which the wages were received.

12:16-11.2 Excess unemployment deductions

If a worker receives wages from more than one employer and the sum of the contributions required from his wages and deposited in the State Unemployment Compensation Fund or in a trust fund for the purpose of repaying benefits, exceeds one-half of one percent of the taxable wage base in periods prior to July 1, 1986 or five eighths of one percent for periods thereafter, the worker shall be entitled to a credit in the amount of the excess thereof against his New Jersey State Gross Income Tax, if he makes a claim therefor within two calendar years after the end of the calendar year in which the wages were received.

12:16-11.3 Wage deduction statements

(a) Employers shall furnish to workers the following information on Form W-2:

1. The employer registration number assigned by the Controller;

2. The private plan number, if any, assigned by the Division;

3. The amount deducted for State unemployment insurance;

4. The amount deducted for State disability insurance or for the costs of benefits under an approved private plan.

(b) The refund of any deductions in excess of the legal maximum made from a worker's wages by an individual employer is the responsibility of the employer who made such excess deductions.

12:16-11.4 Refund of excess deductions

Any worker who meets the requirements of N.J.A.C. 12:16-11.1 and 12:16-11.2 but is not required to file a New Jersey Gross Income Tax return, may apply to the Controller for a refund of any excess unemployment and disability insurance made from his wages.

12:16-11.5 Assessment for governmental reimbursable employers

(a) All governmental entities who repay benefits in lieu of contributions shall be notified of the applicable portion to be repaid to the Controller from their trust funds for the amounts of any excess unemployment insurance deductions either refunded to their employees or credited to their employees' New Jersey State Gross Income Tax.

(b) Payment to the Controller shall be made within 30 days of the date of mailing of the notice. Payments received after the 30 day period shall be liable to the assessment of interest as specified in N.J.S.A. 43:21-14(b).

SUBCHAPTER 12. CONCURRENT EMPLOYMENT BY RELATED EMPLOYERS

12:16-12.1 Separate accounts

Each employer, for each calendar year in which it is subject to the Unemployment Compensation and Temporary Disability Benefits Law, is separately and distinctly liable for contributions, up to the yearly maximum taxable wage, based upon remuneration paid to each of its employees regardless of whether or not any such employees are common to other employing units which are jointly owned or controlled by the same interests.

12:16-12.2 Common paymaster

(a) If two or more related entities concurrently employ the same individual and compensate that individual through a common paymaster that is one of the related entities, each entity will be considered to have paid the individual the amounts that it actually dispersed.

(b) If one of the related entities actually dispersed all the wages as agent for the rest, but such wage payments were charged back to the individual entities for record keeping, income tax or other purposes, the individual related entities shall be considered to be the employer for purposes of the Unemployment Compensation and the Temporary Disability Benefits Laws.

SUBCHAPTER 13. REPORTS

12:16-13.1 Reports required

Every employer shall file such contribution and statistical reports, and reports of wages paid to individual workers as may be required by the Controller, and every employing unit shall file such reports as may be required by the Controller with respect to employment as shall be necessary to determine its status under the law.

12:16-13.2 Force and effect of instructions relating to reports

The employer shall follow and comply with all departmental instructions relating to any report or report form required or provided by the department.

12:16-13.3 Penalty for failure to file reports

(a) The penalty prescribed by N.J.S.A. 43:21-14(a) for delinquency in filing reports (except for such reports as may be required under N.J.S.A. 43:21-6(b) (2) of the Unemployment Compensation Law) shall be computed for each report from and including the day after such report is due through the post mark date on the envelope in which the report is received by the Controller.

(b) If an employer or employing unit who has been granted an extension of time fails to file his report on or before the termination of the period of the extension for the filing

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thereof, the penalty for failure to file shall be payable from the original due date as if no extension had been granted.

12:16-13.4 Penalty abatement

(a) The Controller may remit or abate unpaid penalties for good cause if the employer fulfills the following requirements:

1. The employer makes a written request for penalty abatement consideration;
2. The employer submits an affidavit or other acceptable documentation providing a valid reason why the report(s) for the period(s) in question were not filed by the due date(s);
3. All contribution reports have been filed;
4. All liability, other than the penalty for which abatement is being requested, has been paid.

12:16-13.5 Wages paid reported currently

(a) The Controller may require any employer to report wages paid to every worker in his employ within seven days from the date of payment thereof, if the Controller deems it necessary for the effective administration of the Unemployment Compensation Law and the Temporary Disability Benefits Law. Failure to comply will subject such employer or employing unit to the penalties prescribed in N.J.S.A. 43:21-16(b)(2).

(b) Any employer or employing unit required to comply with N.J.A.C. 12:16-13.1 (Reports required) will be duly notified by the Department.

12:16-13.6 Reporting wages, remuneration and other information

(a) Any employer or employing unit shall furnish the record of wages and remuneration paid to a worker, and such other information as may be required under the provisions of N.J.S.A. 43:21-6(b).

(b) Failure to comply with (a) above will subject such employer or employing unit to the penalties prescribed in N.J.S.A. 43:21-16(b)(2).

12:16-13.7 Wage reporting

(a) For the calendar quarter commencing July 1, 1984 and each quarter thereafter, each employer shall file a report with the Controller within 30 days after the end of each quarter in a form and manner prescribed by the Controller listing the name, social security number and wages paid to each employee and the number of base weeks worked by the employee during the calendar quarter.

(b) Any employer who fails, without reasonable cause, to comply with the reporting requirements of this section shall be liable for a penalty in the following amount for each employee who is not included in the report or for whom the required information is not accurately reported:

1. For the first failure for one quarter, in any eight consecutive quarters, \$5.00 for each employee;
2. For the second failure for any quarter, in any eight consecutive quarters, \$10.00 for each employee; and
3. For the third failure for any quarter, in any eight consecutive quarters, and for any failure in any eight consecutive quarters which failure is subsequent to the third failure, \$25.00 for each employee.

12:16-13.8 Suspension of business

(a) Where a suspension of the business operations of any employer occurs in this State, such employer shall give advance notice thereof to the Controller. In the event that it is impracticable to give such advance notice, the employer shall notify the Controller within 48 hours after such suspension.

(b) Such notice shall be filed with the controller and shall contain the following information:

1. The name and address of the employer;
 2. The expected date or date of suspension of business operations;
 3. The reason(s) for such action;
 4. Whether such suspension of operations is permanent or temporary;
 5. Whether wage and separation information will be available for a period of one year from date of suspension of business operations;
 6. The name and address of the person or organization from whom such information will be obtainable.
- (c) Upon receipt and examination of the notice required in (a) and (b) above, the Department shall determine whether or not the employer shall be required to furnish wage and separation reports.

12:16-13.9 Transfer of business

(a) When a transfer, in whole or in part, of the business operations of any employer occurs in this State it shall be the responsibility of the acquiring unit to notify the Controller of such acquisition within 30 days of the transfer.

(b) The successor shall supply the Controller with the name, address and, if possible, the registration number of the acquired unit.

(c) This notification, if possible, should be made on the Controller's Form UC-1; otherwise, a letter will be acceptable.

SUBCHAPTER 14. ELECTION OF COVERAGE

12:16-14.1 Application for election

(a) An employing unit desiring to elect to become subject to the Unemployment Compensation and Temporary Disability Benefits Laws may request from the Controller forms for voluntary election to become an employer, or to extend its coverage to individuals performing services which do not constitute employment.

(b) The forms for voluntary election to become an employer under the Unemployment Compensation and Temporary Disability Benefits Laws or to extend coverage shall be prescribed by the Controller.

(c) The employing unit making application for voluntary election of subject status must, at the time of making such application, be exempt and have at least one individual, not a member of his immediate family, in employment who would be affected by the voluntary election.

12:16-14.2 Date of filing

The date of filing a voluntary election shall be deemed to be the date on which the written election, signed by a legally authorized individual, is received by the Controller.

12:16-14.3 Effective date of election

In cases where claims for benefits against an employing unit are known to be pending, no retroactive voluntary election shall be approved for an effective date prior to the first day of the calendar quarter in which such claims were filed, unless contributions were actually paid for prior quarter(s) before the date(s) of claim for benefits.

12:16-14.4 Election subject to Controller's approval

(a) Any written election for a period prior to the date of filing shall become binding upon approval by the Controller, and notification of the approval shall be forwarded to the employer.

(b) If for any reason the Controller does not approve such voluntary election, the employing unit shall be notified of the reasons why such approval was withheld.

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12:16-14.5 Effect of election approval

(a) Each approval of an election shall state the date upon which the approval becomes effective.

(b) The first contribution payment, of any employing unit which elects to become an employer, shall become due and shall be paid on or before the due date (see N.J.A.C. 12:16-5.2) of the reporting period during which the conditions of becoming an employer by election are satisfied, and shall include employer contributions with respect to all wages paid on and after the date stated in such approval.

(c) Such first payment shall also include workers' contributions with respect to all wages paid for employment occurring after the date when the employing unit satisfied all the conditions of becoming an employer by election.

SUBCHAPTER 15. JOINT ACCOUNTS

12:16-15.1 Application

(a) Two or more employers desiring to have their accounts joined for the purpose of N.J.S.A. 43:21-7 of the Unemployment Compensation Law may request from the Controller forms for making application therefor.

(b) Such forms shall be completed and filed jointly by all the employers desiring to have their accounts joined into one account.

(c) The form of application for the establishment of a joint account shall be prescribed by the Controller.

(d) This rule is not to be construed to make available joint accounts for Temporary Disability Insurance contributions.

12:16-15.2 Eligibility

(a) A joint account shall be established only after it has been shown to the satisfaction of the Controller that the following conditions have been met:

1. The employers desiring to have their accounts joined shall have filed with the Controller Form UC-38 Application For Establishment of a Joint Account not later than May 31 of such calendar year;

2. At the time of application, all the employers requesting such joint account have employment covered by the New Jersey Unemployment Compensation Law and are owned or controlled directly or indirectly by the same interests;

3. None of such employers was participating in another joint account throughout the preceding calendar year;

4. The requirements of paragraphs (3) and (4) of N.J.S.A. 43:21-7(c) of the Unemployment Compensation Law have been met by all such employers;

5. Such employers intend to maintain the common ownership or control for at least three calendar years and will notify the Controller promptly of any change in such ownership or control;

6. All contributions, interest, penalties and assessments which have become due from such employers on or before the date of application have been paid.

12:16-15.3 Effective date; duration

(a) A joint account shall be established only as of the first day of any calendar year and shall become effective after approval by the Controller.

(b) The joint account so established shall remain in force for not less than three full calendar years, subject to the provisions of N.J.A.C. 12:16-15.5 (Modifications) and 12:16-15.6 (Dissolution).

(c) Contribution rates based on such joint accounts shall become effective for the fiscal year which begins on the first day of July of each calendar year following the approval of the application.

12:16-15.4 Maintenance

(a) Separate accounts shall be maintained for each employer participating in a joint account.

(b) At the beginning of each calendar year the separate accounts shall be combined for the purpose of computing a joint contribution rate.

(c) Such joint rate shall be the contribution rate for each employer participating in the joint account.

12:16-15.5 Modification

(a) Another employer may be added to an existing joint account if all the employers involved jointly make application for a new joint account and comply with the requirements of this subchapter.

(b) If during any calendar year an employing unit participating in a joint account ceases to be an employer under the New Jersey Unemployment Compensation Law, or ceases to be owned or controlled by the same interests, such employing unit shall be separated from the joint accounts as of the first day of such calendar year, but shall continue for the current fiscal year with the contribution rate computed under the joint account.

12:16-15.6 Dissolution

(a) Joint accounts may be dissolved as of January 1 of any calendar year under any one of the conditions set forth below:

1. If at any time the Controller finds that with respect to such calendar year any one of the eligibility conditions set forth in N.J.A.C. 12:16-15.2 (Eligibility) with respect to employment, contributions, interest, penalties and assessments, and ownership or control, no longer exists and that it would not be in the best interest of the State to continue the joint account.

2. Upon written application of one or more of the employers whose accounts have been joined, if such application is filed with the Controller on or before January 31 of such calendar year and the Controller finds that the joint account has been in existence for at least three calendar years. The form of application for dissolution of a joint account shall be prescribed by the Controller.

SUBCHAPTER 16. NOTICE TO WORKERS

12:16-16.1 Unemployment compensation coverage

(a) Every employer subject to the provisions of the Unemployment Compensation Law of New Jersey (including every employer who has elected to become subject pursuant to N.J.S.A. 43:21-8) shall post and maintain printed notices to his employees informing them that he is covered by the Unemployment Compensation Law of New Jersey, and has been so registered by the Controller.

(b) Such notices shall be of such design and in such numbers, and shall be posted at such places as the Controller may determine to be necessary to so inform employees.

(c) No such notice shall be posted by any person, employing unit or employer who has not complied with the provisions of the Unemployment Compensation Law and to whom an unemployment compensation registration number has not been assigned by the Controller, or who, in accordance with the provisions of the law, has ceased to be an employer as defined in the law.

12:16-16.2 Termination of subject status

Every employing unit which has ceased to be a subject employer, pursuant to the provisions of N.J.S.A. 43:21-8 of the Unemployment Compensation Law, shall post and maintain notice of such fact on forms supplied by the Controller,

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in order to inform its workers that they are not in covered employment and are not liable for contributions to the Unemployment Compensation Fund.

SUBCHAPTER 17. WITNESS FEES AND MILEAGE ALLOWANCES

12:16-17.1 Subpoena ad testificandum

(a) There shall be allowed witness fees for each day of attendance at a hearing in response to a subpoena ad testificandum and mileage from the residence of the witness to the place of hearing and return.

(b) The fees and mileage shall be determined by the Controller.

SUBCHAPTER 18. TRANSFER OF EMPLOYMENT EXPERIENCE

12:16-18.1 Transfer of predecessor's whole experience

(a) Upon receipt of notification that a predecessor employer has transferred his organization, trade or business, or substantially all his assets to a successor in interest, the Controller shall transfer the employment experience of the predecessor employer to the successor in interest if the employment experience of the predecessor with respect to the organization, trade or business, or assets may be considered indicative of the anticipated employment experience of the successor in interest. The basis for this determination shall be the examination of the files and records in the Department's possession, unless the successor provides evidence to the contrary, which would be subject to confirmation by the Controller.

(b) Unless the predecessor employer was owned or controlled, directly or indirectly, by the successor in interest, or the predecessor employer and the successor in interest were owned or controlled directly or indirectly, by the same interest or interests, the transfer of the employment experience of the predecessor shall not be effective if such successor in interest, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, files a written notice protesting the transfer of the employment experience of the predecessor employer.

12:16-18.2 Transfer of part of predecessor's experience by application

(a) A predecessor employer and successor in interest may jointly make application, on Form UC-47 (Joint Application for Transfer of Employment Experience), for transfer of that portion of the employment experience relating to that part of the organization, trade, assets or business acquired by the successor in interest. The employment experience will be transferred if the following conditions are met:

1. Either the predecessor or successor in interest shall report the transfer and acquisition and its intention to apply for a partial transfer of the employment experience within four calendar months after the date of transfer and acquisition.

2. Both the predecessor and successor in interest complete and file Form UC-47 within 30 days from the date of mailing thereof.

3. The employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business to be transferred may be considered indicative of the future employment experience of the successor in interest. The basis for this determination shall be the examination of the files and records in the Department's possession, unless the successor provides evidence to the contrary, which would be subject to confirmation by the Controller.

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4. The part of the business transferred is a distinguishable and identifiable part to which may be allocated a definite portion of the predecessor's contributions, annual payrolls and benefit charges.

5. That the predecessor and/or successor in interest have furnished the information covering contributions, annual payrolls, benefit charges and other data necessary to make the transfer on the records of the Controller.

12:16-18.3 Rate following acquisition

The employment experience transferred shall be used in determining the employer contribution rate of the successor in interest for the fiscal year beginning July 1 following the date of the acquisition.

12:16-18.4 Assignment of contribution rates for interim periods

(a) Any employer who acquires the organization, trade, assets or business, in whole or in part, of another employer, shall continue to pay contributions at the rate currently assigned to him for the period from the date of acquisition to the following July 1.

1. When, however, the employment experience of the predecessor employer, with respect to the organization, trade, assets or business, which has been transferred, represents substantially all the employment experience of the successor-in-interest and may be considered indicative of the future employment experience of the successor-in-interest, the contribution rate of the successor-in-interest shall be determined by combining the transferred employment experience and the employment experience of the successor-in-interest as they appeared in the records of the Controller at the close of the calendar year preceding the current fiscal year. Such rate shall be effective for the period from the date of acquisition to the following July 1.

2. A predecessor employer who continues to operate a part of his business shall continue to pay contributions at its current rate for the period from the date of transfer to the following July 1, unless the contribution rate of the successor-in-interest has been recomputed as aforementioned. In the latter event, the contribution rate of the predecessor employer shall be recomputed on the basis of his employment experience which remains on the records of the Controller at the close of the calendar year preceding the current fiscal year, after giving effect to the transfer, and such rate shall be effective from the date of transfer to July 1 following.

(b) Any employing unit which becomes a subject employer by virtue of acquiring the organization, trade, assets or business of an employer shall be assigned the contribution rate of the predecessor for the period from the date of acquisition to July 1 following.

(c) Any employing unit which becomes a subject employer by virtue of acquiring part of the organization, trade, assets or business of an employer shall be assigned the basic rate of a new employer for the period from the date of the acquisition to the following July 1, unless the employment experience acquired is indicative of future employment.

(d) Any employing unit which becomes a subject employer by virtue of acquiring the organization, trade, assets or business of two or more employers shall be assigned the rate of the predecessors, if they have the same rate; or, if they do not have the same rate, they shall be assigned a contribution rate based upon the combined record of the predecessors at the close of the calendar year preceding the current fiscal year.

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SUBCHAPTER 19. BENEFIT CHARGES

12:16-19.1 Employer's account charged; notice

Benefits paid shall be entered and charged against the account of the employer to whom such determination relates and when the benefit payment is made some form of notification shall be promptly sent to the employer against whose account the benefits are to be charged.

12:16-19.2 Annual summary statement

Each employer shall be furnished an annual summary statement of benefits charged to his account.

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(a)

DIVISION OF MOTOR VEHICLES

Notification of Insurance Coverage Termination

Adopted Amendments: N.J.A.C. 13:18-6.1

Proposed: November 19, 1984 at 16 N.J.R. 3174(a).
Adopted: March 6, 1985 by Clifford W. Snedeker, Director of the Division of Motor Vehicles.
Filed: March 11, 1985 as R.1985 d.162, **with technical and substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 39:3-4e.

Effective Date: April 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 1, 1990.

Summary of Public Comments and Agency Responses and Reasons for Changes Upon Adoption:

The substantive changes provide that: (1) commencing with termination information submitted on and after July 1, 1985, insurers must include the driver license number of the named insured as part of the notice of insurance termination information to be submitted to the Division of Motor Vehicles; (2) the driver license number need not be included on insurance termination notices pertaining to commercial vehicles for which the named insured is a company or corporation and no driver license number is available; (3) commencing with termination information submitted on and after July 1, 1985, insurers must include the policy expiration date as part of the notice of insurance termination information to be submitted to the Division of Motor Vehicles; and (4) commencing with termination information submitted on and after July 1, 1985, insurers must submit notice of insurance termination information to the Division of Motor Vehicles on computer magnetic tape(s).

Opportunity to be heard with regard to the proposal was invited via notice published in the previously cited edition of the New Jersey Register. The record of the proceeding is

located at the Office of the Director, Division of Motor Vehicles, 25 South Montgomery Street, Trenton, New Jersey 08666, and may be inspected by making an appointment with the Secretary to the Director.

The New Jersey Division of Motor Vehicles received numerous comments concerning its proposed amendment of N.J.A.C. 13:18-6.1. The comments were carefully reviewed and considered by the Division. Comments are summarized below, along with the Division's responses:

Comment: The rule should provide for the reporting of insurance termination information by insurers to the Division of Motor Vehicles if a cancellation occurs within six months of the policy effective date, rather than at any point during the term of the policy.

Response: The Division perceives no valid reason why a cancellation which occurs at any point during the policy period should not be reported. The purpose of this rule is to assist the Division in its task of identifying those New Jersey motorists who have failed to maintain continuous liability insurance on their vehicles contrary to this State's compulsory insurance law. Expansion of the notice of insurance termination reporting period to include any policy cancellation which occurs prior to its expiration date, regardless of whether the cancellation occurred more or less than six months after the effective date, should increase the number of uninsured New Jersey motorists which the Division will be able to identify through its insurance verification procedure.

Comment: The provision in this rule that insurers need not report cancellations when the policyholder transfers his insurance to another state should be eliminated.

Response: The Division perceives no reason to eliminate this exception to the notice of termination reporting requirement. Insurers have not previously been required to submit an FS-4 card when a policyholder has transferred his insurance to another state, and it does not appear that the elimination of this exception to the reporting requirement would appreciably benefit the Division's effort to detect uninsured New Jersey motorists.

Comment: Insurers should not be required to supply the Division with the full driver license number of the named insured as part of the notice of insurance termination information.

Response: It is essential that the Division have access to the full driver license number of the named insured whose insurance coverage has been terminated. Just as the vehicle identification number enables the Division to positively identify the vehicle on which coverage has been terminated, so the driver license number will permit the Division to quickly and accurately identify the named insured whose coverage has been terminated. As part of its insurance verification program, the Division, upon receipt of a notice of insurance termination, proposes to suspend the driving privileges of the licensee named in said notice unless that individual establishes that the vehicle in question is insured or has been disposed of. Since Division records are arranged by driver license number for purposes of proposed suspension action, it is vital that the Division be supplied with the full driver license number of the named insured whose coverage has been terminated.

Comment: The full driver license number of the named insured should not be required on insurance termination notices pertaining to commercial vehicles for which the named insured is a company or corporation and no driver license number is available.

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Response: The Division agrees and the rule has been changed to clarify that notice of termination information regarding commercial vehicles for which the named insured is a company or corporation and no driver license number is available need not include a driver license number.

Comment: Insurers should not be required to supply the Division with the insurance policy number, the policy effective and expiration dates, or the vehicle identification number, as part of the notice of insurance termination information.

Response: The insurance policy number, effective and expiration dates, vehicle identification number and each of the other items required by this rule to be included as part of the notice of termination information are needed by the Division to assist it in performing the task of insurance verification. The policy number, effective date, and vehicle identification number have previously been supplied to the Division by insurers on FS-4 notice of termination cards, and such information is still needed by the Division to aid it in identifying uninsured New Jersey motorists.

Comment: The Division should supply the computer tape record format to insurers in advance of the implementation of the tape reporting requirement mandated by this rule to allow insurers sufficient time to make necessary computer programming changes.

Response: The Division concurs and has already supplied the tape record format to several insurers who have requested same. The notice of insurance termination information tape record format referred to in this rule is available from the Division of Motor Vehicles upon request.

Comment: Insurers that write a small volume of motor vehicle liability insurance policies in New Jersey should be permitted to continue to submit notice of termination information to the Division on FS-4 cards in lieu of computer tapes.

Response: The Division's data processing system has been improved to enable it to process computer magnetic tapes in lieu of cards in the area of insurance verification. The manual processing of notice of termination cards by the Division in the past has resulted in large backlogs which created delays in contacting potentially uninsured motorists. It is precisely to eliminate such backlogs and to facilitate the task of insurance verification that all insurers will be required to submit notice of termination information to the Division on computer tapes. The use of tapes in lieu of cards will enable the Division to expeditiously identify New Jersey motorists who have failed to maintain liability insurance on their vehicles, thus reducing the number of such motorists using the State's highways. A partial retention of insurance termination reporting on FS-4 cards would be contraproductive to the Division's efforts toward improving its system of insurance verification.

Comment: The time period following policy termination in which notice of insurance termination information must be forwarded to the Division should be clarified or changed.

Response: The rule has been changed to clarify that notice of insurance termination information must be transmitted to the Division within 30 days after the effective date of a policy cancellation. This reporting period is identical to the one contained in the former version of this rule pertaining to the transmittal of FS-4 notice of termination cards by insurers to the Division. Retention of the 30 day reporting period is appropriate in that it will permit the swift identification by the Division of those New Jersey motorists who may be operating

uninsured motor vehicles in this State contrary to New Jersey's compulsory insurance law.

Comment: The Division should delay implementation of the new notice of insurance termination reporting requirements following adoption of this rule to allow insurers sufficient time to comply with the revised reporting system.

Response: The Division agrees with this comment. Accordingly, as set forth in the rule as adopted, the requirement that notice of termination information be submitted to the Division on computer magnetic tapes and that the driver license number of the named insured and policy expiration date be supplied will commence with termination notices submitted on and after July 1, 1985. Hence, insurers will continue to report terminations to the Division on FS-4 cards as they have done in the past until July 1, 1985. This delay in converting to the use of computer tapes for notice of termination reporting will allow insurers sufficient time to examine the computer tape record format which is available from the Division upon request and to prepare computer programs designed to generate the information required by the Division.

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

13:18-6.1 Notification of insurance coverage termination

(a) An insurer shall submit notice of termination information to the Division of Motor Vehicles whenever a motor vehicle liability insurance policy is cancelled, by either the insurer or the named insured, or lapses due to nonpayment.

(b) An insurer shall not submit notice of termination information to the Division of Motor Vehicles if the policy is not renewed. An insurer shall not submit notice of termination information to the Division of Motor Vehicles when a vehicle is added to or dropped from a policy, or when the policy holder transfers his insurance to another state.

(c) ***[Commencing March 1, 1985, an] *An*** insurer shall supply the following notice of termination information to the Division of Motor Vehicles:

1. ***Commencing with termination information submitted on and after July 1, 1985, the* *The* complete driver license number of the named insured ***(not required on termination notices pertaining to commercial vehicles for which the named insured is a company or corporation and no driver license number is available)***;**
2. The full name and address of the named insured;
3. The insurance company name and code number;
4. The insurance policy number;
5. The insurance policy effective date and ***, commencing with termination information submitted on and after July 1, 1985, the policy*** expiration date;
6. The insurance policy termination date;
7. The vehicle identification number, year and make of the vehicle for which insurance coverage has been terminated;
8. Any other information deemed necessary and appropriate by the Director of the Division of Motor Vehicles.

(d) Commencing ***[March 1, 1985]* *with termination information submitted on and after July 1, 1985***, an insurer shall submit notice of termination information to the Division of Motor Vehicles on computer magnetic tape(s), said information to be in such tape record format as the Director of the Division of Motor Vehicles shall prescribe.

(e) ***[Commencing March 1, 1985, notice]* *Notice*** of termination information shall be submitted to the Division of Motor Vehicles ***[on computer magnetic tape(s) on a monthly**

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cycle. The tape(s) shall be submitted to the Division of Motor Vehicles]* within 30 days following *(not before)]* the effective *[dates]* *date* of *[the]* *a policy cancellation* *[cancellations contained in the tape(s)]*.

(a)

BOARD OF ARCHITECTS

Certified Landscape Architects

Adopted New Rules: N.J.A.C. 13:27-8.1 to 8.13

Proposed: January 21, 1985 at 17 N.J.R. 169(b).
Adopted: February 28, 1985 by New Jersey Board of Architects, M. Lisbeth DeCotiis, President.
Filed: March 11, 1985 as R.1985 d.163, **without change**.

Authority: N.J.S.A. 45:3-3.

Effective Date: April 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 1, 1990.

Summary of Public Comments and Agency Responses:

One comment was received requesting modification of N.J.A.C. 13:27-8.6, concerning the educational and/or experience requirements for certification. The writer, who had 17 years of experience as a landscape architect and held a degree not in landscape architecture, believed he might not qualify for certification. N.J.A.C. 13:27-8.6 repeats the language of N.J.S.A. 45:3A-8, which cannot be modified by the Board. In any event, provided that the writer's experience was of a quality acceptable to the Board, he might qualify for certification under N.J.A.C. 13:27-8.6(b) and N.J.S.A. 45:3A-8(b).

Full text of the adoption follows.

SUBCHAPTER 8. CERTIFIED LANDSCAPE ARCHITECTS

13:27-8.1 Definitions

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

"Certified landscape architect" means an individual who, by reason of his or her knowledge of natural, physical, and mathematical sciences, and the principles and methodology of landscape architecture and landscape architectural design acquired by professional education, practical experience, or both, is qualified to engage in the practice of landscape architecture and is certified by the board as a landscape architect.

"Practice of landscape architecture" means any service in which the principles and methodology of landscape architecture are applied in consultation, evaluation and planning, including the preparation and filing of sketches, drawings, plans and specifications, and responsible administration of contracts relative to projects principally directed at the functional and aesthetic use of land. Nothing contained in this section shall be construed to restrict or otherwise affect the right of any person or corporation to engage in the practice of landscape architecture, but no person shall hold himself or herself out as, or use the title "landscape architect", unless he

or she has been certified by the board as a landscape architect.

"Board" means the New Jersey State Board of Architects.

"Committee" means the Landscape Architect Examination and Evaluation Committee of the New Jersey State Board of Architects.

13:27-8.2 Office of the committee

The office of the committee shall be that which is maintained by the board pursuant to N.J.A.C. 13:27-8.1 (Administration), under the supervision of the person selected by the board to serve as secretary-director.

13:27-8.3 Committee organization

(a) The committee shall, at all annual meetings, to be held in July of each year, elect from its membership a chairperson and vice-chairperson and shall appoint a secretary, who need not be a member, and such other assistants as it deems necessary.

(b) The committee shall adopt annually a schedule of regular meetings, and special meetings may be held at the call of the chair, or at the action of a quorum of the membership.

(c) A quorum of the committee shall consist of three members. No action of a meeting shall be taken without at least three votes in accord.

(d) The committee shall keep a record of its proceedings and a record of all applicants for certification, showing for each the date of application, name, age, education, and other qualifications, place of practice and place of residence, whether or not an examination was required, and whether the applicant was rejected or a certificate granted, and the date of that action.

13:27-8.4 Approval of landscape architecture curricula and credentials

(a) The committee may approve courses of study in landscape architecture offered by colleges and universities and maintain a register of such approved programs.

(b) For purposes of this section, any educational program accredited by the Landscape Architectural Accreditation Board of the American Society of Landscape Architects shall be deemed an approved program.

(c) In the event that an applicant for certification as a landscape architect is a graduate of a school or program not accredited by the Landscape Architectural Accreditation Board, such applicant shall provide to the committee, in addition to a certified transcript of his or her courses, a true and accurate course description for each of the landscape architecture courses for which the candidate is seeking credit toward certification. Thereafter, the committee may, in its discretion, require the candidate to appear before the committee for a personal interview and to present such representative samples of his or her landscape architecture work as are deemed acceptable by the committee.

13:27-8.5 Application for certification: general requirements

(a) Each person applying for certification as a landscape architect shall make application therefor to the board on the form and in the manner prescribed by the committee. The board shall immediately refer each completed application to the committee for appropriate action. Each application shall furnish evidence satisfactory to the committee that he or she:

1. Is of good moral character;

2. Meets the educational and/or experience qualifications prescribed by L.1983, c.337 for certification as a landscape architect; and

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3. Has passed the landscape architecture examination as provided by N.J.A.C. 13:27-8.7, unless such applicant is otherwise exempt from examination pursuant to L.1983, c.337.

13:27-8.6 Education and/or experience requirements for certification

(a) Each applicant for examination or certification as a landscape architect shall provide the committee with evidence satisfactory to it that:

1. The applicant is the holder of a bachelor's or higher degree in landscape architecture from a college or university having a landscape architecture curriculum approved by the committee; and

2. The applicant has engaged in landscape architectural work satisfactory to the committee to an extent that his or her combined college study and practical experience total at least six years, four years of which must be college study with three years in a landscape architecture curriculum and two years of which must be practical landscape architecture experience approved by the committee.

(b) In lieu of the degree and practice experience requirements specified in (a) above, evidence of 10 or more years of practical experience in landscape architecture of a grade and character satisfactory to the committee may be accepted by the committee for admission to that portion of the examination related to landscape architecture.

(c) Effective September 4, 1989, an applicant shall be eligible for certification as a landscape architect only if he or she meets the requirements of (a) above.

13:27-8.7 Examination

(a) The committee shall arrange for the annual administration of an examination to be given to all persons, not otherwise exempt from examination, who have applied for examination and certification as landscape architects.

(b) Unless a quorum of the committee shall determine otherwise, the examination as provided herein shall consist of the current Uniform National Examination as prepared by the Council of Landscape Architectural Registration Board and the committee may utilize the examination scoring services provided therewith.

13:27-8.8 Certification of persons holding certificate from another state or authority

(a) The committee may, in its discretion, exempt from examination an applicant who holds a license or certificate in good standing in landscape architecture from a legally constituted agency in any other state, district or territory of the United States, provided that the requirements for licensure or certification of the issuing agency are comparable to those of the committee and board.

(b) The committee may, in its discretion, exempt from examination an applicant who holds a current Council of Landscape Architectural Registration Board (CLARB) certification. Any person applying under this subsection shall be responsible for the transmittal of his or her current CLARB certification records to the committee for review. When, in the opinion of the committee, such applicant has obtained CLARB certification based upon qualifications not comparable to those required by the State of New Jersey, the committee may require such applicant to take the pertinent portion or portions of the Uniform National Examination that test(s) the areas of landscape architecture education or experience in which the applicant is deficient.

13:27-8.9 Initial and renewal of certification

(a) The initial two-year fee for certification as provided by N.J.A.C. 13:27-3.13(b) shall be prorated in accordance with the number of months remaining prior to the expiration of the landscape architecture certificate in accordance with (b) below.

(b) Certificates for landscape architects shall expire on May 30 in the second year following the year of issuance, renewal or reinstatement, and shall become invalid on that day unless renewed. Certified landscape architects shall apply before May 30 in the year of expiration of a certificate. On or before May 1, in the year of expiration of a certificate, the secretary of the board shall notify all persons certified under L.1983, c.337 of the date of the expiration of their certificates and the amount of the renewal fee as specified in N.J.A.C. 13:27-3.13(b)6. Notice shall be mailed to each holder of a certificate at his or her last post office address known to the board.

(c) Failure on the part of the holder of a certificate to renew his or her certificate every two years in the month of May shall not deprive that person of the right of renewal during the ensuing two years, but a reinstatement fee as specified in N.J.A.C. 13:27-3.13(b)7, shall be added to the certificate fee; and if the certificate is not renewed within the two years following its expiration, the holder of the certificate shall pay a reinstatement fee for each two years or portion thereof in which the holder is in arrears. Continuing to use the title "Landscape Architect" after the expiration of the certificate shall be a violation of L.1983, c.337. It shall be the responsibility of the certificate holder to assure that his or her certification is current when using the title "landscape architect." The expiration date listed on the biennial renewal certificate shall be deemed adequate notice of expiration for purposes of this subsection.

13:27-8.10 Duplicate certificates

(a) Except as hereinafter provided, no duplicate certificates shall be issued by the board.

(b) A duplicate certificate may be issued upon the presentation to the board of the requisite fee as provided in N.J.A.C. 13:27-3.13(b) with an affidavit or certified statement attesting that the original was either lost, destroyed, mutilated or is otherwise no longer in the custody of and cannot be recovered by the certified landscape architect.

13:27-8.11 Seal and signature

(a) Every certified landscape architect shall have a seal of a type recommended by the committee and approved and issued by the board, which shall contain the name of the landscape architect, his or her certificate number, the legend "Certified Landscape Architect" and such other words or figures as the committee may hereinafter deem necessary.

(b) All working drawings and specifications prepared by the landscape architect or under his or her supervision shall be signed on the original with the personal signature of the landscape architect. Thereafter, all copies of such drawings and specifications shall be sealed prior to submission to the client or filing with a public agency.

13:27-8.12 Continuing education

Commencing September 4, 1987, each person certified to practice landscape architecture shall certify to the board every four years, upon a form issued and distributed by the board, that he or she has attended or participated in not less than 20 hours of continuing education in landscape architecture in-

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cluding, but not limited to, post-graduate level courses, lectures, seminars or workshops.

13:27-8.13 Rules of professional conduct

(a) A landscape architect shall at all times recognize the primary obligation to protect the safety, health and welfare of the public in the performance of professional duties. If the landscape architect's judgment is disregarded by the employer or client under circumstances where the safety, health and welfare of the public are endangered, the employer or client shall be informed of the possible consequences and the landscape architect shall notify such other proper public authority as may be appropriate, of the situation.

(b) A landscape architect may accept an assignment or employment requiring education or experience outside of his field of competence, but only to the extent that the services are restricted to those phases of the project in which he or she may, without undue cost or hardship to the client, reasonably become qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees in conformance with the statutes and rules governing their respective professions.

(c) A landscape architect shall not affix a personal signature and/or seal to any plan or document dealing with subject matter in which there is a lack of competence by virtue of education or experience, nor to any such plan or document not prepared under his or her direct supervision and control.

(d) A landscape architect shall be completely objective and truthful in all professional reports, statements or testimony and shall include all relevant and pertinent information in such reports, statements or testimony.

(e) When issuing any statements, criticisms or arguments on matters connected with public policy which are inspired or paid for by an interested party, or parties, a landscape architect shall preface such comments by explicit personal identification, by disclosing the identity of the party or parties on whose behalf he or she is speaking, and by revealing the existence of any pecuniary interest he or she may have in the instant matters.

(f) If a landscape architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with performance of professional services, the landscape architect shall fully disclose in writing to the client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the landscape architect shall either terminate such association or interest or refuse the commission or employment.

(g) A landscape architect shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties.

(h) A landscape architect shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products unless such consideration is disclosed to the client.

(i) A landscape architect shall not solicit or accept gratuities or anything of value not related to work performed, directly or indirectly, from contractors, their agents, or other parties dealing with his or her client or employer in connection with work for which he or she is responsible.

(j) When in public service as a member, advisor or employee of a governmental body or department, a landscape architect shall not participate in considerations or actions with

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respect to services provided by the individual or the individual's professional organization in private practice.

(k) A landscape architect shall not solicit or accept a contract from a governmental body on which a principal or officer of his or her organization serves as a member.

(l) A landscape architect shall not offer to pay, either directly or indirectly, any commission, political contribution, gift or other consideration in order to secure or retain work, exclusive of securing positions through employment agencies.

(m) A landscape architect shall not falsify or permit misrepresentation of academic or professional qualifications. He or she shall not misrepresent or exaggerate degrees of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent and purpose of enhancing his or her qualifications and work.

(n) A landscape architect shall not knowingly associate with or permit the use of a personal name or firm name in a business venture by any person or firm which he or she knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature or is otherwise engaging in unlawful activities.

(o) If a landscape architect has knowledge or reason to believe that another person or firm may be in violation of any of these provisions, he or she shall present such information to the board in writing and shall cooperate with the board in furnishing such further information or assistance as may be required by the board.

(a)

BOARD OF BEAUTY CULTURE CONTROL

Beauty Culture Schools

Readoption: N.J.A.C. 13:28-2

Proposed: January 21, 1985 at 17 N.J.R. 172(a).

Adopted: March 6, 1985 by Board of Beauty Culture Control, Bridget Damiano, President.

Filed: March 11, 1985 as R.1985 d.160, **without change**.

Authority: N.J.S.A. 45:4A-13 and 16.

Effective Date: April 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 1, 1990.

Summary of Public Comments and Agency Responses:

Comments were received from the trade association representing New Jersey schools of beauty culture schools and from the representative of a chain of beauty culture schools. Both comments dealt with N.J.A.C. 13:28-2.13 which limits the commencement of new classes in beauty culture schools to the first working Monday of each month. The association suggested amending the rule to continue the limitation on new classes to one each month but to permit the school to choose the day of the month that classes commence. The school representative asked that the rule be amended to permit new classes to commence more frequently.

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The Board considered both suggestions and determined that further study of the potential administrative impact of having different and more frequent starting dates for new classes in each of the thirty-nine licensed beauty culture schools is needed since all new students must be registered with the Board before classes commence. The Board also determined that more information is needed about whether individual schools are equipped with the faculty and facilities to start new classes more frequently than once a month. The Board therefore voted to readopt the rule in its present form, but to reconsider amending the regulation at some future date after further study of the potential impact of the suggested changes.

Full text of the readopted rule, appears in the New Jersey Administrative Code at N.J.A.C. 13:28-2.

(a)

BOARD OF MEDICAL EXAMINERS

Delegation of Physical Modalities to Unlicensed Physician Aides

Adopted New Rule: N.J.A.C. 13:35-6.14

Proposed: August 6, 1984 at 16 N.J.R. 2065(a).
 Adopted: September 19, 1984 by Edward W. Luka, M.D., President of the Board of Medical Examiners.
 Filed: March 11, 1985 as R.1985 d.159, **without change**.
 Authority: N.J.S.A. 45:9-2 and 45:9-16.
 Effective Date: April 1, 1985.
 Expiration Date pursuant to Executive Order No. 66(1978): August 1, 1988.

Summary of Public Comments and Agency Responses:

The Board received 136 letters in opposition to proposed N.J.A.C. 13:35-6.14 and 3 written comments in favor of the proposal. Submissions were made by consumers, physical therapists, the New Jersey Chapter of the American Physical Therapy Association, several nurses, manufacturers of therapeutic equipment, the Medical Society of New Jersey and a physician.

A recurring theme in the letters submitted by physical therapists and their patients was that the rule would create a hazard to the public health because it will allow unlicensed personnel to administer modalities which may cause untoward side effects if applied improperly or administered to a patient who has contraindications. Although the Board acknowledged the legitimate public concern demonstrated in such letters, it is unpersuaded that the rule adoption will place the public at any risk. The Board recognizes that the modalities may be hazardous when used on a patient with contraindications or for an extended period of time. The rule safeguards against this danger by requiring the physician to evaluate the patient prior to the application of any modality and to remain on the premises while the modality is in use. The rule reaffirms the direct responsibility of the licensee of the Board to insure the proper use of designated modalities. While the Board does not mean to suggest that it believes these modalities are risk-free,

it has concluded that the benefits to be gained in providing consumers with the opportunity to obtain modalities in a physician's office under his or her supervision, outweigh those risks.

The Board notes that several letters highlighted the dangers implicit in the use of some of the identified modalities. Many comments noted that with respect to ultra-sound, the danger arises because of the lack of a patient's perception of the damage that may be occurring. Although this comment may be true, the fact that an unschooled aide may be applying modalities, should not make the modality more dangerous. If the same person were being treated by a licensed physical therapist or a physician, he would be no more aware of the damage being done. The comments which noted that certain persons were placed at greater risk—that is, children, the elderly, pregnant women—seem to ignore the fact that the rule contemplates and mandates that it be the physician who makes the initial determination as to who shall receive what modality and in what amount and where. Further, the physician is to advise the aide on the appropriate technique to be used in the application of a physician-selected modality.

The second theme reflected in the letters received in opposition to the proposed rule was that the rule would encourage overutilization of physical modalities, causing consumers to expend unnecessary sums on health care. The clear inference contained in such comments was that licensees of the Board of Medical Examiners are more likely to over-utilize physical modality services than licensees of the Board of Physical Therapy. The Board rejects this contention. The Board is empowered to adequately prosecute any individual licensee who is engaging in a pattern of financial abuse. It has a record of having exercised this authority in the past, and can assure the public that it will continue to monitor such activity in the future.

Indeed, the Board has been mindful of the potential for abuse which may be engendered by permitting the delegation of physical modalities to unlicensed aides and has specifically excluded the use of T.E.N.S. Since T.E.N.S. may be used by patients themselves, the Board is precluding its delegation so that patients will not be subjected to additional financial burdens.

Another oft-cited criticism of the proposal inferred that physicians who might choose to delegate the application of physical modalities lack sufficient training and expertise to use the modalities or teach others to do so. Again, the Board rejects such contention. The Board expects its licensees to discharge their responsibilities in a conscientious manner. It presupposes that a physician who wishes to integrate into the treatment plan the use of a modality, is doing so because that modality will be beneficial to the patient.

In short, it is the Board's position that the regulation is beneficial to patients in that it permits them to receive simple, adjunctive therapy at a doctor's office under his or her supervision. It allows physicians who may choose a treatment plan which includes certain physical modalities to offer those services in an efficient and convenient manner.

Three comments were received in support of the proposed regulation. Assemblyman William Flynn wrote applauding the Board's efforts to keep costs down, but urging that the regulation be revised so as not to require a physician to see the patient each time before the application of the modality. The Board has determined to include the requirement that a patient be seen by the physician prior to any subsequent scheduled application of the modality, so as to assure that the physician will be making the determination that no contrain-

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dications are present and that continued application of the modality is appropriate.

Comments were also received from the Executive Director of the Medical Society of New Jersey which were generally supportive of the regulation. That correspondence, however, did question the appropriateness of including chiropractors and podiatrists within the definition of those licensees who are authorized to delegate the application of modalities. As the comments which were published with this regulation at the time that it was proposed indicate, podiatrists and chiropractors are permitted to delegate the use of modalities to unlicensed aides only to the extent that they would be permitted to utilize the modalities themselves. The Board is unpersuaded that N.J.S.A. 45:9-21(k) precludes limited licensees from directing ancillary personnel to carry out the ministerial task of applying a selected modality. The tasks that have been identified in this regulation are not deemed by the Board to be the practice of medicine, chiropractic or podiatry and thus the exemption from the prohibitions of the Medical Practice Act need not be sought, and the limitations on those exemptions are not applicable.

Comments were also received from the New Jersey Association of Osteopathic Physicians and Surgeons and a practicing D.O., which, although supportive of the rule, suggested that traction should not be excluded since it can be administered as a home care therapy. The Board has concluded that, as with T.E.N.S., the inclusion of traction as a delegable modality, may result in unnecessary charges for patients. Another objection was raised with respect to the absence of a reference in subsection (e) to osteopathic physicians as an appropriate provider of long care treatment. To the extent that osteopathic physicians may possess specialized training or expertise, they may be deemed to be "other appropriate health care providers." Finally, the Board has rejected the recommendation to delete the requirement that a physician co-sign an aide's progress notes. The Board does not find such a requirement to be unduly burdensome and believes that it may prove useful in assuring that licensees are complying with the conditions placed upon them by virtue of this rule.

Finally, the Board reviewed a memorandum from the State Board of Physical Therapy requesting that adoption of this rule be withheld until such time as that Board could submit comments. While the Board of Medical Examiners will endeavor to work with the Board of Physical Therapy in an attempt to address mutual concerns, it determined to adopt the rule as it was proposed.

Full text of the adoption follows.

N.J.A.C. 13:35-6.14 Delegation of physical modalities to unlicensed physician aides

(a) "Physician" or "doctor," for the purpose of this section, shall mean a doctor of medicine (M.D.), a doctor of osteopathic medicine (D.O.), a doctor of podiatric medicine (D.P.M.), and a doctor of chiropractic (D.C.).

(b) A physician may direct his or her unlicensed employee to administer to the doctor's patients certain physical modalities in the limited circumstances set forth in this section, without being in violation of the pertinent professional practice act implemented by the Board, to the extent such conduct is permissible under any other pertinent law or rule administered by the Board or any other State agency.

(c) Physical modalities, for the purpose of this section, shall be limited to heat, diathermy, cold, ultrasound, ultraviolet rays, cold quartz rays and electro-magnetic rays. The aide shall not be permitted to do any rehabilitative exercise pro-

grams. No other modalities including T.E.N.S. or traction shall be performed by the unlicensed physician's aide.

(d) A physician may direct the administration of the physical modality by the unlicensed assistant only where the following conditions are satisfied:

1. The doctor shall examine the patient to ascertain the nature of the trauma or disease; to determine whether the application of a physical modality will encourage the alleviation of pain and promotion of healing; to assess the risks of the modality for a given patient and the diagnosed injury or disease and to decide that the anticipated benefits are likely to outweigh those risks.

2. The doctor shall determine all components of the precise treatment to be given at the present therapy session, including type of modality to be used, extent of area to which it shall be applied, dosage or wattage, etc., length of treatment, and any other factors peculiar to the risks of that modality such as strict avoidance of certain parts of the body or of static placement of the applicator. This information shall be written on the patient's chart and made available at all times to the assistant carrying out the instructions.

3. The doctor shall ascertain a satisfactory level of education, competence and comprehension of the particular assistant to whom instruction has been given by the doctor as to modalities used in that office. The doctor shall prepare and maintain a written document certifying as to the instructions given to each assistant, and both doctor and assistant shall sign it.

4. The doctor shall see the patient prior to any subsequent scheduled application of the modality to ascertain that continued treatment is appropriate and that no contraindications to treatment have become apparent.

5. The doctor shall remain on the premises at all times that treatment orders are being carried out by the assistant and shall be within reasonable proximity to the treatment room and available in the event of emergency.

(e) A physician shall have due regard for the specialized training and experience of registered physical therapists, and of physiatrists and orthopedists. Injuries or diseases requiring prolonged treatment, if not administered personally by the doctor, shall normally be referred to a licensed physical therapist, to a physiatrist, orthopedist or other appropriate health care provider.

(f) A bill rendered for the limited consultation set forth in (d)4 above shall not exceed a sum which reasonably reflects the actual level of service, supervision and responsibility personally rendered by the doctor, and consistent with the factors listed in the rule prohibiting excessive fees, N.J.A.C. 13:35-6.11(b) and (c).

(g) On a health insurance claim form pertaining to such service and requiring certification by the doctor, the doctor shall specify the modality applied and shall not generically identify physical therapy.

(a)

OFFICE OF THE STATE ATHLETIC COMMISSIONER

Boxing and Wrestling Standards of Conduct

Adopted Repeal: N.J.A.C. 13:46-4.20 and 5.26

Adopted New Rules: N.J.A.C. 13:46-23

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Proposed: January 7, 1985 at 17 N.J.R. 55(a).
Adopted: March 11, 1985 by Irwin I. Kimmelman, Attorney General of New Jersey.
Filed: March 11, 1985 as R.1985 d.164, **without change**.
Authority: N.J.S.A. 5:2-5.

Effective Date: April 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): April 1, 1990.

Summary of Public Comment and Agency Responses:

Comments: The rules governing standards of conduct should include a provision whereby a licensed manager would be restricted from holding any interest in or entering into any agreement with a licensed promoter or matchmaker.

Response: The ramifications of the suggested addition to the rules governing standards of conduct which would restrict a manager from holding any interest in or entering into any agreement with a promoter or matchmaker may have some merit and should be fully explored by the Office of the State Athletic Commissioner or its successor agency for consideration for further rulemaking.

Full text of the adoption follows.

SUBCHAPTER 23. STANDARDS OF CONDUCT

13:46-23.1 Interest in athlete prohibited

No officer, employee or appointee of the Office of the State Athletic Commissioner, including referees, judges, inspectors, timekeepers, physicians, doormen and box office employees, nor any spouse, child, parent or sibling of any such individual, shall have any direct or indirect financial interest in any boxer or wrestler licensed by the Office of the State Athletic Commissioner.

13:46-23.2 Interest in promoter prohibited

No officer, employee or appointee of the Office of the State Athletic Commissioner, including referees, judges, inspectors, timekeepers, physicians, doormen and box office employees, nor any spouse, child, parent or sibling of any such individual, shall have a direct or indirect financial interest in any person, partnership, firm, corporation or association licensed by the Office of the State Athletic Commissioner to hold or conduct boxing bouts, wrestling exhibitions, or sparring exhibitions pursuant to N.J.A.C. 13:46-4.1. For purposes of this section, "financial interest" does not mean the ownership of less than 10 percent of the publicly traded stock in a corporation for profit.

13:46-23.3 Interest in manager's or second's contract prohibited

No officer, employee or appointee of the Office of the State Athletic Commissioner, including referees, judges, inspectors, timekeepers, physicians, doormen and box office employees, nor any spouse, child, parent or sibling of any such individual, shall have any direct or indirect financial interest in any manager's or second's contract with any athlete licensed by the Office of the State Athletic Commissioner or in any assignment thereof.

13:46-23.4 Interest in matchmaker's contract prohibited

No officer, employee or appointee of the Office of the State Athletic Commissioner, including referees, judges, inspectors,

timekeepers, physicians, doormen and box office employees, nor any spouse, child, parent or sibling of any such individual, shall have any direct or indirect financial interest in any matchmaker's contract with a promoter licensed by the Office of the State Athletic Commissioner or in any assignment thereof.

13:46-23.5 Acceptance of gift, favor, service or other thing of value prohibited

No officer, employee or appointee of the Office of the State Athletic Commissioner, including referees, judges, inspectors, timekeepers, physicians, doormen and box office employees, shall accept any gift, favor, service or any other thing of value whatsoever, including but not limited to complimentary meals, the use of hotel rooms, travel expenses or other gratuities, from any applicant for license or from any licensee of the Office of the State Athletic Commissioner, including promoters, athletes, managers, seconds and matchmakers or from the owner of any premises at which a boxing bout, wrestling exhibition or sparring exhibition is held. Any offer of a gift, favor, service or other thing of value shall be disclosed in writing to the State Athletic Commissioner and to the Attorney General.

13:46-23.6 Promoter's interest in athlete prohibited

No person, partnership, firm, corporation or association licensed by the Office of the State Athletic Commissioner to hold or conduct boxing bouts, wrestling exhibitions or sparring exhibitions pursuant to N.J.A.C. 13:46-4.1, nor any person or entity holding an interest in said licensee of the nature described in N.J.A.C. 13:46-23.2, nor the spouse, child, parent or sibling of any such individual, shall have any direct or indirect financial interest in any boxer or wrestler competing on premises owned or leased by said person or entity unless said interest is disclosed in writing and sent by regular or certified mail or hand delivered to the Office of the State Athletic Commissioner, Richard J. Hughes Justice Complex, Trenton, New Jersey, at least 10 days prior to the authorized event.

13:46-23.7 Promoter prohibited from acting as manager or second of participant

No person, partnership, firm, corporation or association licensed by the Office of the State Athletic Commissioner to hold or conduct boxing bouts, wrestling exhibitions or sparring exhibitions pursuant to N.J.A.C. 13:46-4.1, nor any person or entity holding an interest in said licensee of the nature described in N.J.A.C. 13:46-23.2, nor the spouse, child, parent, or sibling of any such individual, shall serve or act as the manager or second for a licensed athlete or shall have any direct or indirect financial interest in any manager's or second's contract with any athlete licensed by the Office of the State Athletic Commissioner or in any assignment thereof unless such interest is disclosed in a writing sent by regular or certified mail or hand delivered to the Office of the State Athletic Commissioner, Richard J. Hughes Justice Complex, Trenton, New Jersey, at least 10 days prior to the time of the authorized event.

13:46-23.8 Promoter prohibited from holding interest in other promoter

No person, partnership, firm, corporation or association licensed by the Office of the State Athletic Commissioner to hold or conduct boxing bouts, wrestling exhibitions or sparring exhibitions pursuant to N.J.A.C. 13:46-4.1, shall hold an interest of the nature described in N.J.A.C. 13:46-23.2 in any

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other such licensee except as provided by N.J.A.C. 13:46-4.29.

13:46-23.9 Financial interest in opponent prohibited
No licensed manager or second of any licensed athlete and no assignee of a manager-athlete or a second-athlete contract shall have any direct or indirect financial interest in the opponent in any contest in which said athlete participates. No licensed athlete shall have any direct or indirect financial interest in his opponent in any contest.

PUBLIC UTILITIES

(a)

OFFICE OF CABLE TELEVISION

**Rules of Practice and Procedure
Common Tariff**

**Adopted Amendment: N.J.A.C. 14:17-18.1,
18.2 and 18.3**

Proposed: November 5, 1984 at 16 N.J.R. 2978(a).
Adopted: March 8, 1985 by Bernard R. Morris, Director, Office of Cable Television.
Filed: March 8, 1985 as R.1985 d.148, **without change**.
Authority: N.J.S.A. 48:5A-10.

Effective Date: April 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): October 3, 1988.

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

Full text of adoption follows:

14:17-18.1 Definitions
The following words and terms, when used in this subchapter shall have the following meanings unless the context clearly indicates otherwise.

“Basic Service,” for the purposes hereof, means a cable television system’s must carry signals as required by the Federal Communications Commission in its rules or, in the carry signals under the rules in effect on April 15, 1981, plus all promised access and local origination channels.

14:17-18.2 Rate structures
(a) The Office with the approval of the Board will establish, subject to the modification after full public hearing, maximum rates for basic service.

(b) For the purpose of establishing a maximum ceiling rate for each level of service the Office, with the approval of the Board, shall establish, subject to modification after full public hearing, maximum rates for each additional channel of service to be provided in the minimum cable television service package to be received by all cable television subscribers such package to always include basic service.

(c) Subject to the provisions below, a cable television company may increase or decrease its rates at its discretion up to the maximum established by the Office for each level of service in its category.

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14:17-18.3 Participation
(a) Any cable television company in the State of New Jersey may establish rates under the provisions of this subchapter subject to the following terms and conditions.

1. The cable television company is entitled to increase its rates to the class ceiling for each level of service set by the Board and the Office without limitation.

2. The entitlement to raise rates to a specific level in any twelve month period shall not be lost if not exercised by the company within that twelve month period, but shall be cumulative.

3. A cable television company may reduce its rates at its discretion without impairment of its ability to increase those rates directly to its preexisting maximum allowable rate. Any such reduction or increase in rates shall not be unjustly preferential or discriminatory to any class of existing customers, except that nothing herein shall be construed as prohibiting the provision of free service to schools and libraries.

4. A company with a preexisting rate higher than the class ceiling may avail itself of the provisions of this subchapter and its ceiling is deemed to be its preexisting higher rate, however nothing herein shall be construed to allow such company to raise its rates above such preexisting higher rates.

5. A cable television company which has received an increase in rates in a separate proceeding before the Board and which subsequently elects to be governed by the provisions of this subchapter shall not be entitled to increase its rates under the provisions of this subchapter for a period of nine months following the effective date of the increase in rates allowed in the separate proceeding before the Board.

6. An election by a cable television company to avail itself of the rates under this subchapter will preclude it from petitioning for an increase in rates through an individual proceeding before the Board for a period of eighteen months following such an election, or for a period of twelve months following the implementation of any increase in rates pursuant to the provisions of this subchapter above its previous high rates, whichever is later.

TRANSPORTATION

(b)

TRANSPORTATION OPERATIONS

**Speed Limits
Routes 23 in Passaic County and U.S. 206 in
Somerset County**

**Adopted Amendments: N.J.A.C. 16:28-1.25
and 1.72**

Proposed: January 21, 1985 at 17 N.J.R. 176(a).
Adopted: February 22, 1985 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.
Filed: March 4, 1985 as R.1985 d.143, **without change**.
Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-98.

Effective Date: April 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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ADOPTIONS

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

Full text of the adoption follows.

16:28-1.25 Route 23

(a) The rate of speed designated for the certain parts of State highway Route 23 described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1. For both directions of traffic:
 - i.-vi. (No change.)
 - vii. Zone seven: 40 mph in Little Falls Township, Passaic County between the Route US 46—Route 23 and Route I-80 interchange (milepost 5.8); thence
 - viii. Zone eight: 55 mph in Wayne Township, Passaic County between the Route U.S. 46 Route 23 and Route I-80 interchange (milepost 5.8); thence
 - ix. Zone eight: 45 mph in Wayne Township, Passaic County to a point 200 feet south of the center line of Van Ness Place (milepost 6.5); thence
 - x. Zone nine: 55 mph to the intersection of Laguna Drive (milepost 7.4).

2.-4. (No change.)

16:28-1.72 Route U.S. 206 including US 206 and US 130

(a) The rate of speed designated for the certain part of State highway Route US 206 described in this section, shall be established and adopted as the maximum legal rate of speed thereat for both directions of traffic:

- 1.-3. (No change.)
- (b) (No change.)
- (c) The rate of speed designated for the certain part of State highway Route US 206 described in this section shall be established and adopted as the maximum legal rate of speed thereat for both directions of traffic:
 - 1.-10. (No change.)
 - (d) The rate of speed designated for the certain part of State highway Route US 206 described in this section shall be established and adopted as the maximum legal rate of speed thereat for both directions of traffic:
 1. (No change.)
 2. Zone two: 45 mph in Montgomery Township, Somerset County between 800 feet north of the Princeton Township line (Cherry Valley Road-Mount Rose Road) and 1,850 feet north of Georgetown Franklin Turnpike—Washington Street (Route 518, milepost 57.5 to 58.55);
 3. Zone three: 50 mph between 1,850 feet north of Georgetown Franklin Turnpike—Washington Street (Route 518) in Montgomery Township and Hillsborough Township Line (milepost 58.55 to 63.2);
 - 4.-8. (No change.)
 - (e) The rate of speed designated for the certain part of State highway Route U.S. 206 described in this section shall be established and adopted as the maximum legal rate of speed thereat:
 1. (No change.)

(a)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
 Routes U.S. 9 in Ocean County and U.S.
 130 in Salem County**

**Adopted Amendments: N.J.A.C. 16:28A-1.7
 and 1.46**

Proposed: January 21, 1985 at 17 N.J.R. 177(a).
 Adopted: February 22, 1985 at Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.
 Filed: March 4, 1985 as R.1985 d.142, **without change.**

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

Effective Date: April 1, 1985.

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

Full text of the adoption follows.

16:28A-1.7 Route U.S. 9

(a) (No change.)
 (b) The certain parts of State highway Route U.S. 9 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

- 1.-22. (No change.)
23. Along the easterly (northbound) side in Stafford Township, Ocean County:
 - i. (No change.)
 - ii. Near side bus stop:
 - (1) Beach Avenue—Beginning at the southerly curb line of Beach Avenue and extending 105 feet southerly therefrom.

24.-31. (No change.)

16:28A-1.46 Route U.S. 130

(a) (No change.)
 (b) The certain parts of State highway Route U.S. 130 described in this section shall be established and designated as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect signs at the following established bus stops:

1. (No change.)
2. Along the easterly (northbound) side in Carneys Point Township, Salem County:
 - i. Mid-block bus stop:
 - (1) Beginning 318 feet from the southerly curb line of Cleveland Avenue and extending 135 feet southerly therefrom.
 - ii. Near side bus stops:
 - (1) Beginning at the northerly curb line of Georgetown Road and extending 100 feet northerly therefrom.
3. Along the westerly (southbound) side in Carneys Point Township, Salem County:
 - i. Near side bus stops:
 - (1) Beginning at the northerly curb line of Walker Avenue and extending 105 feet northerly therefrom.
 - (2) Beginning at the northerly curb line of Cleveland Avenue and extending 105 feet northerly therefrom.

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TREASURY-TAXATION

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

**State Health Benefits Commission
Retired Coverage Limitations**

Adopted Amendments: N.J.A.C. 17:9-6.3

Proposed: November 19, 1984 at 16 N.J.R. 3192(b).
Adopted: February 7, 1985 by the State Health Benefits
Commission, Gaius Mount, Acting Secretary.
Filed: March 11, 1985 as R.1985 d.165, **without change**.

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

Effective Date: April 1, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): June 6, 1988.

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

Full text of the adoption follows:

17:9-6.3 Retired coverage; limitation

(a) For purposes of retired coverage, coverage may be increased to include a spouse and dependents acquired subsequent to the date of retirement. In all other instances, coverage cannot be increased.

(b) Pensioners, whose original retirement allowance or pension is less than the charge to be deducted to pay for the cost of the coverage to such pensioner, will be permitted to continue coverage provided that the pensioner pays for the cost of such coverage in advance on a quarterly basis, in which case there will be no pension deduction.

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

TREASURY-TAXATION

(b)

DIVISION OF TAXATION

**Public Utility Corporations: Taxes
Accounting Methods**

Adopted New Rule: N.J.A.C. 18:22-1.5

Proposed: December 17, 1984 at 16 N.J.R. 3423(a).
Adopted: March 6, 1985 by John R. Baldwin, Director,
Division of Taxation.
Filed: March 7, 1985 as R.1985 d.146, **without change**.

Authority: N.J.S.A. 54:50-1.

Effective Date: April 1, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): April 2, 1989.

Summary of Public Comments and Agency Responses:

The Division of Taxation received six letters concerning the proposed rule, which would have the effect of requiring that taxpayers subject to the Public Utility Gross Receipts and Franchise Taxes use the same accounting method for State purposes as is used for Federal purposes.

Three of the comments questioned whether the Division had the authority to make the requirement contained in the rule. The responses pointed out that the Division had sought and received legal advice from the Attorney General's Office that the proposal was within the authority of the Division of Taxation.

In the same connection, three comments raised the issue whether the change was in accordance with demonstrated Legislative intent, and two comments stated that gross receipts were the subject of the tax rather than accrued revenue. In response, the Division stated that the tax imposition section dealing with receipts does not discuss accounting methods. The fact that other statutes make provision for accounting methods does not inhibit the Division of Taxation from exercising its delegated authority in instances where the legislation is silent.

Three comments raised the economic issue that the taxpayers would be required to finance the tax cost, thus raising the company's costs. In response it was pointed out that where a utility changes to an accrual method of accounting from a cash basis there would simply be an acceleration with respect to time of payment but no increase in tax cost in real economic terms. Any financing cost would be brief and temporary.

Similarly, two comments questioned that this change might influence plant sitings and the overall industrial posture of the State. However, in response it was suggested that since the change was not anticipated to result in significant rate increases, there would not be a detrimental impact upon industrial development.

One comment suggested that adoption of the proposal would result in retroactive taxation. In response, it was stated that taxpayers received proper notice of the contemplated rule, and that based upon applicable case law, the Division did not believe the issue of retroactivity was present under stated facts.

Finally, four comments suggested that the proposal be phased into operation over periods which varied from one year to ten years. In response, it was pointed out that the State of New Jersey has formulated budget figures based upon receipt of \$50 million in revenue projected through the adoption of this proposal. Thus, in balancing public and private interest the interest of the State regarding the certainty of the budgetary process should prevail.

Thus, the Division concluded that adoption of the proposal would be positive and equitable and in conformity with the Director's ability to adopt regulations necessary to facilitate the collection of a State tax.

Full text of the adopted new rule follows:

18:22-1.5 Accounting methods

Every taxpayer subject to the provisions of this chapter is required to report gross receipts based on the method of accounting employed for Federal income tax purposes under the Internal Revenue Code of 1954.

MISCELLANEOUS NOTICES

COMMUNITY AFFAIRS

(a)

DIVISION OF COMMUNITY RESOURCES

New Jersey Youth Corps; Applications for Funding

Public Notice

Take notice that the Commissioner of the Department Community Affairs, operating under the New Jersey Youth Corps Act, P.L. 1984 c.198, announces that the Requests for Proposals, which is an application for funding under this Act, are available and that the deadline for return of the completed Requests for Proposals is April 25, 1985.

All those wishing a copy of the Request for Proposal should write to:

Kenneth J. Butko
New Jersey Department of Community Affairs
Division of Community Resources
Room 4A
CN 800
Trenton, N.J. 08625

The purpose of the Youth Corps are:

- a. To recruit high school dropouts and help them remain in high school;
- b. To provide basic job training and work maturity skills in preparation for further skilled or semi-skilled training or placement; and
- c. To provide employment experience for further stipends.

Sponsors eligible for funding under the Act include municipalities, counties, school districts, non-profit organizations and labor unions. The purpose of funding is to design and implement programs to teach basic work skills and provide an extension of the classroom through community service projects for which enrollees receive a nominal stipend.

The Department will be seeking Youth Corps sponsors, at a minimum, in the following areas:

- a. One of the State's six major cities
- b. One municipality between 50,000—100,000 population
- c. A unified service linking two or more counties or JTPA service delivery areas
- d. A service delivery agency dealing with the State's rural unemployed and untrained youth
- e. A service agency dealing with a specific/segment of the State's growing Hispanic population
- f. A service agency sponsored by a bona-fide labor union on any project, public or private, subject to the approval of the Commissioner of Labor.

A sponsor may file **only one** application, but may identify either one or more areas for which the application is designed.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF ENVIRONMENTAL PROTECTION

Hazardous Waste Management Hazardous Waste from Non-Specific Sources

Notice of Correction: N.J.A.C. 7:26-8.13

Take notice that an omission appears in the New Jersey Administrative Code at 7:26-8.13 concerning Hazardous Waste from Non-Specific Sources. New Jersey Hazardous Waste Number 7 and the word "Generic" in the listing at N.J.A.C. 7:26-8.13 should have appeared as follows:

7:26-8.13 Hazardous Waste from Non-Specific Sources			
(a) (No change in text.)			
(b)	NJ Hazardous Waste Number	Hazardous Waste	Hazardous Code
Generic	1. X721 to 6. X726	(No change in text of list.)	
	7. X727	Waste oils from the draining, cleaning or disposal of electric transformers.	(T)
	8. X728 to 12. X623	(No change in text of list.)	

(c)

DIVISION OF WATER RESOURCES

Proposed Statewide Water Quality Management Program Plan

Public Hearing

Take notice that the Division of Water Resources (Division) has developed a draft Statewide Water Quality Management Program Plan (Statewide WQM Plan). This document updates, amends and refines planning objectives, programs, and recommendations of the Department of Environmental Protection (Department) and substate "designated" planning agencies during the initial phase of Water Quality Management (WQM) Planning. It also provides a forum for addressing water resource issues of a Statewide and regional nature.

The Statewide WQM Plan contains several components, including the following: water quality and wastewater management planning strategies, policies and procedures; discussions of outputs and activities which were conducted as part

MISCELLANEOUS NOTICES

of the Division's WQM Planning Program; amendments to the initial WQM Plans; and updated certification conditions applicable to the initial WQM Plans.

The strategies, policies and procedures of the Statewide WQM Plan provide planning and implementation mechanisms for the protection of water quality. The strategies outline future actions to be undertaken by the Department or designated agencies. The policies and procedures establish the Department's position or procedure for addressing various water resources issues. Lists of updated certification conditions, and amendments to the initial areawide WQM Plans are included in the document to ensure that those plans are kept up to date and viable for use in the Consistency Determination Program, as well as other planning and implementation activities.

This notice is being given to inform the public that the NJDEP has prepared a Statewide WQM Plan. All information dealing with the aforesaid WQM Plan and the "New Jersey Water Quality Planning Act," is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, Trenton, New Jersey. It is available for inspection between 8:30 a.m. and 4:00 p.m., Monday through Friday. Copies of the Statewide WQM Plan are also available for inspection at selected State document depositories. A list of the depositories may be obtained by contacting the Bureau of Planning and Standards at (609) 633-7021.

Interested persons may submit written comments on the Statewide WQM Plan to Mr. George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within fifteen days of the date of the public hearing. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP.

The NJDEP will hold a nonadversarial public hearing on the Statewide WQM Plan. The public hearing will be held on May 15, 1985 from 2:00 P.M. until 8:00 P.M. in Conference Room A at 1474 Prospect Street, Trenton, N.J.

(a)

Amendment to Tri-County Water Quality Management Plan

Public Notice

Take notice that the Hospital Group of New Jersey, Inc. has submitted for approval an amendment to the Tri-County Water Quality Management (WQM) Plan. This amendment provides for the Mount Holly Sewerage Authority to accept and treat sewage from a portion of Westampton Township more particularly described as the area contiguous to the Rancocas (Beverly-Mount Holly) Road to the south and bounded to the east by the New Jersey Turnpike and bounded to the north by the Rancocas Creek and bounded to the west by the New Jersey State Highway Number 295 and designated as Block 1204, Lots 11 and 12 on the Westampton Township Tax Map. The amendment will show the area as a proposed sewer service area on map 4.3 of the Tri-County Water Quality Management Plan.

ENVIRONMENTAL PROTECTION

This **notice** is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08628. In addition information is available at the Delaware Valley Regional Planning Commission, the Bourse Building, 21 South Fifth Street, Philadelphia, PA 19106. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to Mr. George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above, and to Michael Ontko at the DVRPC address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any **interested person** may request in writing that NJDEP hold a nonadversarial public hearing on the amendments. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(b)

Amendment to Atlantic County Water Quality Management Plan

Public Notice

Take notice that on February 25, 1985 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Atlantic County Water Quality Management Plan, for the extension of Galloway Township's sewerage service area, excluding wetlands and floodplains, was adopted by the Department.

(c)

Amendment to Mercer County Water Quality Management Plan

Public Notice

Take notice that on February 22, 1985 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), the Amendment Procedure for the Mercer County

ENVIRONMENTAL PROTECTION

MISCELLANEOUS NOTICES

Water Quality Management Plan, was adopted by the Department.

(a)

Amendment to Ocean County Water Quality Management Plan

Public Notice

Take notice that on February 25, 1985 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Ocean County Water Quality Management Plan was adopted by the Department, for the extension of Lacey Township's sewerage service area, excluding wetlands and floodplains. In addition, the sewerage service area is amended to be in conformance with the Pinelands Comprehensive Management Plan.

(b)

DIVISION OF FISH, GAME AND WILDLIFE

Notice of Extension of Commercial Shooting Preserve Season

Authority: N.J.S.A. 23:3-32.

Take notice that the Commissioner, Department of Environmental Protection, hereby extends the commercial shooting preserve season from March 15, 1985 to April 15, 1985, upon recommendation of the Director of the Division of Fish, Game and Wildlife, pursuant to statutory authority granted at N.J.S.A. 23:3-32.

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule changes proposed in this issue will be entered in the Index of the next Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the date of the latest update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the January 2, 1985 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to timely adopt a proposed rule requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1984 d.300 means the three hundredth rule adopted in 1984.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date verifying the currency of rules found in each Title of the New Jersey Administrative Code: rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to quickly find the issue of publication of a rule proposal or adoption.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
16 N.J.R. 471 and 576	March 19, 1984	16 N.J.R. 2475 and 2708	October 1, 1984
16 N.J.R. 577 and 778	April 2, 1984	16 N.J.R. 2709 and 2864	October 15, 1984
16 N.J.R. 779 and 940	April 16, 1984	16 N.J.R. 2865 and 3066	November 5, 1984
16 N.J.R. 941 and 1130	May 7, 1984	16 N.J.R. 3067 and 3240	November 19, 1984
16 N.J.R. 1131 and 1294	May 21, 1984	16 N.J.R. 3241 and 3336	December 3, 1984
16 N.J.R. 1295 and 1406	June 4, 1984	16 N.J.R. 3337 and 3518	December 17, 1984
16 N.J.R. 1407 and 1634	June 18, 1984	17 N.J.R. 1 and 140	January 7, 1985
16 N.J.R. 1635 and 1832	July 2, 1984	17 N.J.R. 141 and 236	January 21, 1985
16 N.J.R. 1833 and 2026	July 16, 1984	17 N.J.R. 237 and 338	February 4, 1985
16 N.J.R. 2027 and 2184	August 6, 1984	17 N.J.R. 339 and 502	February 19, 1985
16 N.J.R. 2185 and 2318	August 20, 1984	17 N.J.R. 503 and 634	March 4, 1985
16 N.J.R. 2319 and 2390	September 4, 1984	17 N.J.R. 635 and 762	March 18, 1985
16 N.J.R. 2391 and 2474	September 17, 1984	17 N.J.R. 763 and 858	April 1, 1985

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1, 1:2	Readopt General Hearing and Summary Proceedings rules	17 N.J.R. 2(a)		
1:2-2	Civil Service cases: readopt conference hearings	16 N.J.R. 3338(a)	R.1985 d.77	17 N.J.R. 569(a)
1:2-3	Motor Vehicle cases: readopt hearings on the papers	16 N.J.R. 3339(a)	R.1985 d.78	17 N.J.R. 569(b)
1:10	Public welfare hearings	16 N.J.R. 3068(a)	R.1985 d.79	17 N.J.R. 569(c)
1:10-17.1	Division of Public Welfare cases	16 N.J.R. 945(a)		
1:11-1.1, 15.1	Insurance filing cases	16 N.J.R. 2866(a)	R.1985 d.76	17 N.J.R. 572(a)

(TRANSMITTAL 10, dated December 17, 1984)

AGRICULTURE—TITLE 2				
2:16-2	Seed certification standards	17 N.J.R. 636(a)		
2:16-4	Field corn standards (commercial hybrids)	17 N.J.R. 638(a)		
2:16-5	Sweetcorn standards (inbred lines)	17 N.J.R. 639(a)		
2:16-6	Sweetcorn standards (single cross hybrids)	17 N.J.R. 639(b)		
2:16-7	Small grain standards	17 N.J.R. 640(a)		
2:16-9	Soybean standards	17 N.J.R. 641(a)		
2:16-10	Vegetable standards	17 N.J.R. 641(b)		
2:16-13	Turfgrass sod standards	17 N.J.R. 642(a)		
2:16-15	Vegetatively propagated grass standards	17 N.J.R. 643(a)		
2:16-16	Asparagus seed standards	17 N.J.R. 643(b)		
2:16-17	Asparagus crown standards	17 N.J.R. 644(a)		
2:16-19	Flatpea certification standards	17 N.J.R. 644(b)		
2:24-1.1, 1.2	Bee diseases: acarine mite quarantine	17 N.J.R. 118(a)	R.1985 d.107	17 N.J.R. 573(a)
2:32-2	Sire Stakes Program	17 N.J.R. 3(a)	R.1985 d.108	17 N.J.R. 573(b)
2:32-2.7	Sire Stakes Program	17 N.J.R. 3(a)	R.1985 d.135	17 N.J.R. 686(a)
2:52-2.1, 3.1	Notice of intent to change milk supplier	16 N.J.R. 3071(a)	R.1985 d.75	17 N.J.R. 576(a)
2:53-4.1	Notice of intent to change milk supplier	16 N.J.R. 3071(a)	R.1985 d.75	17 N.J.R. 576(a)
2:90-3	Water conservation project cost sharing	17 N.J.R. 7(a)	R.1985 d.158	17 N.J.R. 807(a)

(TRANSMITTAL 28, dated January 21, 1985)

BANKING—TITLE 3				
3:1-9.2-9.5	Home mortgage disclosure	16 N.J.R. 2872(a)	R.1985 d.98	17 N.J.R. 577(a)
3:2-1	Readopt rules on Advertising by Financial Institutions	17 N.J.R. 238(a)		
3:30-2.1	Savings associations and Federal reserve requirements	17 N.J.R. 142(a)		

(TRANSMITTAL 25, dated December 17, 1984)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
CIVIL SERVICE—TITLE 4				
4:1-8.24, 8.25	Examination records	16 N.J.R. 2873(a)	R.1985 d.63	17 N.J.R. 387(a)
4:1-9	Readopt Examination Scoring	16 N.J.R. 2873(a)	R.1985 d.63	17 N.J.R. 387(a)
4:1-12.12	Additions to eligible lists	16 N.J.R. 2873(a)	R.1985 d.63	17 N.J.R. 387(a)
4:1-12.12	Restorations to promotional lists	17 N.J.R. 645(a)		
4:1-12.15	Appointment of eligible certified	17 N.J.R. 10(a)		
4:1-14.7	Emergency appointments	16 N.J.R. 2191(a)	R.1985 d.124	17 N.J.R. 686(b)
4:1-18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:1-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)	R.1985 d.61	17 N.J.R. 389(a)
4:1-20.2	Certified Public Manager Program	16 N.J.R. 3072(a)	R.1985 d.62	17 N.J.R. 392(a)
4:2-9	Readopt Examination Scoring	16 N.J.R. 2873(a)	R.1985 d.63	17 N.J.R. 393(a)
4:2-17.10	Correction: Administrative leave			17 N.J.R. 393(a)
4:2-18.1, 18.2, 18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:2-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)	R.1985 d.61	17 N.J.R. 389(a)
4:2-20.7	Certified Public Manager Program	16 N.J.R. 3072(a)	R.1985 d.62	17 N.J.R. 389(a)
4:3-9	Readopt Examination Scoring	16 N.J.R. 2873(a)	R.1985 d.63	17 N.J.R. 387(a)
4:3-15.1	Repeal rule concerning transfer of county caseworkers	16 N.J.R. 3073(a)	R.1985 d.125	17 N.J.R. 686(c)
4:3-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)	R.1985 d.61	17 N.J.R. 389(a)
(TRANSMITTAL 22, dated January 21, 1985)				
COMMUNITY AFFAIRS—TITLE 5				
5:12	Homelessness Prevention Program	16 N.J.R. 3497(a)	R.1985 d.74	17 N.J.R. 577(b)
5:18, 18A, 18B	Uniform Fire Code; Fire Code Enforcement; High Level Alarms	16 N.J.R. 3339(b)	R.1985 d.66	17 N.J.R. 394(a)
5:23-2.4, 2.6, 2.17A	UCC: rooming and boarding houses	16 N.J.R. 3073(b)	R.1985 d.16	17 N.J.R. 275(a)
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 645(b)		
5:23-3.8A	UCC: products in violation	16 N.J.R. 3074(a)	R.1985 d.38	17 N.J.R. 421(a)
5:23-3.14, 3.20	Building and mechanical subcodes	17 N.J.R. 239(a)	R.1985 d.154	17 N.J.R. 810(a)
5:23-4.5	UCC: duties of construction officials	17 N.J.R. 340(a)		
5:23-5.4	UCC: trainee suspension, fire protection trainees	16 N.J.R. 3372(a)	R.1985 d.85	17 N.J.R. 579(a)
5:23-5.4	UCC: private enforcing agencies and trainee positions	17 N.J.R. 341(a)		
5:27	Readopt rules on Rooming and Boarding Houses	17 N.J.R. 341(b)		
5:27-1.5	UCC: rooming and boarding houses	16 N.J.R. 3073(b)	R.1985 d.16	17 N.J.R. 275(a)
5:27-5.1	Fire safety in rooming and boarding houses	16 N.J.R. 3242(a)	R.1985 d.39	17 N.J.R. 421(b)
5:31-7.5	Local authorities: audit reports	17 N.J.R. 504(a)		
5:71	Readopt County Offices on Aging rules	17 N.J.R. 342(a)		
5:80	Rules of the Housing and Mortgage Finance Agency	17 N.J.R. 505(a)		
5:80-7	Housing and Mortgage Finance Agency projects: Tenant Selection Standards	16 N.J.R. 954(a)	R.1985 d.106	17 N.J.R. 580(a)
(TRANSMITTAL 26, dated January 21, 1985)				
DEFENSE—TITLE 5A				
5A:2	Leaves of absence for members of National Guard	17 N.J.R. 646(a)		
EDUCATION—TITLE 6				
6:3-1.2	Board of school estimate	17 N.J.R. 143(a)	R.1985 d.151	17 N.J.R. 811(a)
6:3-1.17, 1.23	School facility planning services	17 N.J.R. 650(a)		
6:8-6.2	Evaluation and certification of school districts	17 N.J.R. 143(b)	R.1985 d.149	17 N.J.R. 811(b)
6:11-4.3	Emergency certification	16 N.J.R. 3075(a)	R.1985 d.49	17 N.J.R. 422(a)
6:11-4.3	Emergency certification: operative date			17 N.J.R. 687(a)
6:20-3	Readopt rules on Tuition Public Schools	17 N.J.R. 144(a)	R.1985 d.157	17 N.J.R. 811(c)
6:20-3.1	Tuition public schools: determining rates	17 N.J.R. 119(a)	R.1985 d.91	17 N.J.R. 583(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
6:20-5.3, 5.4	State facility pupil assignments: district of residence	17 N.J.R. 344(a)		
6:20-6	Readopt rules on Purchase and Loan of Textbooks	17 N.J.R. 148(a)	R.1985 d.150	17 N.J.R. 814(a)
6:20-8	Readopt rules on Public School Contracts	16 N.J.R. 3372(b)	R.1985 d.88	17 N.J.R. 584(a)
6:22	School facility planning services	17 N.J.R. 650(a)		
6:26-3	Readopt rules on Elementary School Summer Sessions	16 N.J.R. 2715(a)	R.1985 d.47	17 N.J.R. 422(a)
6:27-3	Readopt rules on Secondary School Summer Sessions	16 N.J.R. 2717(a)	R.1985 d.48	17 N.J.R. 423(a)
6:28-3.2, 3.6, 6.1, 6.3, 8.3	Special Education	17 N.J.R. 345(a)		
6:29-6.4	Athletics procedures	17 N.J.R. 659(a)		
6:29-7.1	Readopt Family Life Education Programs	16 N.J.R. 3377(a)		
6:31	Readopt Bilingual Education rules	16 N.J.R. 2721(a)	R.1985 d.46	17 N.J.R. 425(a)
6:68-2	Library assistance: readopt Incentive Grant Program rules	17 N.J.R. 346(a)		
6:70	Library network services	16 N.J.R. 3076(a)	R.1985 d.53	17 N.J.R. 428(a)

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ENVIRONMENTAL PROTECTION—TITLE 7

7:1C-1	90-day construction permits	16 N.J.R. 3243(a)		
7:7F-1, 3	Shore Protection Program; local government grants	16 N.J.R. 2881(a)		
7:9-4, 5	Surface water quality and treatment of wastewater discharges	16 N.J.R. 3080(a)		
7:11-2.3, 2.5, 2.8-2.12	Delaware and Raritan Canal water supply system	17 N.J.R. 11(a)		
7:12	Shellfish-growing water classification	16 N.J.R. 3112(a)	R.1985 d.64	17 N.J.R. 433(a)
7:12-1.3, 1.4	Shellfish-growing water classifications	17 N.J.R. 661(a)		
7:12-2.1, 2.2, 2, 3, 2.4	Correction: Shellfish-growing water classification	16 N.J.R. 3379(a)	R.1985 d.64	17 N.J.R. 433(a)
7:13-1.4, 4.7, 5.2, 5.4	Flood hazard area control	16 N.J.R. 2193(a)	R.1985 d.24	17 N.J.R. 275(b)
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	16 N.J.R. 1306(a)		
7:13-1.11(d)49	Floodway delineations in Union County	16 N.J.R. 1146(a)		
7:13-1.11(d)51	Floodways along North Branch Raritan (Project U)	16 N.J.R. 1307(a)		
7:13-7.1(c)17	Redelineation of Delaware River in Harmony Township, Warren County	17 N.J.R. 151(a)		
7:13-7.1(c)30	Floodway delineation along Paulins Kill	16 N.J.R. 2397(a)		
7:13-7.1	Paulins kill floodway delineation: public hearing	16 N.J.R. 2885(a)		
7:13-7.1(d)50	Floodway delineation along North Branch Foulerton's Brook	16 N.J.R. 2398(a)		
7:13-7.1(d)52	Supplemental Project I floodway delineations in the Passaic River Basin	16 N.J.R. 1865(b)	R.1985 d.130	17 N.J.R. 687(b)
7:14A-1.8	Fee schedule for NJPDES permits and applicants	17 N.J.R. 13(a)		
7:19-5	Small water company takeover	16 N.J.R. 3380(a)		
7:19-6	Water Supply Management Act Rules	16 N.J.R. 2399(a)	R.1985 d.133	17 N.J.R. 687(c)
7:19A	Emergency Water Supply Allocation Plan rules	16 N.J.R. 308(a)	R.1985 d.67	17 N.J.R. 438(a)
7:19B	Emergency Water Surcharge Schedule	16 N.J.R. 314(a)	R.1985 d.67	17 N.J.R. 438(a)
7:20	Dam Safety Standards	16 N.J.R. 790(a)		
7:25-2	Readopt rules on Use of Land and Water Areas under DEP control	16 N.J.R. 1309(a)		
7:25-4.2, 4.14, 4.17	Possession of endangered and nongame species	17 N.J.R. 516(a)		
7:25-4.13, 4.17	Status of the osprey	17 N.J.R. 350(a)		
7:25-7.10, 7.11	Taking of oysters and mussels	16 N.J.R. 3385(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:25-7.13	Crab dredging in Atlantic coast section	16 N.J.R. 3216(a)	R.1985 d.131	17 N.J.R. 697(a)
7:25-12.1	Preservation of sea clams	16 N.J.R. 2885(b)	R.1985 d.132	17 N.J.R. 698(a)
7:25-16.1	Readopt freshwater fishing license lines	16 N.J.R. 2044(a)		
7:25-22.2	Purse seine fishing of menhaden	16 N.J.R. 1668(a)		
7:25-23	Permit to kill wild deer	17 N.J.R. 350(b)		
7:25A	Oyster management	17 N.J.R. 352(a)		
7:26	Solid and hazardous waste collector-haulers: Disclosure Statement Forms	16 N.J.R. 1425(a)		
7:26-1.4, 2.6, 2.10, 2.13, 3.5	Disposal of asbestos waste	16 N.J.R. 440(a)	R.1985 d.65	17 N.J.R. 446(a)
7:26-6.5	Solid waste flow: Atlantic County	17 N.J.R. 517(a)		
7:26-6.5	Solid waste flow: Hunterdon County	17 N.J.R. 517(b)		
7:26-8.13, 8.16	Hazardous waste from non-specific sources; hazardous constituents	17 N.J.R. 354(a)		
7:26-8.15	Hazardous waste management: warfarin and zinc phosphide	17 N.J.R. 356(a)		
7:26-9.10, 9.11, App. A.	Hazardous waste facilities: closure letters of credit	17 N.J.R. 241(a)		
7:26-10.5	Tank storage containment requirements	17 N.J.R. 152(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	Air quality standards: State Implementation Plan for lead	16 N.J.R. 1669(a)		
7:27-8	Air pollution control: permits and certificates	16 N.J.R. 1671(a)	R.1985 d.96	17 N.J.R. 587(a)
7:27-13.1, 13.2, 13.5-13.8	Ambient air quality standards	16 N.J.R. 1676(a)		
7:27-14.3	Diesel-powered motor vehicles: idle standard	16 N.J.R. 2887		
7:27-15.6	Gas-fueled motor vehicle: idle standard	16 N.J.R. 2889		
7:27-18.1, 18.2, 18.3, 18.4, 18.7	Air pollution control: emission offset rules	16 N.J.R. 1679(a)	R.1985 d.25	17 N.J.R. 277(a)
7:28-24	Readopt Nuclear Medicine Technology rules	17 N.J.R. 22(a)	R.1985 d.140	17 N.J.R. 699(a)
7:29-1.1-1.5	Noise control	16 N.J.R. 1682(a)	R.1985 d.129	17 N.J.R. 699(b)
7:29-1.1-1.5	Noise control: extension of comment period	16 N.J.R. 2405(a)		
7:30	Pesticide Control Code	17 N.J.R. 242(b)		
7:36	Green Acres Program	16 N.J.R. 2405(b)		

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HEALTH—TITLE 8

8:20-1	Birth Defects Registry	16 N.J.R. 3118(a)	R.1985 d.92	17 N.J.R. 591(a)
8:21-2.40	Baby foods and ethylene dibromide level	16 N.J.R. 2897(a)	R.1985 d.42	17 N.J.R. 449(a)
8:21A	Good drug manufacturing practices	16 N.J.R. 3248(a)	R.1985 d.141	17 N.J.R. 815(a)
8:21A-2.55	Drug manufacturing: medical gas lot or control numbers	16 N.J.R. 1685(a)		
8:31-26.3, 26.4	Health care facilities: employee physicals; child abuse	16 N.J.R. 3249(a)		
8:31-26.5	Health care facilities: licensure fees	17 N.J.R. 664(a)		
8:31A	Readopt SHARE Guidelines	16 N.J.R. 2898(a)	R.1985 d.121	17 N.J.R. 702(a)
8:31B-2, 3, 4	Hospital Rate Setting rules: temporary waiver of expiration	16 N.J.R. 2733(a)		
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	16 N.J.R. 2848(b)		
8:31B-3.23	Correction: Hospital reimbursement	16 N.J.R. 2733(b)		
8:31B-3.23, 3.24, 3.43, 3.75	Hospital rate setting; outpatient dialysis reimbursement hospital-based physician costs	16 N.J.R. 669(a)		
8:31B-3.26, App. II	Hospital reimbursement: economic factor	17 N.J.R. 153(a)		
8:31B-5.2	Diagnosis Related Groups: outliers	16 N.J.R. 3119(a)	R.1985 d.122	17 N.J.R. 704(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:33A-1.1	New and expanded surgical services: deferral of need applications	16 N.J.R. 2734(a)		
8:33A-2	Surgical facilities: planning and need review	17 N.J.R. 154(a)		
8:33E-2	Cardiac surgical centers	16 N.J.R. 3120(a)	R.1985 d.28	17 N.J.R. 281(a)
8:33E-2.1-2.5, 2.10, 2.12, 2.13	Cardiac surgical centers: need review	16 N.J.R. 2196(a)		
8:33F	Renal Disease Services: readopt Planning and Certification rules	16 N.J.R. 3124(a)	R.1985 d.29	17 N.J.R. 284(a)
8:39-2.1	All health care facilities: certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:35	Repeal (see 8:43B-8)	16 N.J.R. 188(a)	R.1985 d.30	17 N.J.R. 285(c)
8:40-1.1	Licensure of invalid coach and ambulance services	16 N.J.R. 3127(a)		
8:42-1	Home health agencies: readopt licensure standards	16 N.J.R. 3250(a)	R.1985 d.117	17 N.J.R. 704(b)
8:42-1.2	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.118	17 N.J.R. 705(a)
8:42A-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:42B-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:43-1.5	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:43A	Licensure of ambulatory care facilities	16 N.J.R. 3254(a)		
8:43A-1.3	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:43B-1	Licensure of hospital facilities	16 N.J.R. 3275(a)	R.1985 d.115	17 N.J.R. 705(b)
8:43B-1.7	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.116	17 N.J.R. 705(c)
8:43B-1.14	Hospital facilities: psychiatric patient rights	17 N.J.R. 665(a)		
8:43B-6	Hospital facilities: readopt Medical Staff rules	16 N.J.R. 3152(a)	R.1985 d.27	17 N.J.R. 285(b)
8:43B-8	Hospital licensure: obstetric and newborn services	16 N.J.R. 188(a)	R.1985 d.30	17 N.J.R. 285(c)
8:43B-8.33-8.44	Newborn care services: physical plant standards	17 N.J.R. 519(a)		
8:43F	Medical day care facilities: readopt licensure standards	16 N.J.R. 3277(a)	R.1985 d.120	17 N.J.R. 706(a)
8:43F-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.119	17 N.J.R. 706(b)
8:45	Clinical laboratory services	17 N.J.R. 268(a)		
8:57-4.15	Immunization of school children: mumps vaccine	17 N.J.R. 358(a)		
8:57-4.16	Emergency Powers of Commissioner	Emergency	R.1985 d.40	17 N.J.R. 483(a)
8:60-2,6	Asbestos training courses	Emergency	R.1985 d.144	17 N.J.R. 741(a)
8:65-5	Controlled dangerous substances: records and reports of registrants	17 N.J.R. 524(a)		
8:65-6	Controlled dangerous substances: Federally-required order forms	17 N.J.R. 528(a)		
8:65-10.1, 10.2	Controlled dangerous substances: rescheduling of Sufentanil	16 N.J.R. 2900(a)	R.1985 d.83	17 N.J.R. 592(a)
8:65-10.4	Controlled dangerous substances: add Triazolam to Schedule IV	16 N.J.R. 2901(a)		
8:65-10.4	Controlled dangerous substances: additions to Schedule IV	16 N.J.R. 3390(a)		
8:65-10.8	Controlled dangerous substances: exempt chemicals	16 N.J.R. 3280(a)	R.1985 d.84	17 N.J.R. 592(b)
8:65-11.2	Narcotic treatment programs: registration fee	17 N.J.R. 359(a)		
8:71	Generic drug list additions (see 16 N.J.R. 2672(b), 17 N.J.R. 200(b))	16 N.J.R. 1436(a)		
8:71	Generic drug list additions (see 17 N.J.R. 201(a))	16 N.J.R. 2483(a)		
8:71	Additions to generic drug list	17 N.J.R. 158(a)		

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HIGHER EDUCATION—TITLE 9

9:2-1, 2, 3, 8, 9	Repeal (See 9:6)	16 N.J.R. 2209(a)		
9:2-4, 5, 6, 7, 12, 13	Readopt Administrative Policies for colleges and universities	16 N.J.R. 2216(a)		

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9:2-11	Recodify as 9:7-7	16 N.J.R. 2218(a)		
9:2-12.2	Teacher education: curriculum	17 N.J.R. 22(b)		
9:6	State College: policies and standards	16 N.J.R. 2209(a)		
9:6-1.2, 3.1, 3.4, 3.5, 3.6, 3.11, 4.4, 4.7, 5.2, 5.13	State Colleges: policies and standards	17 N.J.R. 160(a)		
9:7-3.1	Tuition Aid Grant Award Tables	17 N.J.R. 23(a)	R. 1985 d.155	17 N.J.R. 815(b)
9:7-4.2	Garden State Scholars: award amounts	16 N.J.R. 3281(a)	R. 1985 d.153	17 N.J.R. 816(a)
9:7-5.1, 5.4, 5.10	Public Tuition Benefits Program	17 N.J.R. 24(a)	R. 1985 d.156	17 N.J.R. 816(b)
9:7-7	Readopt Veteran's Tuition Credit Program	16 N.J.R. 2218(a)		
9:9-1.6	Student loan applications: prohibited fee	16 N.J.R. 3281(b)		
9:9-1.16	Defaulted student loans: interest liability	16 N.J.R. 1012(a)		
9:9-9.2	PLUS Program: direct loan prerequisites	16 N.J.R. 1012(b)		
9:14	Readopt Independent College and University Assistance rules	17 N.J.R. 25(a)		

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HUMAN SERVICES—TITLE 10

10:44A-1.1-1.5, 2.2, 2.4, 3.1, 3.3, 4.3, 5.2, 9	Community residences for developmentally disabled: Supportive Living Programs	16 N.J.R. 1438(a)		
10:44B	Community training and family-based respite care homes	17 N.J.R. 359(b)		
10:47	Private Licensed Facilities for Developmentally Disabled	16 N.J.R. 2902(a)		
10:49-1	Administration Manual: readopt General Provisions	17 N.J.R. 532(a)		
10:49-1.1	Medicaid eligibility	16 N.J.R. 2219(a)		
10:49-1.7	Administration Manual: utilization of insurance benefits	16 N.J.R. 1933(a)	R.1985 d.7	17 N.J.R. 309(a)
10:49-1.27	Long-term care facilities: completion of field audit	16 N.J.R. 2413(a)		
10:52-1.1, 1.20	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:52-1.2, 1.3	Covered and non-covered inpatient hospital services	16 N.J.R. 483(a)	R.1985 d.87	17 N.J.R. 593(a)
10:52-2	Hospital Services: readopt Admission and Billing Procedures	16 N.J.R. 3159(a)	R.1985 d.56	17 N.J.R. 451(a)
10:53-1.1, 1.16	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:53-1.2, 1.3	Covered and non-covered inpatient hospital services	16 N.J.R. 483(a)	R.1985 d.87	17 N.J.R. 593(a)
10:53-2	Special Hospital Services: admission and billing	17 N.J.R. 544(a)		
10:54-1.3	Progress notes for mental health providers	16 N.J.R. 2333(a)	R.1985 d.52	17 N.J.R. 452(a)
10:54-3	Preproposal: radioimmunoassay laboratory fees	16 N.J.R. 677(a)		
10:54-3	Procedure Code Manual: immunizations	17 N.J.R. 546(a)		
10:55-1	Prosthetic and orthotic services	17 N.J.R. 26(a)	R.1985 d.152	17 N.J.R. 817(a)
10:55-1.5, 1.8, 3.1	Shoes and shoe appliances: provider reimbursement	17 N.J.R. 162(a)		
10:56-1.11	Dental Services: utilization of insurance benefits	16 N.J.R. 1933(a)	R.1985 d.7	17 N.J.R. 309(a)
10:59-1.2, 1.4, 1.9, 1.12	Medical Supplier Manual: recycling of durable medical equipment	16 N.J.R. 2048(a)		
10:60	Readopt Home Care Services Manual	17 N.J.R. 28(a)		
10:60-3	Community Care Waiver Program for Elderly and Disabled	16 N.J.R. 3161(a)		
10:61-1.2	Medicaid participation by State, county and municipal labs	16 N.J.R. 3162(a)		
10:63-1.6	Changes in level of long-term care	16 N.J.R. 2049(a)		
10:63-1.22	Long-term care facilities: completion of field audit	16 N.J.R. 2413(a)		
10:66-1.1, 1.2, 1.3, 1.6, 1.7, 1.9	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:66-1.9	Progress notes for mental health providers	16 N.J.R. 2333(a)	R.1985 d.52	17 N.J.R. 452(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:67-1, 2.6	Readopt Psychologist's Services Manual	16 N.J.R. 3163(a)	R.1985 d.114	17 N.J.R. 706(c)
10:67-1.6	Progress notes for mental health providers	16 N.J.R. 2333(a)	R.1985 d.52	17 N.J.R. 452(a)
10:69A-1.2, 2.1, 5.3, 5.6, 6.1, 6.4, 6.6, 6.10, 6.11	Pharmaceutical Assistance for Aged and Disabled	17 N.J.R. 367(a)		
10:81-3.9, 3.17, 3.40	PAM: support rights; continued absence	16 N.J.R. 3282(a)	R.1985 d.99	17 N.J.R. 594(a)
10:81-3.34	PAM: temporary absence of children from home	17 N.J.R. 163(a)		
10:81-11.1, 11.4, 11.12	PAM: continuing IV-D services for families that lose AFDC	17 N.J.R. 164(a)		
10:81-11.7, 11.9	PAM: child support and health benefits	17 N.J.R. 165(a)		
10:81-11.9	PAM: reimbursement by counties to State	17 N.J.R. 369(a)		
10:82-2.2	ASH: initial grant computation	17 N.J.R. 546(b)		
10:82-2.19	ASH: recovery of overpayments	16 N.J.R. 2055(a)		
10:82-3.1-3.7	ASH: resource eligibility in AFDC	16 N.J.R. 486(a)		
10:85-3.1	GAM: household size	17 N.J.R. 37(a)		
10:85-3.2	GAM: determination of unemployability	17 N.J.R. 547(a)		
10:85-3.2, 10.6	GAM: willingness to work and penalty period	16 N.J.R. 2741(a)		
10:85-3.3	GAM: monthly assistance payment for residential health care	16 N.J.R. 2742(a)		
10:85-3.3	General Assistance rate in residential health care facilities	_____	_____	17 N.J.R. 48(a)
10:85-3.3, 12	GAM: medical care eligibility; repeal income standards rules	16 N.J.R. 3165(a)	R.1985 d.81	17 N.J.R. 595(a)
10:85-3.4	GAM: suits and claims	17 N.J.R. 548(a)		
10:85-8	GAM: readopt Referral to Other Agency Programs	16 N.J.R. 3166(a)	R.1985 d.80	17 N.J.R. 596(a)
10:85-App. A	Expiration of List of Forms			17 N.J.R. 616(a)
10:87-1.14	Food Stamps: release of case file information	17 N.J.R. 166(a)		
10:87-2.16, 2.17, 8.2	Food Stamps: quality control case review	17 N.J.R. 167(a)		
10:87-2.19, 3.17-3.20	Food Stamp Program: work registration and voluntary quit		R.1985 d.145	17 N.J.R. 818(a)
10:89-1.1, 2.2, 2.3, 3.1-3.6, 4.1, 5.3	Home Energy Assistance	16 N.J.R. 3217(a)	R.1985 d.5	17 N.J.R. 310(a)
10:94-3.16	Medicaid district offices	17 N.J.R. 38(a)		
10:94-5.6	Medicaid Only: health insurance premiums	17 N.J.R. 39(a)		
10:99	Commodities and Services Council: Rehabilitation Facilities	16 N.J.R. 2338(a)	R.1985 d.55	17 N.J.R. 453(a)
10:122-2.3, 2.6, 3.2, 3.3, 4.1, 4.3, 4.6, 6.8, 6.9	Child care centers	17 N.J.R. 548(b)		
10:123-3.2	Residential health care: personal needs allowance	17 N.J.R. 39(b)	R.1985 d.134	17 N.J.R. 707(a)

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CORRECTIONS—TITLE 10A

10A:31	Adult county correctional facilities	16 N.J.R. 3284(a)	R.1985 d.17	17 N.J.R. 312(a)
10A:32	County juvenile detention centers	17 N.J.R. 40(a)	R.1985 d.97	17 N.J.R. 598(a)
10A:71	State Parole Board rules	16 N.J.R. 3391(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)		
11:1-10	Repeal rules on Licensing of Financial Institutions, Subsidiaries and Affiliates	16 N.J.R. 2919(a)	R.1985 d.69	17 N.J.R. 458(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
11:1-16	Request for rate decrease	16 N.J.R. 3169(a)		
11:1-18	Approval of business names	17 N.J.R. 41(a)		
11:1-19	Uniform registration of branch offices	17 N.J.R. 42(a)		
11:2-10.1	Repeal Personal Lines Insurance rule	16 N.J.R. 2920(a)	R.1985 d.71	17 N.J.R. 458(a)
11:2-19	Approval of insurance schools and company training programs	16 N.J.R. 2920(b)		
11:2-20	License renewal: continuing education requirement	16 N.J.R. 2922(a)		
11:2-21	Property and casualty coverage: underwriting guidelines	16 N.J.R. 2924(a)		
11:2-23	Advertisement of life insurance and annuities	16 N.J.R. 2926(a)		
11:3-7	Automobile Reparation Reform Act rules: 90-day waiver of expiration	16 N.J.R. 2414(a)		
11:3-7	Automobile Reparation Reform Act rules	16 N.J.R. 3417(a)		
11:3-7	Readopt Automobile Reparation Reform Act rules	17 N.J.R. 43(a)	R.1985 d.109	17 N.J.R. 707(b)
11:3-7.8, 7.9	PIP premium on additional automobiles	16 N.J.R. 488(a)		
11:3-8	Nonrenewal of auto insurance policies	16 N.J.R. 2930(a)		
11:3-10	Auto physical damage claims	16 N.J.R. 3170(a)		
11:3-11.1	Moped insurance	16 N.J.R. 3285(a)	R.1985 d.72	17 N.J.R. 458(c)
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