You're viewing an archived copy from the New Jersey State Library.

NEW JERSEY REGISTER

EDUCATION, DEPARTMENT OF
DIV LIBRARY,ARCHIVES,& HISTO
CN 520
TRENTON NJ 08625
Interoffice
0330
010
9

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS, PAGE 115.*

VOLUME 18 NUMBER 1

January 6, 1986 Indexed 18 N.J.R. 1-128

(Includes rules filed through December 13, 1985)

PROPERTY OF
NEW JERSEY STATE LIB
MAR 19 1986
185 W. State St.
Trenton, N.J.

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

TABLE OF RULES IN THIS ISSUE

RULE PROPOSALS

Interested persons comment deadline **2**

ADMINISTRATIVE LAW
Attorney disqualification from a case ..... 2(a)
Agency rulemaking ..... 3(a)
BANKING
Availability of funds deposited in individual accounts: written disclosure ..... 13(a)
Home repair financing ..... 15(a)
COMMUNITY AFFAIRS
Parking for handicapped residents of multiple dwellings ..... 16(a)
Uniform Construction Code: revocation of licenses ..... 16(b)
ENVIRONMENTAL PROTECTION
Sale of water from Delaware and Raritan Canal and Spruce Run/Round Valley Reservoirs ..... 17(a)
HEALTH
Designated fluid milk products ..... 59(b)
Nursing home administrators: limitations on responsibility ..... 74(a)
Reexamination for Nursing Home Administrator's License ..... 75(a)
HIGHER EDUCATION
Status of foreign nationals ..... 19(a)
Tuition Aid Grant Program: 1986-87 Award Table ..... 19(b)
HUMAN SERVICES
Patient supervision at State psychiatric hospitals: public hearing ..... 20(a)
ASH: evaluation of legally responsible relatives in AFDC ..... 20(b)
GAM: parent-sponsored aliens ..... 21(a)
Public Assistance Staff Development Program ..... 22(a)
Adoption subsidy ..... 24(a)
CORRECTIONS
Inmate discipline ..... 27(a)
INSURANCE
Continuing education ..... 44(a)
Coverage of the handicapped ..... 44(b)
Reporting of liquor law liability loss experience ..... 45(a)
LAW AND PUBLIC SAFETY
Approval of motor vehicle safety glazing materials and other equipment ..... 47(a)
Student driver permits ..... 48(a)
Photo IDs and driver license application procedure ..... 49(a)
Licensure of foreign medical school graduates ..... 50(a)
Regulation of firearms businesses ..... 51(a)
TREASURY-GENERAL
Due date for quarterly pension transmittals ..... 59(a)

RULE ADOPTIONS

AGRICULTURE
Use of coupons in milk promotions ..... 77(a)
BANKING
Multiple-party deposit accounts ..... 77(b)
CIVIL SERVICE
Appeals concerning removal from eligible list for medical reasons ..... 77(c)
COMMUNITY AFFAIRS
UCC inspectors: experience requirements ..... 80(a)

(Continued on Back Cover)

You're viewing an archived copy from the New Jersey State Library.

RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **February 5, 1986.** Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

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

ADMINISTRATIVE LAW

OFFICE OF ADMINISTRATIVE LAW

The following proposals are authorized by Ronald I. Parker, Acting Director, Office of Administrative Law.

Submit comments by February 5, 1986 to:
Steven L. Lefelt, Deputy Director
Office of Administrative Law
Quakerbridge Plaza, Building 9
Quakerbridge Road
CN 049
Trenton, New Jersey 08625

(a)

Uniform Administrative Procedure Rules of Practice
Conduct of Lawyers, Judges and Agency Personnel

Proposed Amendment: N.J.A.C. 1:1-3.8

Authority: N.J.S.A. 52:14F-5(e), (f) and (g).
Proposal Number: PRN 1985-699.

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 1:1-3.8 will enable judges in contested case proceedings to rule on questions regarding an attorney's professional conduct as it relates to the attorney's representation in a particular case. Specifically, the rule would permit the judge to disqualify an attorney whose conduct would violate ethical standards and would require disqualification under the Rules of Professional Conduct or the New Jersey Conflict of Interest Law. The judge's action under this rule would be limited to disqualification and would be a legal ruling in the case, rather than a disciplinary determination. If disciplinary action against an attorney is indicated, the matter will be referred to the appropriate disciplinary body.

The purpose of the change is to create a mechanism whereby an attorney whose appearance in administrative proceedings would violate ethics rules can be prevented from appearing. In the current rules, there is no clear means of responding to such occurrences and consequently confusion has developed over the proper method for presenting and resolving these issues. The OAL desires to clarify the process and, after discussions with the Attorney General and the Administrative Office of the Courts, is proposing this change in its conduct of attorneys rule.

Social Impact

The amendment will benefit the public interest by creating an express means whereby a judge in an administrative proceeding can respond to questions raised about the ethical conduct of attorneys appearing in that proceeding. Under the

NEW JERSEY REGISTER

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

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

The New Jersey Register (ISSN 0300-6069) is published the first and third Monday of each month by OAL Publications of the Office of Administrative Law, CN 301, Trenton, New Jersey 08625. Telephone: (609) 588-6601. Subscriptions, payable in advance, are one year, $75 ($150 by First Class Mail); back issues when available, $8 each. Make checks payable to OAL 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 OAL Publications of the Office of Administrative Law. Subscription rates for this 34-volume, regularly updated set of 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.

You're viewing an archived copy from the New Jersey State Library.

current rules, there was confusion over how such issues were raised and whether they could be resolved within the administrative proceeding. The proposed amendment clarifies the process.

Economic Impact

N.J.A.C. 1:1-3.8, as amended, will have no adverse economic impact, except that attorneys who are precluded from appearing in particular cases for ethical reasons may be prevented from earning a fee for anticipated legal services.

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

1:1-3.8 Conduct of lawyers, judges and agency personnel

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

(d) In any case where the issue of an attorney's ethical or professional conduct is raised, the judge before whom the issue has been presented shall consider the merits of the issue raised and make a ruling as to whether the attorney may appear or continue representation in the matter. The judge may disqualify an attorney from participating in a particular case when disqualification is required by the Rules of Professional Conduct or the New Jersey Conflict of Interest Law. If disciplinary action against the attorney is indicated, the matter shall be referred to the appropriate disciplinary body.

(a)

Rules for Agency Rulemaking

Proposed Readoption with Amendments and New Rules: N.J.A.C. 1:30

Authority: N.J.S.A. 52:14B-1 et seq. and 52:14F-5(f), (h) and (i).

Proposal Number: PRN 1985-722.

The agency proposal follows.

Summary

Pursuant to the requirements of Executive Order No. 66(1978), the Office of Administrative Law (OAL) proposes to readopt the existing OAL Rules for Agency Rulemaking found at N.J.A.C. 1:30, which would otherwise expire on March 6, 1986. Along with this proposed readoption, the OAL concurrently proposes to amend the rulemaking rules.

By way of historical background, this chapter was originally codified at N.J.A.C. 15:15, Rules of Administrative Procedure. With the enactment of P.L. 1981, c.27 on February 9, 1981, which became effective on March 11, 1981, significant changes to the Administrative Procedure Act (APA), N.J.S.A. 52:14B-4 et seq., were adopted. As a result of the new statutory requirements under the APA, N.J.A.C. 15:15 was substantially amended and recodified as N.J.A.C. 1:30, Rules for Agency Rulemaking (see 13 N.J.R. 171(a)). The new N.J.A.C. 1:30 was filed as an emergency rule pursuant to the APA as it existed prior to the enactment of P.L. 1981, c.27. Under the prior version of the APA, the emergency rule was effective as an emergency adoption on March 6, 1981 to be operative on March 11, 1981 (R.1981 d.83).

The 1981 amendments to the chapter were designed to: (1) adjust the rules to implement the new rulemaking provisions of the APA; (2) adjust the rules to correspond with the establishment of the OAL and related changes in the enforcement of the APA; (3) clarify the notice and hearing requirements of the APA; and (4) consolidate various provisions and repeal certain rules which repeated statutory language.

After one year of operation under the new rules, the chapter was substantially amended to address various comments and criticisms which arose while operating under the new statutory and regulatory requirements (see 14 N.J.R. 780(a), 15 N.J.R. 29(a), effective January 3, 1983 as R.1982 d.466). The rule amendments included language and technical changes; new definitions; clarified the effective date of an adopted rule; outlined compliance procedures for Executive Order No. 66(1978); specified the types of changes which could be made to a proposed rule upon adoption; changed timeframes for retention of rulemaking records from two to three years; provided for administrative correction of rules; and required that proposed and adopted rules be signed by a duly authorized person.

The OAL, and all other State agencies subject to the APA, have operated under the existing rulemaking rules since 1983. During this time, the OAL has had the opportunity to assess the merits of these rules and has gained valuable experience in their operation. The OAL has also, from time to time, entertained questions and received suggestions from both the public and other State agencies on how the rules may be improved.

In compliance with the spirit and intent of Executive Order No. 66(1978), the OAL has reviewed the current chapter and has determined that it is still adequate, reasonable and necessary for the purposes for which it was originally promulgated, that is, the implementation and coordination of uniform rules for agency rulemaking. As a result of this review and our experience over the last several years in operating under these rules, the OAL proposes to amend the Rules for Agency Rulemaking. The Office of the Attorney General has reviewed this proposal and concurs with the amendments as proposed.

The following summarizes the current text of the rules and the proposed changes, if any, to particular sections.

Subchapter 1 contains General Provisions rules.

N.J.A.C. 1:30-1.1 states the title of the rules.

N.J.A.C. 1:30-1.2 is the definition section. Several changes, both technical and substantive, are proposed along with several deletions and additions of terms.

N.J.A.C. 1:30-1.3 identifies the new OAL address and 1:30-1.4, 1.5 and 1.6 specify how the Code, Register and Statutes should be cited.

N.J.A.C. 1:30-1.7, use of headings, is amended to explain that although headings are not part of a rule, they may be used in interpreting the rule.

N.J.A.C. 1:30-1.8, access to documents, explains that any document submitted to the OAL for filing shall be maintained as a record and is available for examination. Copies of documents are available for a fee (N.J.A.C. 1:30-1.9).

N.J.A.C. 1:30-1.10 states that the OAL may prescribe forms and formats for use in rule submissions.

N.J.A.C. 1:30-1.11 explains how to compute a period of time fixed by rule or judicial order.

N.J.A.C. 1:30-1.12, compliance, is substantially amended. Subsection (a) states that the processing of a rule may be suspended if it does not comply with technical and procedural rulemaking requirements. Procedures for rectifying non-compliance are also proposed. Subsection (b) states that any issue of non-compliance which concerns statutory authority, related legal issues or contested case jurisdiction shall be referred to

 You're viewing an archived copy from the New Jersey State Library.

the Office of the Attorney General. These amendments serve to codify the policy which has developed over the years.

N.J.A.C. 1:30-1.13 describes the treatment of an invalidated rule.

N.J.A.C. 1:30-1.14 explains the procedure for receiving and filing a document.

Subchapter 2 contains rules on Rulemaking Generally.

N.J.A.C. 1:30-2.1, clarity of rules, has been completely rewritten to explain that any document filed must be written in a clear, simple and understandable manner. Cross-reference to N.J.A.C. 1:30-1.12 is made in cases of non-compliance.

N.J.A.C. 1:30-2.2 explains how source documents are incorporated by reference.

N.J.A.C. 1:30-2.3 requires that there be a single subject embraced in each section of a rule.

N.J.A.C. 1:30-2.4 specifies the proper authorization for rule activity and has been amended to provide that any rule activity not properly authorized shall be returned to the agency.

N.J.A.C. 1:30-2.5 explains the effect and treatment of statements which accompany notices of proposal and adoption.

N.J.A.C. 1:30-2.6 states that the Register constitutes the authoritative text of any rule printed therein.

N.J.A.C. 1:30-2.7 explains the procedure for effecting an administrative correction.

Subchapter 3 contains rules which regulate the proposal procedure.

N.J.A.C. 1:30-3.1, notice of proposed rule, specifies the items that must be included as part of a notice of proposed rule. This section has been significantly reorganized and clarified, although no major substantive changes are proposed. Aside from the reorganization, the only substantive amendment of note is the clarification of an agency's statutory authority (N.J.A.C. 1:30-3.1(a)3.), and the cross-reference to N.J.A.C. 1:30-1.12 regarding non-compliance with proper rulemaking (N.J.A.C. 1:30-3.1(b)).

N.J.A.C. 1:30-3.2, notice of pre-proposal for a rule, specifies the requirements which must be followed when an agency wishes to "pre-propose" as rulemaking. Subsection (b) is amended to require submission of the draft text of the rule, when available, as part of the notice. A new proposed subsection (c) requires that all rulemakings which involve joint or concurrent promulgation of agencies require a pre-proposal.

N.J.A.C. 1:30-3.3 states the requirements for providing public opportunity to be heard on a proposed rulemaking. The section has been rewritten in order to reflect proper codification, but no substantive changes are proposed.

N.J.A.C. 1:30-3.4 explains the record of public comment which must be compiled in a proposed rulemaking.

The current text of N.J.A.C. 1:30-3.5, variance between the rule as proposed and as adopted, is repealed at this section designation and recodified at 1:30-4.3.

N.J.A.C. 1:30-3.5, negotiating a rule, is a proposed new rule which outlines the procedure by which an agency elects to negotiate a contemplated rulemaking. Subsection (b) specifies that a written request to negotiate a rule must be submitted to the Administrative Rules and Publication Division with a summary of the subject matter, the problem which the agency wishes to address, and a listing of the interests affected, along with suggested representatives of the negotiation team.

Subsection (c) states each agency and interest group shall have one representative. A negotiation team shall not have more than 10 members including the OAL representative (subsection (d)).

Subsection (e) states the Division will review the request, contact the representatives, if need be, and determine whether the matter is feasible to negotiate, the interests are defined, and representatives are diverse and accountable to each interest group. Once the Division has determined that negotiations should commence, a notice of rule negotiation shall be published in the New Jersey Register. Any interested party who is not represented on the negotiation team may file a petition for participation with the OAL representative (subsection (f)).

Subsection (g) specifies the content requirements and procedure for submitting the petition.

Subsection (h) states the negotiation team shall be convened within 20 days from publication of the notice in the Register. The negotiation must be completed within 10 days of commencement unless all participants agree to continue.

The OAL representative will provide a final version of the negotiated rule within 10 days of completion of the negotiations (subsection (i)).

Subsection (j) requires that the agency either propose the rule as negotiated or notify the OAL and all representatives that is has rejected the negotiation. The rejection must occur within 30 days or such other period as agreed upon by the OAL Director and the head of the agency that had requested the negotiation.

Subsection (k) states that if no negotiated rules has been approved after 60 days from commencement of the negotiation, the OAL representative may terminate the negotiation and disband the team. A notice of disbandment shall be published in the Register.

N.J.A.C. 1:30-3.6, notice of petition for a rule, outlines the procedure an agency must follow when it receives a petition for a rule. Subsection (a) has been amended to require that notice of the petition must be filed with the OAL within five days of its receipt. The notice shall be published in the Register as required by N.J.S.A. 52:14B-4(f).

N.J.A.C. 1:30-3.7 describes a federally required rule.

Subchapter 4 contains rules which regulate the adoption procedure.

N.J.A.C. 1:30-4.1 outlines the requirements for filing an adopted rule and 1:30-4.2 specifies the timeframes for filing the adoption. N.J.A.C. 1:30-4.2 is being amended to clarify the time periods which must elapse before a rule can be accepted for filing. The rule is also being amended to comport with the proposed amendments to N.J.A.C. 1:30-1.12.

N.J.A.C. 1:30-4.3, variance between the rule as proposed and as adopted, discusses the treatment of changes to a proposal upon its adoption. This rule, although proposed as new, is simply a recodification from 1:30-3.5.

N.J.A.C. 1:30-4.3, proposed as new 1:30-4.4, discusses the application of expiration dates to adopted rules pursuant to Executive Order No. 66(1978). The rule has been amended to require that all adopted rules shall have an expiration date of not more than five years from the date of adoption. The rule has also been amended to require that expiration dates shall be fixed at the chapter level rather than at subchapter levels as is presently applied. Also, in situations where a chapter has several subchapters with different expiration dates, the entire chapter will now expire on the same date as the last assigned expiration date to a subchapter in that chapter. Chapters that only have one subchapter with an expiration date will expire on the same date as that subchapter. Any chapter whose subchapters have no expiration date shall, upon amendment of any subchapter, receive an expiration date to the entire chapter. Any new rule shall have an expiration date apply to the entire chapter.

N.J.A.C. 1:30-4.4 has also been amended to clarify that any

You're viewing an archived copy from the New Jersey State Library.

amendments to a readopted rule are effective upon publication. New subsections (f) and (g) explain the treatment of any proposed readoptions of rules which expire before they can be readopted.

N.J.A.C. 1:30-4.4, certification for emergency adoption, proposed as new 1:30-4.5, explains the procedure for adopting a rule on an emergency basis. The rule has been amended to clarify its provisions and conform to current practice.

N.J.A.C. 1:30-4.5, effective date and promulgation of adopted rule, proposed as new 1:30-4.6, explains when adopted rules become effective.

Social Impact

Virtually all State agencies in the executive branch of government are governed by the rulemaking provisions of the Administrative Procedure Act (APA), N.J.S.A. 52:14B-1 et seq., specifically 52:14B-4. N.J.A.C. 1:30, Rules for Agency Rulemaking, which are proposed here for readoption pursuant to Executive Order No. 66(1978), implement and coordinate the administration of the APA as required by N.J.S.A. 52:14F-5f.

As a set of procedural rules which regulates the rulemaking process, N.J.A.C. 1:30 primarily affects all State agencies which are required by law to promulgate rules to carry out their respective statutory responsibilities. N.J.A.C. 1:30 not only provides uniform application and administration of the rule promulgation process but also ensures that the public is afforded adequate notice of an agency's intended rulemaking action and the opportunity to comment on that proposed action.

The proposed amendments to the readoption of N.J.A.C. 1:30 are expected to clarify some regulatory provisions which have been misinterpreted in the past. Several amendments are intended to codify developing administrative policy into the regulatory framework, while other amendments will allow the OAL to provide State agencies greater assistance in the rule promulgation process.

Economic Impact

By their nature of being procedural rules, N.J.A.C. 1:30 has little, if any, economic impact of its own. Application of these rules, however, may have an economic impact on State agencies in that both administrative and professional staffing may be required and/or necessary to implement and comply with the procedural requirements of the rulemaking rules. For instance, there may be an economic impact in the sense that agency staff are required to draft summaries, social and economic statements for proposals, and prepare summaries of public comments received and agency responses to those comments, along with the compilation and retention of the record of public participation. Such economic impact, however, is more appropriately attributed to the statutory requirements of the APA rather than the regulatory requirements of the Rules for Agency Rulemaking. The OAL does not anticipate that the current economic impact, if any, on State agencies will change as a result of the proposed readoption and/or amendments.

The OAL is statutorily charged with the responsibility to promulgate and enforce these rules on rulemaking; advise agencies concerning their obligations under the APA; and assist agencies in the preparation, consideration, publication and interpretation of administrative rules (see N.J.S.A. 52:14F-5). These statutory responsibilities inherently have an economic impact on the OAL, in the form of the assistance, consultation and review provided by the OAL staff. These costs, however, are not readily quantifiable but are subsumed in the overall OAL budget. The readoption of the rulemaking rules and the continuation of the current promulgation process will not substantially increase the present costs associated with the OAL's responsibility in overseeing the rulemaking function.

The proposed amendments to the readoption may, however, have an economic impact on the OAL if an agency requests the OAL to negotiate a contemplated rulemaking proceeding pursuant to N.J.A.C. 1:30-3.5.

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

CHAPTER 30

RULES FOR AGENCY RULEMAKING

Authority

N.J.S.A. 52:14B-7(g), 52:14F-5f

SUBCHAPTER 1. GENERAL PROVISIONS

1:30-1.1 Short title

The provisions of this chapter shall be known as "The rules for agency rulemaking".

1:30-1.2 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 Administrative Procedure Act of 1968, P.L. 1968, c.410, as amended and supplemented by P.L. 1978, c.67 [(NJ.S.A. 52:14B-1 et seq. and 52:14F-1, et seq.) and P.L. 1981, c.27 (52:14B-4.1 et seq.).] **and all other amendments and supplements thereto.**

["Administrative Publications and Filings"] **"Administrative Rules and Publications"** means that [section] **Division** of the the Office of Administrative Law to which documents shall be submitted, formerly the Division of Administrative Procedure of the Department of State.

"Adopt" means the action whereby a rule is officially approved and authorized for promulgation by an adopting agency.

"Adopting agency" means that agency authorized by law to conduct a rulemaking proceeding.

"Agency" or "State agency" is defined in N.J.S.A. 52:14B-2(a).

"Adopting agency head" means either that person designated by statute as authorized to promulgate rules, or the principal executive officer [of] **or** an authorized adopting agency.

"Amend" means to adopt a rule which modifies, alters, [or] revises **or suspends the operative effect of** a previously promulgated rule.

"Code" means the New Jersey Administrative Code, published pursuant to N.J.S.A. 52:14B-7(a).

"Codify" means to devise, pursuant to N.J.S.A. 52:14B-7(f), the form in which rules are published to achieve a logical and consistent arrangement of the provisions.

"Director" means the Director of the Office of Administrative Law.

"Document" means any writing submitted to the Office of Administrative Law by an agency for the purpose of filing, publishing, or other processing pursuant to law. The singular of this term refers to the entirety of each writing although such

 You're viewing an archived copy from the New Jersey State Library.

writing establishes or affects more than one rule or subject matter, or consists of more than one page or part.

"Effective" means that a rule, pursuant to the Constitution, the Act and this chapter, has been duly adopted, [accepted for filing by the Office of Administrative Law, and promulgated in the New Jersey Register.] **filed with the Office of Administrative Law, and in the case of a new rule, amendment, or repeal, promulgated in the New Jersey Register. A readoption is effective upon timely filing with the OAL.**

"Exempt agency" means any agency [exempt under] **excluded from the requirements of the Administrative Procedure Act because it does not meet** the definition of "agency" in N.J.S.A. 52:14B-2(a).

"Exempt rule" means any rule of an exempt agency[.] **or a rule of a non-exempt agency which, pursuant to Executive Order 66(1978), does not require an expiration date.**

"File" means the action whereby [a certified copy of a document is submitted to Administrative Publications and Filings and accepted by the director to be stamped with the date and time of acceptance and entry into the registry.] **a copy of a document is: received by the Administrative Rules and Publications Division; stamped with the date and time of receipt; entered into the registry; and thereafter accepted for publication by the Director. All documents accepted for publication shall be considered files as of the date of receipt.**

"Joint Proposal and Joint Adoption" is the process by which two or more agencies, with concurrent or complementary jurisdiction, jointly propose and adopt identical rules, at the same time. The process may be mandated by legislation or voluntarily initiated, where appropriate.

"Negotiating a rule" means the process whereby an agency requests, and the OAL provides a representative to conduct a preliminary, non-adversarial proceeding with respect to a contemplated rulemaking proceeding, and which results in a rule presented to the "adopting agency" head in the form required by N.J.A.C. 1:30-3.1.

"Notice of petition for a rule" means that document described in N.J.A.C. 1:30-3.6 which must be submitted to the Office of Administrative Law for publication in the Register when a request for agency rulemaking action is made by an interested person, pursuant to N.J.S.A. 52:14B-4(f).

"Notice of pre-proposal for a rule" means that document described in [N.J.S.A.] **N.J.A.C.** 1:30-3.2 which must be submitted to the Office of Administrative Law for publication in the New Jersey Register, when an agency determines to conduct, pursuant to N.J.S.A. 52:14B-4(e), a preliminary proceeding with respect to a contemplated rulemaking proceeding[.] **or when, pursuant to N.J.A.C. 1:30-3.2, a pre-proposal shall be submitted.**

"Notice of proposed rule" means that document described in N.J.A.C. 1:30-3.1 which must be submitted to the Office of Administrative Law for [acceptance by the director,] **filing** and then publication in the New Jersey Register and distribution to the Legislature and interested persons.

"Operative" means that the adopting agency shall enforce and the affected public shall obey the terms of an effective rule. Unless otherwise specified in the rule, a rule becomes operative when effective.

"Organizational rule" means a rule promulgated pursuant to N.J.S.A. 52:14B-3(1), including a description of the structure of the agency; the persons from whom and places from which information, applications and other forms may be obtained; the persons to whom and places to which applications, requests and other submissions may be made.

"Person" means any natural individual, association, board, venture, partnership, corporation, organization, institution and governmental instrumentality recognized by law for any purpose whatsoever.

"Pre-proposal" means a preliminary proceeding for the purpose of eliciting ideas, views and comments of interested persons on a contemplated rulemaking proceeding. This preliminary proceeding precedes the filing of a formal rule proposal.

"Promulgate" means to [officially] proclaim **officially** in the Register and thereby render effective a **new** rule, **amendment or repeal which was** duly adopted by an agency and [accepted for filing by] **filed with** the Office of Administrative Law.

"Propose" means the action whereby an adopting agency submits a notice of proposed rule to the Office of Administrative Law [which is accepted] for filing and publication by the Director.

"Readopt" means to conduct a rulemaking proceeding for the purpose of continuing in effect an emergency rule which would otherwise expire pursuant to N.J.S.A. 52:14B-4(c) (see 1:30[:]-4.[4(d)]**5**,, or a rule which expires pursuant to the "sunset" provisions of Executive Order No. 66(1978) (see N.J.A.C. 1:30-4.[6]**4**). In a rulemaking proceeding to readopt a rule, the rule continues in effect upon the [acceptance for] **timely** filing of the notice of adoption [by] **with** the Office of Administrative Law.

"Register" means the "New Jersey Register" published pursuant to N.J.S.A. 52:14B-7(b).

"Registry" means the serial list of documents [accepted for filing by the director] **submitted for filing with the director.**

"Repeal" means to **conduct a rulemaking proceeding to** declare void a rule, the effect of which is to terminate the legal effect of such rule prospectively only. Any rule so terminated shall continue thereafter to be enforced in and applied to all proceedings, formal or otherwise, initiated pursuant to rule or to law prior to the effective date of such repeal.

["Rescind" means to declare void a rule, the effect of which is to terminate the legal effect of a rule both prospectively and retroactively as if the rule had never existed for any purpose.]

"Rule" or "administrative rule" is defined in N.J.S.A. 52:14B-2(e). **For purposes of determining effective dates, there are five types of rules: new rules, amendments, repeals, readoptions, and emergency rules.**

"Rule activity" means any agency action with respect to a rule authorized or required by the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and including a petition for a rule, a pre-proposal for a rule, and rulemaking proceeding.

"Rulemaking proceeding" means those steps which shall be followed pursuant to the Act and this chapter, for a rule to be validly promulgated, and which include the procedures for proposal of a rule, N.J.A.C. 1:30-3.1 et seq., the proper adoption of a rule, and the procedures upon adoption of a rule, N.J.A.C. 1:30-4.1 et seq.

["Suspend" means to render a rule inoperative for a definite period of time.]

1:30-1.3 Offices

(a) **Division of** Administrative [Publications and Filings,] **Rules and Publications,** Office of Administrative Law, is located at [88 East State Street] **Quakerbridge Plaza, Building #9, Quakerbridge Road,** Trenton, NJ 08625.

(b) Hours during which documents may be submitted or reviewed are from 9:00 A.M. to 4:00 P.M., Monday through Friday, holidays excepted.

You're viewing an archived copy from the New Jersey State Library.

1:30-1.4 Citations to the Code

(a) The New Jersey Administrative Code shall be cited as "N.J.A.C."

(b) The citation of a particular section of the New Jersey Administrative Code shall include the numerical designations of the title, chapter, subchapter and section referred to, preceded by the initials N.J.A.C. Thus, [this] **the** section should be cited as N.J.A.C. 1:30-1.4

1:30-1.5 Citations to the Register

(a) The New Jersey Register shall be cited as "N.J.R."

(b) The citation to material appearing in the New Jersey Register shall include the volume number, page number and item letter, the volume and page numbers being separated by the initials, "N.J.R." Thus, the third item of page 27 of the first volume of the Register would be cited as: 1 N.J.R. 27(c).

1:30-1.6 [Citations] **Statutory citations** in the Code

Statutory citations will be "N.J.S.A.", the New Jersey Statutes Annotated. This is for the convenience of the public, but the official copy of any statute will be found in the State's unpublished compilation of statutes or in the published yearly pamphlet laws.

1:30-1.7 Unse of headings

Title, subtitle, chapter, subchapter, section, article, group, part and division headings contained in the Register [of] **or** Code [shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of any provision of the Register or Code] **are not part of the rule, but are intrinsic parts of the publication. As such, these headings may be used in interpreting the rule.**

1:30-1.8 Access to documents

(a) Every document [accepted by] **or a copy thereof submitted to** the Office of Administrative Law for filing shall be maintained on record by **the Division of** Administrative [Publications] **Rules** and [Filings] **Publications.**

(b) Any person shall, upon request, be afforded opportunity to examine any document so maintained.

1:30-1.9 Copies of documents; fees

(a) Any person shall be provided copies of filed documents pursuant to the provisions and fee schedules of N.J.S.A. 47:1A-2.

(b) The original of a filed document shall not be released from the custody of the Office of Administrative Law.

1:30-1.10 Forms

From time to time the Office of Administrative Law may adopt as interagency statements the forms and formats which shall be used in **rule activities.** [the submission of proposed and adopted rules, pre-proposals for rules, and notices therefor.]

1:30-1.11 Computation of time

In computing any period of time fixed by a rule or judicial order, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday.

1:30-1.12 Compliance

[The Office of Administrative Law may refuse to accept for publication or for filing any proposed or adopted rule, any pre-proposal for a rule or any notice which is not in compliance with N.J.S.A. 52:14B-1 et seq. and the rules contained in this chapter. The Office shall return the document to the agency with recommendations for compliance. The Office of Administrative Law will provide its good offices and technical assistance to assist any agency in complying with the law.]

(a) Upon an initial determination by the OAL, that any proposed or adopted rule, pre-proposal for a rule, or any notice is not in compliance with the technical or procedural requirements concerning rulemaking, the OAL may temporarily suspend the processing of that document. In such situations, the OAL shall contact the agency to indicate the basis for the initial determination of non-compliance. The OAL and the agency shall mutually review the initial determination. The OAL shall then make a final determination regarding noncompliance. The OAL shall assist the agency in a cooperative effort to obtain compliance.

(b) If the OAL determines that there is an issue of noncompliance which concerns statutory authority, related legal issues, or contested case jurisdiction, it shall refer the matter to the Office of the Attorney General for final determination.

1:30-1.13 Invalidation of rule

In the event that a proposed or adopted rule is suspended or otherwise rendered inoperative or ineffective by Court rule or ruling, by legislative action or by Executive Order, the Office of Administrative Law shall, upon receipt of notice of the event, file the notice and publish the notice in the Register and the Code, as appropriate.

1:30-1.14 Filing of a document

(a) Upon [acceptance] **receipt** of a document for filing there shall be stamped on its face the following:

1. The hour and date of [acceptance for filing:] **receipt;**
2. The word ["filed"] **"received";** and
3. The facsimile signature of the Director.

[(b) A document number assigned by Administrative Publications and Filings shall be endorsed on the face of the document. The document shall be entered in a registry maintained by Administrative Publications and Filings for that purpose.]

(b) All proposals shall be assigned a proposed rule number (PRN) by Administrative Rules and Publications. All adoptions shall be assigned a rule document number (R.d.) by Administrative Rules and Publications.

(c) Upon acceptance for publication, the document shall be deemed filed as of the date of receipt.

SUBCHAPTER 2. RULEMAKING GENERALLY

1:30-2.1 Clarity of rules

[In order to be accepted for publication or for filing, a proposed or adopted rule, or any notice shall be written in a reasonably simple, clear, understandable and easily readable way so as to offer affected persons and other interested parties fair notice of its provisions.]

In order to be accepted for filing, a document shall be written in a reasonably simple, clear, understandable manner which is easily readable and offers affected persons and other interested persons fair notice of its provisions. In the case of a rule of a highly complex technical nature, the requirements of simplicity, clarity and understandability shall be applied primarily to the summaries of the rule which are printed with the proposal. The rule itself shall be reasonably simple, clear, and understandable to a person with some subject matter expertise. Any rule activity or notice which does not comply with the technical or procedural requirements concerning rulemaking may be subject to the provisions of N.J.A.C. 1:30-1.12.

 You're viewing an archived copy from the New Jersey State Library.

1:30-2.2 Incorporation by reference

(a) Specifically designated sections of the following sources may be incorporated into a rule by reference:

1. New Jersey Statutes Annotated;
2. United States Code;
3. New Jersey Session Laws;
4. Code of Federal Regulations;
5. Federal Register;
6. Any uniform system of accounts published by the National Association of Regulatory Utility Commissioners;
7. Any generally available standard published by any of the standardizing organizations listed in the National Bureau of Standards Special Publication 417, Director of United States Standardization Activities or supplements thereto or reissues thereof; or
8. Any other generally available publication approved by the Director.

(b) Any section of a source incorporate by reference shall be made available for public inspection by the adopting agency and shall be available in printed form from the adopting agency or the original source for a reasonable fee.

(c) Any agency incorporating any section of a source by reference shall adopt and file as a rule appropriate language indicating:

1. What is incorporated including either:

i. The specific date or issue of the section of the source incorporated; or

ii. **A** [Statement] **statement** indicating whether the section incorporated includes future supplements and amendments.

2. Where and how a copy of the section may be obtained.

(d) Except with respect to a section of a source indicated in (a)1 through (a)5 above, an agency shall file with the Office of Administrative Law **as part of a proposed or adopted rule** a copy of the section incorporated by reference.

(e) Where a State agency rule elaborates on, or summarizes or paraphrases a State or Federal statute or Federal regulation, the rule shall contain a citation of, reference to or footnote on that statute or regulation.

1:30-2.3 Single subject for each **secton of a** rule

Each proposed or adopted [rule] **section** or notice shall embrace but one subject, and that shall be expressed in the title.

1:30-2.4 Authorization for rule activity

(a) A notice of adoption shall be signed by the adopting agency head, or any other person authorized by statute.

(b) A notice of proposed rule or any other rule activity shall be signed either by:

1. The adopting agency head; or
2. By an agency employee who has been duly authorized by the agency head to propose rules, and for whom a written authorization signed by the agency head has been submitted to the Office of Administrative Law.

(c) Any rule activity not properly authorized shall be returned to the agency.

1:30-2.5 Effect of statement for proposed rule

The statements for a proposed rule (N.J.A.C. 1:30-3.1(a)3) and for any changes upon adoption of a rule (N.J.A.C. 1:30-4.1(a)5) are not part of the rule, but are intrinsic parts of the proposal and adoption as published in the Register. As such, these statements may be used in interpreting the rule.

1:30-2.6 Official copy of proposed, adopted and promulgated rule

(a) The Register constitutes the authoritative text of any notice printed therein.

(b) The full text printed in the Register of any proposed rule, adopted rule or any change made upon adoption of a proposed rule, constitutes the authoritative text of that proposed rule, adopted rule or change. An official copy of the text printed in the Register shall be kept on file [at] **by** the OAL.

(c) Where the full text of an adopted rule is not printed in the Register, the full text of the proposed rule printed in Register, plus the full text of any change printed in the Register upon adoption, constitutes the authoritative text of the adopted and promulgated rule. An official copy of the text printed in the Register shall be kept on file [at] **by** the OAL.

(d) Where the full text of any proposed rule**, adopted rule,** or change is not printed in the Register, the authoritative text is the copy submitted by the adopting agency and kept on file [at] **by** the Office of Administrative Law.

1:30-2.7 Administrative correction

(a) Upon agreement [of] **between** the adopting agency and the Office of Administrative Law, the Office of Administrative Law may administratively correct a [promulgated rule] **published document.** An administrative correction may contain:

1. A correction of spelling, grammar, or punctuation which does not change the meaning or substance of a rule;
2. A correction of codification; or
3. An addition or subtraction of a word or phrase which does not change the substance of a rule and which could be implied from the text and context of the notice of proposed rule or notice of adopted rule.

(b) An administrative correction shall be made by inserting the correction on the official copy of the rule contained on file at the Office of Administrative Law. The OAL employee authorized to make an administrative correction shall date and initial any correction.

(c) An administrative correction shall be effective upon filing.

(d) A notice of any correction of codification or addition of a missing word or phrase shall be published in the Register.

SUBCHAPTER 3. PROPOSAL PROCEDURE

1:30-3.1 Notice of proposed rule

(a) Where the law requires that an agency give notice of its rulemaking proceedings, the agency shall prepare a "notice of proposed rule" and submit the notice [of] **to** the OAL. The notice of proposed rule shall include:

1. The N.J.A.C. citation of the proposed new rule, amendment, repeal or readoption.

[1.] **2.** The name of the adopting agency head and agency and the signature of the adopting agency head [or agency employee duly authorized by the agency head to propose a rule (see N.J.A.C. 1:30-2.4)] **or other authorized signatory as provided in N.J.A.C. 1:30-2.4.**

3. An agency may not cite its general statutory authority unless specific legal authority is unavailable and the agency is relying on its general or residual powers, in which case a statement to that effect shall be made in the summary.

4. An announcement of the public's opportunity to be heard regarding the proposed rule, which shall include:

i. When, where, and how persons may present their views orally or in writing.

ii. When, where and how, persons may attend any formal rule adoption proceeding.

5. A brief statement for the proposed rule, which shall include:

You're viewing an archived copy from the New Jersey State Library.

i. A summary statement of the proposed rulemaking with a clear and concise explanation of its purpose and effect. The summary shall describe, detail and identify:

(1) Who and what will be affected by the proposal; and

(2) How, when and where the affect will occur; and

(3) What the proposal prescribes, proscribes or otherwise mandates; and

(4) What enforcement mechanisms and sanctions may be involved; and

(5) Any other relevant or pertinent information.

ii. A social impact statement which describes the expected social impact of the proposed rulemaking on the public, particularly on any segments of the public proposed to be regulated, and including any proposed or expected differential impact on different segments of the public, including the rulemaking action, and justification therefor.

iii. An economic impact statement which describes the expected costs, revenues, and other economic impact upon governmental bodies of the State, particularly any segments of the public proposed to be regulated.

6. The full text of the proposed new rule, amendment, repeal or readoption, specifically indicating additions and or deletions of any rule being repealed or renumbered.

(b) Any proposal notice which does not meet the requirements in (a) above may be subject to the provisions of N.J.A.C. 1:30-1.12.

(c) Upon receipt of the proposal notice which conforms to these requirements:

1. The OAL shall submit the notice, other than a notice of a Federally required rule (see N.J.A.C. 1:30-3.7), to the Senate and the General Assembly;

2. The OAL shall publish the notice of proposed rule in the next available issue of the New Jersey Register. Pursuant to N.J.S.A. 52:14B-7(c), any proposal notice which would be cumbersome, or unduly expensive to publish shall not be printed in full. Instead, such proposals shall be summarized in the Register. The proposing agency shall make available the proposed rule and provide the notice in the manner in which, and from where, copies may be obtained.

[2. The text of the proposed rule, or a description of the proposed rulemaking action detailed and specific enough to identify: who and what will be affected by the proposed action; how, when and where the effect will occur; what is being prescribed, proscribed, or otherwise mandated; what enforcement mechanisms and sanctions may be involved; and, any other key provisions. The notice shall include the text of any existing rule that is being amended, specifically indicating additions, deletions, and the identity of any rule being repealed or renumbered.

3. A brief statement for the proposed rule, which shall include:

i. A summary of its subject matter and a clear and concise explanation of its purpose and effect;

ii. A citation of the specific legal authority authorizing the proposed rulemaking action and a brief explanation of how the proposed rule implements the authorizing legal authority. The citation shall identify the section or sections of law which particularly authorize this particular section. The citation shall not merely be the agency's enabling statute, unless the agency is relying upon its residual or other general powers, and so states in the notice;

iii. Its expected social impact on the public, particularly any segments of the public proposed to be regulated, and including any proposed or expected differential impact on different segments of the public, and the justification therefor;

iv. Its expected costs, revenues and other economic impact upon governmental bodies of the State, particularly the adopting agency, and upon the public, particularly any segments of the public proposed to be regulated;

v. A proposed code citation for it, according to a format proposed and distributed by Administrative Publications and Filings, and the Code citation of any rule affected, amended or replaced by it; and

vi. The agency through which and the methods by which it would be implemented.

4. An announcement of the public's opportunity to be heard regarding the proposed rule, which shall include:

i. When, where and how persons may present their views orally or in writing (see .J.A.C. 1:30-3.3, Opportunity to be heard); and

ii. When, where, and how, persons may attend any formal rule adoption proceeding.

(b) Upon acceptance of the notice by the director:

1. The OAL shall submit the notice, other than a notice of a Federally required rule (see N.J.A.C. 1:30-3.7), to the Senate and the General Assembly;

2. The OAL shall publish the notice of proposed rule in the New Jersey Register. Pursuant to N.J.S.A. 52:14B-7(c), an unduly cumbersome proposed rule may not be printed full text in the Register, but may be summarized in the Register and made available upon request:]

3. The agency shall mail the notice of proposed rule, as **filed** [accepted by the Director,] to those persons who have made timely request of the agency for notice of its rulemaking actions; and

4. The agency shall undertake an additional method of publicity, **other than publication in the Register,** reasonably calculated to inform the most interested and affected persons of the proposed rule.

1:30-3.2 Notice of pre-proposal for a rule

(a) Where pursuant to N.J.S.A. 52:14B-4(e), an agency determines to conduct a preliminary, deliberative proceeding with respect to a contemplated rulemaking proceeding, the agency shall submit a "notice of preproposal for a rule" to the OAL for publication in the New Jersey Register at least 30 days prior to submission of any notice of proposed rule on the same subject.

(b) The notice of pre-proposal for a rule shall include:

1. The name of the adopting officer and agency;

2. The subject matter, problem and purpose which the agency contemplates addressing; **and, when available, draft text of the contemplated rule;**

3. A citation of the legal authority authorizing the contemplated action;

4. An announcement of the public's opportunity to be heard regarding the contemplated action, which shall include:

i. Where, when and how persons may present their comments orally or in writing (see N.J.A.C. 1:30-3.3 Opportunity to be heard); and

ii. When, where and how, persons may attend an informal conference or consultation.

5. The title and nature of any committee, and where appropriate, the names and affiliations of any committee members, appointed to advise the agency with respect to any contemplated rulemaking.

(c) All rulemakings which involve the joint or concurrent promulgation of two or more agencies ("joint proposal and adoption") require a preproposal.

You're viewing an archived copy from the New Jersey State Library.

1:30-3.3 Opportunity to be heard

[(a) Written submission: As part of any proceeding for a pre-proposal, under N.J.A.C. 1:30-3.2, or for a proposed rule, under N.J.A.C. 1:30-3.1, the agency shall accept written submissions for at least 30 days following publication in the Register of the notice of pre-proposal or proposed rule.

(b) Public hearing

1. Where a public hearing is requested pursuant to N.J.S.A. 52:14B-4(a)(3) the party making the request may submit a copy of the request to the Office of Administrative Law for inclusion in the record of the proposed rule.

2. Where a public hearing is held as part of a proceeding for a preproposal or a proposed rule, the agency shall provide at least 15 days notice thereof. Wherever possible, notice of the public hearing shall be contained in the notice of pre-proposal or proposed rule. Otherwise, notice of the public hearing shall be published in the New Jersey Register or given in another manner reasonably calculated to reach the interested public.

3. Any public hearing held in connection with a pre-proposal or a proposed rule shall be conducted according to the procedures outlined in N.J.S.A. 52:14B-4(g).

(c) Other submissions: Where an agency permits any other method of public comment on a pre-proposal or proposed rule, the agency shall provide timely notice of that opportunity in a manner reasonably calculated to reach the interested public.]

(a) As part of any proceeding for a pre-proposal, under N.J.A.C. 1:30-3.2, or for a proposed rule, under N.J.A.C. 1:30-3.1, the agency shall accept written submissions for at least 30 days following publication in the Register of the notice of pre-proposal or proposed rule.

(b) Where a public hearing is held as part of a proceeding for a pre-proposal or a proposed rule, the agency shall provide at least 15 days notice thereof. Wherever possible, notice of the public hearing shall be contained in the notice of pre-proposal or proposed rule. Otherwise, notice of the public hearing shall be published in the New Jersey Register or given in another manner reasonably calculated to reach the interested public.

(c) Where a public hearing is requested pursuant to N.J.S.A. 52:14B-4(a)(3), the party making the request shall submit a copy of the request to the Office of Administrative Law for inclusion in the record of the proposed rule.

(d) Any public hearing held in connection with a preproposal or a proposed rule shall be conducted according to the procedures outlined in N.J.S.A. 52:14B-4(g).

(e) Where an agency permits any other method of public comment on a pre-proposal or proposed rule, the agency shall provide timely notice of that opportunity in a manner reasonably calculated to reach the interested public.

1:30-3.4 Record of the public comment

(a) The agency shall retain a record of any comments or other material received in response to a pre-proposal (N.J.A.C. 1:30-3.2 or a proposal (N.J.A.C. 1:30-3.1) [.], **for a period of one year following the date of publication.** The record shall include the following:

1. The date, the method of issuance and a copy of any notices concerning the rule activity, including any notice mailed to interested persons pursuant to N.J.A.C. 1:30[:]-3.1(b)3 and any additional publicity **pursuant** to N.J.A.C. 1:30-4.1(b)4.

2. A description of the public comments on the notice of proposed rule or pre-proposal for a rule;

i. The names of the persons commenting on the notice of proposed rule or pre-proposal for a rule;

ii. The name and, where feasible, the estimated membership of any trade, craft or professional organization or association making written or oral submissions;

iii. A copy or summary of each written submission and a summary of each oral submission of any person made in response to the notice of proposed rule or pre-proposal for a rule, and any written answer of the agency;

iv. The certificate of the adopting officer attesting that all submissions were examined and that due consideration was given their merits prior to adoption of the proposed rule;

v. A description of the principal points of controversy revealed during the proceeding;

vi. A statement of the reasons for accepting and rejecting the public comments.

3. A description of any public hearing or other proceeding which was held as a result of the pre-proposal or proposed ruling, including:

i. The date, time and place;

ii. The name and title or position of the presiding person;

iii. The nature of the proceeding;

iv. The recommendations of the hearing officer, in the case of a public hearing conducted pursuant to N.J.S.A. 52:14B-4(g).

(b) The agency shall retain for each rule adopted by it the record of the public comment for a period of not less than three years from the effective date of the subject rule.

(c) The record constitutes an official document of the administrative agency, is evidence of its compliance with the legislative mandate to provide opportunity for public comment, and shall be available for public inspection at the agency.

[1:30-3.5 Variance between the rule as proposed and as adopted

(a) Where, following the notice of a proposed rule, an agency determines to make changes in the proposed rule so substantial as to effectively destroy the value of the notice, and to effectively create a new proposed rule, the agency shall give a new notice of proposed rule and public opportunity to be heard.

(b) In determining whether the changes in the proposed rule are so substantial, consideration shall be given to the extent that the changes:

1. Enlarge or curtail who and what will be affected by the proposed rule;

2. Change what is being prescribed, proscribed or otherwise mandated by the rule;

3. Enlarge or curtail the scope of the proposed rule and its burden on those affected by it.

(c) Where the changes between the rule as proposed and as adopted are not substantial, the changes shall not prevent the adopted rule from being accepted for filing. Changes which are not substantial include:

1. Spelling, punctuation, technical, and grammatical corrections;

2. Language or other changes, whose purpose and effect is to clarify the proposal or correct printing errors; and

3. Minor substantive changes which do not significantly enlarge or curtail the scope of the rule and its burden, enlarge or curtail who or what will be affected by the rule, or change what is being prescribed, proscribed or mandated by the rule.]

1:30-3.5 **Negotiating a rule**

(a) Where an agency determines to conduct a preliminary deliberative proceeding with respect to a contemplated rulemak-

You're viewing an archived copy from the New Jersey State Library.

ing proceeding, the agency may elect to negotiate the contemplated rulemaking proceeding.

(b) A written request to negotiate a rule shall be submitted to Administrative Rules and Publications, together with a summary of the subject matter; problem and purpose which the agency contemplates addressing; a list of the interests affected; and the suggested representatives (negotiating team) of these interests.

(c) Each agency and interest group shall have one representative.

(d) A negotiation team shall be composed of no more than 10 members, including the OAL representative.

(e) Administrative Rule and Publications shall review the request, contact the agency and representatives of interests, if needed, and then determine whether the subject matter is feasible to negotiate (that is, appropriate for non-adversarial fact-finding and consensus); the interests involved are clearly defined; representatives of the interests sufficiently diverse, and that each representative is accountable to his/her interest group.

(f) Once Administrative Rules and Publications has determined that negotiations should commence, a notice of rule negotiation shall appear in the New Jersey Register. The notice shall identify the subject matter, interests, participants in the negotiation, and the OAL representative. Any interested party who is not heretofore represented on the negotiation team may file a petition for participation with the OAL representative.

(g) The petition for participation shall be a letter addressed to the OAL representative which outlines the petitioner's interests, and why they are not represented by the current composition of the negotiation team. The petition shall be received by OAL no later than 10 days after the notice of negotiation appears in the Register. The OAL representative will then determine within five business days of receipt of the petition whether to include the petitioner.

(h) The OAL representative shall convene the negotiation team within 20 days of notice of negotiation in the Register. The negotiation shall be completed within 10 days of commencement of same, unless all participants agree to continue.

(i) The OAL representative will provide all participants with a final version of a negotiated rule in the form required by N.J.A.C. 1:30-3.1 within 10 days of the completion of the negotiations.

(j) The agency shall either propose the rules negotiated or notify the OAL and all representatives that it rejects the negotiation within 30 days or such further period as agreed between the OAL Director and the head of the agency that had requested the negotiation.

(k) If, after 60 days from the commencement of the negotiation, no negotiated rule has been approved, the OAL representative may terminate the negotiation and disband the negotiating team. A notice of this action shall appear in the next available Register.

1:30-3.6 Notice of petition for a rule

(a) When a person petitions an agency to begin a rulemaking proceeding, pursuant to N.J.S.A. 52:14B-4(f), the agency shall [forthwith] file a notice of the petition with the Office of Administrative Law[,] **within five days of receipt of the petition. The notice of petition** shall include:

1. The name of the petitioner;
2. The substance or nature of the rulemaking action which is requested;
3. The problem or purpose which is the subject of the request; and
4. The date the petition was received.
5. The OAL shall publish the notice in the next available Register.

(b) Within 30 days of receiving the petition, the agency shall mail to the petitioner, and file with the Office of Administrative Law for publication in the Register, a notice of action on the petition which shall include:

1. The name of the petitioner;
2. The Register citation for the notice of petition, if that notice appeared in a previous Register;
3. Certification by the agency head that the petition was duly considered pursuant to law;
4. The nature or substance of the agency action upon the petition; and
5. A brief statement of reasons for the agency action.

(c) Agency action on a petition may include:

1. Denying the petition;
2. Filing a notice of proposed rule or a notice of preproposal for a rule with the Office of Administrative Law; or
3. Referring the matter for further deliberations, the nature of which shall be specified and which shall conclude upon a specified date. The results of these further deliberations shall be mailed to the petitioner and submitted to the OAL for publication in the Register.

(d) Each agency shall prescribe by rule the form of a petition and the procedures for its submission.

1:30-3.7 Federally required rule

(a) Pursuant to N.J.S.A. 52:14B-4.4, a Federally required proposed rule is not required to be submitted to the Legislature.

(b) A proposed rule is a Federally required rule if the specific provisions of the proposed rule are prescribed by Federal statute, rule or ruling, so that the agency exercises no discretion as to whether to promulgate the rule and as to what is prescribed by the rule.

(c) Where an agency claims that a proposed rule is Federally required, the agency shall submit as part of the notice of proposed rule a citation for the Federal statute, rule or ruling involved and an explanation of the Federal requirement.

SUBCHAPTER 4. PROCEDURE UPON ADOPTION

1:30-4.1 Requirements for filing an [adopoted] **adopted** rule

(a) With each adopted rule submitted for filing the adopting agency shall include:

1. Certification by the adopting agency head, or other person authorized by statute to adopt rules, that the rule was duly adopted according to law and in compliance with the requirements of the Administrative Procedure Act, P.L. 1968, c.410, as amended by P.L. 1978, c.67 and P.L. 1981, c.21, and of this chapter;
2. Where the notice of proposed rule contained the full text of the proposed rule, the text of any chnges between the rule as proposed and as adopted, specifically indicating insertions and deletions;
3. Where the notice of proposed rule did not contain the full text of the proposed rule, the text of the rule, including the text of any existing rule that is being amended, specifically indicating additions and deletions, and the identity of any existing rule being repealed or renumbered;
4. The operative date of the rule, if later than the date of promulgation in the Register;
5. A summary of any changes between the rule as proposed and as adopted, and the reasons for the changes;

You're viewing an archived copy from the New Jersey State Library.

6. A brief description of the public's opportunity to be heard, including:

i. The type of opportunity to be heard afforded the public;

ii. The type of notice afforded the public;

iii. Where and how the record of public comments can be inspected; a summary of the principal comments and points of controversy developed during the rulemaking proceeding including comments received from State, local or other governmental agencies which are not subject to attorney-client or other legal privilege; the reasons for adoption of the public views accepted; and reasons for rejection of the public views rejected;

7. The date and occasion of adoption;

8. The expiration date, pursuant to Executive Order No. 66(1978), or exemption therefrom and reasons therefor.

1:30-4.2 Time for filing adopted rule

(a) No adopted rule, other than an emergency rule, **organizational rule** or a Federally required rule, shall be accepted for filing until either 60 days after the submission of the proposed rule by the Office of Administrative Law to the Senate and Assembly[.] **or the passage of whatever comment period is established under N.J.A.C. 1:30-3.3(a), whichever is later.**

[(b) No adopted rule, other than an emergency or an organizational rule, shall be accepted for filing until 30 days after the publication of the proposed rule in the Register;]

[c] **(b) Any adopted rule** submitted for filing shall be [accepted or rejected] **reviewed** by the Office of Administrative Law [not more than three business days] **in a timely manner** following the receipt of the document by the Office of Administrative Law. **Any rule which is found to be in non-compliance with NJSA 52:14B-1 et seq. and the rules contained in this chapter shall be subject to the provisions of NJAC 1:30-1.12.**

[d] **(c)** [If any agency has not adopted and the OAL has not accepted for filing a rule within one year] **If a proposal has not been adopted and filed with the OAL within one year** from the date the proposed rule was published in the New Jersey Register, the proposal expires. Before the rule can be promulgated, the agency must resubmit the proposal for publication in the Register and must comply **again** with the notice and opportunity to be heard requirements of the Act.

1:30-4.3 Variance between the rule as proposed and as adopted

(a) Where, following the notice of a proposed rule, an agency determines to make changes in the proposed rule which are so substantial that the changes effectively destroy the value of the original notice, the agency shall give a new notice of proposed rule and public opportunity to be heard.

(b) In determining whether the changes in the proposed rule are so substantial, consideration shall be given to the extent that the changes:

1. Enlarge or curtail who and what will be affected by the proposed rule;

2. Change what is being prescribed, proscribed or otherwise mandated by the rule;

3. Enlarge or curtail the scope of the proposed rule and its burden on those affected by it.

(c) Where the changes between the rule as proposed and as adopted are not substantial, the changes shall not prevent the adopted rule from being accepted for filing. Changes which are not substantial include:

1. Spelling, punctuation, technical, and grammatical corrections;

2. Language or other changes, whose purpose and effect is to clarify the proposal or correct printing errors; and

3. Minor substantive changes which do not significantly enlarge or curtail the scope of the rule and its burden, enlarge or curtail who or what will be affected by the rule, or change what is being prescribed, proscribed or mandated by the rule.

1:30-4.[3]**4** Executive Order No. 66(1978); expiration date for adopted rule

[(a) Pursuant to Executive Order No. 66(1978):

1. Each new subchapter adopted after May 15, 1978 shall include an expiration date of no more than five years from the effective date of the subchapter;

2. For any subchapter adopted prior to May 15, 1978, the first amendment shall include an expiration date, of no more than five years from the effective date of the amendment. This expiration date shall automatically attach and apply to the whole subchapter, and, at the discretion of the adopting agency, may attach and apply to the whole chapter of which the subchapter is a part;]

(a) All adoptions filed with the OAL shall include an expiration date of no more than five years from the date of adoption.

(b) Expiration dates shall be fixed at the chapter level.

1. Rules in chapters where subchapters have different expiration dates shall expire on the same date as the last assigned expiration date to a subchapter in that chapter.

2. Rules in chapters in which only one subchapter has an expiration date shall expire on the same date as that subchapter.

3. The expiration date for a rule in a chapter whose subchapters have no expiration date shall pertain to the entire chapter.

4. The expiration date for a rule in a new chapter shall pertain to the entire chapter.

(c) [3.] No expiration date need be included where:

[i.]**1.** The provisions of the [subchapter] **rule** are prescribed by Federal or State statute, Federal regulation, or Court ruling, so that the agency exercises no discretion as to whether to promulgate the [subchapter] **rule** and as to what is prescribed by the [subchapter] **rule;** or

2[ii.]. The establishment of an expiration date for the [subchapter] **rule** is precluded by a preemptive State or Federal statute or Federal regulation, or any preemptive agreement made pursuant to such statute or regulation, so that the agency exercise no discretion as to whether to repeal or to amend the [subchapter] **rule;** or

[iii.] **3.** The Governor has waived the requirement of an expiration date for the [subchapter] **rule;** and

[iv.] **4.** The agency establishes in writing that the rule is exempt from the expiration date requirement.

[(b)] **(d)** Once an expiration date is established:

1. That expiration date remains effective, irrespective of any subsequent amendments to the [subchapter] **rule,** short of a complete repeal or complete repromulgation of the whole [subchapter] **chapter.**

2. Any amendment to that subchapter shall include the expiration date which has been established for the [subchapter] **chapter.**

[(c)] **(e)** In order to maintain the effectiveness of a rule, the rule must be duly proposed, adopted and filed prior to its expiration date. The readopted rule is effective upon [acceptance for] filing [by] **with** the Office of Administrative Law. **Any amendments to a readopted rule are effective upon publication.**

(f) Any readoption of a rule which is proposed and could be adopted prior to its expiration date, but is not filed for adoption with the OAL until after its expiration date shall be considered a new rule which is effective upon publication in the Register.

You're viewing an archived copy from the New Jersey State Library.

The new Executive Order #66 expiration date shall be calculated from the date of publication.

(g) Any proposed readoption of a rule which has expired before filing the proposal shall be considred a new rule. The documents shall be returned to the agency for refiling as a new rule.

1:30-4.[4]**5** Certificate for emergency adoption

[(a) Any agency adopting an emergency rule pursuant to N.J.S.A. 52:14B-4(c) shall prepare and present to the Office of Administrative Law at the time of submitting the rule for filing, a certificate of emergency which shall include the following:

1. The agency head's order adopting or changing the rule;
2. A written statement specifically describing the reasons for the agency head's finding that there in an imminent peril and that the peril necessitates emergency proceedings. The specific reasons shall contain facts upon which a reasonable person could conclude the existence and nature of the harm to the public which necessitates immediate rulemaking action or which would result if normal rulemaking requirements were complied with, and shall not be merely conclusionary statements or repetition of statutory language. Specific reasons may include the immediate need to conform rules to the requirements of Federal or State statues, Federal regulations, or court orders;
3. A written summary of the subject matter of the rule and the way it will respond to the imminent peril;
4. A certificate of the adopting officer attesting to the facts set forth in the statement;
5. The expiration date of the rule pursuant to N.J.S.A. 52:14B-4(c);
6. A certificate of the Governor attesting to the existence of an imminent peril which justifies the emergency rulemaking proceeding;
7. A written statement specifying the measures being taken to inform affected parties of the rule.]

(a) Any agency adopting an emergency rule pursuant to N.J.S.A. 52:14B-4(c) shall file the following documents with the OAL at the time of submitting the rule. The documents shall include:

1. The agency head's certified order adopting the emergency rule and concurrent proposal, if any.

2. A written summary of the subject matter of the emergency rules, which includes a finding that there is an imminent peril which necessitates emergency proceedings; the basis for the finding; and social and economic factors which bear upon the finding.

3. Statement from the Governor attesting to the existence of an imminent peril which justifies the emergency rulemaking proceeding

(b) An emergency rule is effective upon [acceptance for] filing **with** the OAL.

(c) Upon [acceptance for] filing **with** [by] the Director, the Office of Administrative Law shall transmit a copy of the emergency rule and the certificate of emergency to the President of the Senate and the Speaker of the General Assembly.

(d) The provisions of an emergency rule [shall] **may** be readopted in compliance with normal rulemaking requirements in order to continue in effect beyond the statutory limits of N.J.S.A. 52:14B-4(c), except that the readopted rule shall be effective upon [acceptance for] filing of the notice of adoption [by] **with** the Director. The provisions of an emergency rule may not be readopted as an emergency rule.

[(e) A request for legislative extension of the effective period for an emergency rule shall be submitted to the Office of Administrative Law for transmission to the Senate and General Assembly, and shall include a statement specifically describing the need for the extension.]

1:30-4.[5]**6** Effective date and promulgation of adopted rule

(a) Any rule adopted or readopted as an emergency rule pursuant to N.J.A.C. 1:30-4.[4]5(b) and (d), readopted pursuant to Executive Order No. 66(1978) (see N.J.A.C. 1:30-4.[6]**4**), or adopted as an organizational rule pursuant to N.J.S.A. 52:14B-4(b) is effective upon [acceptance for] filing **with** [by] the Office of Administrative Law.

(b) Any other adopted rule is effective upon promulgation[.] **in the New Jersey Register.**

BANKING

DIVISION OF CONSUMER COMPLAINTS, LEGAL AND ECONOMIC RESEARCH

The following proposals are authorized by Mary Little Parell, Commissioner, Department of Banking.

(a)

Availability of Funds Disclosure

Proposed New Rule: N.J.A.C. 3:1-15

Authority: N.J.S.A. 17:16L-2 and 17:1-8.1.
Proposal Number: PRN 1985-711.

Submit comments by February 5, 1985 to:
Roger F. Wagner, Deputy Commissioner
Division of Banking
Department of Banking
CN 040
Trenton, NJ 08625

The agency proposal follows:

Summary

The legislature recently passed Senate Bill No. 1503, which was signed into law as Chapter 370, P.L. 1985. This new law stipulates that every banking institution shall provide a written disclosure statement which describes the institution's policy with respect to when an account holder may draw against deposits. The law and regulation specify which banking institutions are required to provide the aforementioned written disclosure and those deposit account holders and potential deposit account holders who are to receive the written disclosure. The law further provides for subsequent written disclosures in the event the institution changes its policy on availability of funds. The disclosures and notifications are to be made in a manner consistent with regulations promulgated by the Commissioner.

The intent of the legislature was to mandate disclosure of the individual banking institution's availability policy. With such disclosure, the deposit account holders and/or potential deposit account holders would know when deposited items

You're viewing an archived copy from the New Jersey State Library.

would be available for use. Individuals could then compare various institutions' funds availability programs and choose ones which best suit their needs.

To provide appropriate time for promulgation of the regulations mandated by the legislation and to allow adequate time for the printing and distribution of the required written disclosure statement, the proposed regulation stipulates that the initial written disclosure statement shall be mailed to deposit account holders no later than 60 days after the effective date of the regulation.

While this new statute limits the types of accounts subject to the funds availability written notification requirement to personal or family accounts, banking institutions are urged to establish similar standards for all types of deposit accounts.

Social Impact

With a written disclosure policy available, the general public will have the opportunity to make an educated decision as to which institution provides a funds availability policy which meets the individual's needs or desires.

Competition among banking institutions to maintain and/or gain new deposit accounts should result in improved funds availability programs. This action should work to the advantage of the general public.

Economic Impact

Those banking institutions who do not already have printed disclosure statements, or whose disclosure statements are inadequate, will have substantial printing and preparation costs relative to the required statements. All institutions will incur immediate increased mailing costs related to the distribution of the required initial notification and future mailing costs relating to the distribution of changes in policy.

Due to increased competition among banking institutions, generated by the disclosures required, the general public should gain earlier access to deposited funds which can result in an economic benefit to these individuals.

Full text of the proposed new rule follows.

SUBCHAPTER 15. AVAILABILITY OF FUNDS

3:1-15.1 Definitions

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

"After hours deposits" means a deposit received after the banking institution's established close of business hour for any business day. Such hours may vary at different offices of an institution. After hours deposits shall also include deposits received on a Saturday, Sunday or legal holiday. All after hours deposits shall be deemed to have been deposited on the next business day of the banking institution.

"Banking institution" means any State or federally chartered commercial bank, savings bank or savings and locan association.

"Business day" means any day other than a Saturday, Sunday or legal holiday.

"Check" is deemed to include a negotiable order of withdrawal, share draft, traveler's check, money order or other negotiable instrument used for the purpose of making payments or transfers to third parties.

"Deposit account" means an account at a banking institution established by a natural person for personal or family purposes. A deposit account includes but is not necessarily limited to a demand deposit, negotiable order of withdrawal account, money market account, a transaction account, a share draft account and any other personal or family savings account other than a time deposit.

"Personal or family purposes" means purposes other than primarily for business or investment purposes. Any account opened by a corporation, a partnership, a limited partnership or joint venture shall not be for personal or family purposes. A banking institution may rely on the written representation of the deposit account holder as to the purpose of the account.

"Time deposit" means a deposit that the depositor does not have the right to withdraw for a period of 30 days or more after the date of deposit.

3:1-15.2 Availability of funds

Every banking institution shall provide written disclosure to all holders of and applicants for deposit accounts which describe the banking institution's policy with respect to when a deposit account holder may draw against deposits made in a deposit account.

3:1-15.3 Content of written disclosure statement

(a) The written disclosure statement may be a narrative or a schedule and shall clearly state when funds deposited at a banking institution on a particular business day will be available for use by the deposit account holder. All statements contained in the disclosure shall be expressed in terms that a layman can readily understand. Terms shall be clearly defined so that a depositor can understand their meaning.

(b) If a banking institution's availability policy varies with regard to the type or amount of deposited check or on account of any special reason requiring differing treatment, such policy must be disclosed. Examples are as follows:

1. Cash;
2. On us checks;
3. Local banking institution checks;
4. Checks drawn on banking institutions in New Jersey;
5. Checks drawn on banking institutions in other states;
6. Checks drawn by the US Government, the State or other governmental entity;
7. Payroll checks;
8. Foreign checks;
9. Any special dollar amount limitation on checks;
10. Checks deposited through its own ATM's or through a shared ATM of another institution;
11. New accounts during the first 30 days after the account is opened;
12. Deposit accounts with a history of overdrafts or other problems;
13. Emergency conditions beyond the control of the banking institution that preclude the banking institution from complying with its program;
14. Checks concerning which banking institution has received notice or has reasonable knowledge are to be returned;

(c) The banking institution may require any person opening a deposit account to acknowledge receipt of the disclosures required pursuant to this subchapter, which receipt may be incorporated into the account contract.

(d) If there is more than one owner or holder of the deposit account, disclosure to any such owner or holder shall be sufficient to comply with these regulations.

(e) The banking institution may include, in the disclosures, statements that distinguish the availability of funds from the final crediting of funds to the deposit account so that the

You're viewing an archived copy from the New Jersey State Library.

account holder will know that there may be instances when his account may be charged for a deposit that did not clear even though the banking institution has permitted drawing against the uncleared item.

(f) Copies of the required disclosure must be available at all principal and branch offices except a communications terminal branch office of the banking institution.

3:1-15.4 Initial written disclosure

(a) Every banking institution shall mail, not later than 60 days after the effective date of these regulations, a written disclosure statement to each of its deposit account holders of record on the effective date of these regulations at their last known address on the banking institution's records. The statement may be part of a general mailing, provided all deposit account holders receive the required notice.

(b) For demand deposit account holders or for other deposit account holders who may receive a periodic statement or other monthly notification, the written disclosure statement may be included with the periodic statement or other notification provided it falls within the 60 day period required in (a) above.

(c) Every applicant for a deposit account shall be provided with a written copy of the banking institution's disclosure statement at the time of, or prior to, the actual opening of the account.

3:1-15.5 Change in policy

In the event there is any significant change in the general policy of a banking institution with respect to when a deposit account holder may withdraw funds deposited into his deposit account, the banking institution shall mail a written summary of the change in policy, or a revised written disclosure statement, to the deposit account holder at least 30 days prior to the implementation of such change.

3:1-15.6 Filing of written disclosure statements

The Commissioner of Banking may periodically require the filing of copies of a banking institution's written disclosure statement with the Department of Banking. Such filings may be used to determine the banking institution's compliance with the law and these regulations.

3:1-15.7 Banking institutions' rights

(a) Nothing contained in these regulations is intended to obviate the right of a banking institution to:

1. Accept or reject a check for deposit; or

2. Charge back to a depositor's account the amount of a check on which the banking institution had made provisional settlement with the depositor but which is subsequently dishonored and returned to the institution.

(a)

Home Repair Financing

Proposed New Rules: N.J.A.C. 3:19-1

Authority: N.J.S.A. 17:16C-62 et seq. and 17:1-8.1.
Proposal Number: PRN 1985-712.

Submit comments by February 5, 1986 to:
Robert M. Jaworski, Deputy Commissioner
Department of Banking
CN 040
36 West State Street
Trenton, NJ 08625

The agency proposal follows:

Summary

In compliance with Executive Order No. 66(1978), N.J.A.C. 3:19-1, Home Repair Financing rules, were reviewed by the Department of Banking and were found to be necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were originally promulgated. These rules expired on December 29, 1985 pursuant to the Executive Order. As a result of the expiration the Department of Banking proposes to adopt the expired text as new rules.

N.J.A.C. 3:19-1.1 provides that a home repair contract is subject to the provisions of the Home Repair Financing Act so long as a New Jersey owner is a party to the contract and the contract is to be performed in New Jersey.

N.J.A.C. 3:19-1.2 sets out the definitions of "home repair contractor" and "home repair salesman".

N.J.A.C. 3:19-1.3 includes within the definition of home repair contract, any contract which provides that the time sales price is to be paid in installments for more than three months, except one which expressly provides for installation or application by the owner.

N.J.A.C. 3:19-1.4 states that a person who participates in two or more home repair contracts in a calendar year is deemed to be in the business of a home repair contractor.

N.J.A.C. 3:19-1.5 describes the manner in which the sales tax is shown if the down payment or any part of the down payment is represented as a credit given by the home repair contractor.

N.J.A.C. 3:19-1.6 requires home repair contractors to indicate their current license or certificate numbers on all contracts, subcontracts, bids and advertising, and permits contractors having multiple offices to use their main office license or certificate numbers for purposes of compliance.

Social Impact

The Home Repair Financing rules supplement N.J.S.A. 17:16C-62 et seq. as it applies to home repair contractors and home repair salesmen in the area of jurisdiction, definitions, tax disclosure and license or certificate number utilization. Consumers are not directly affected but receive the benefit of the tax disclosure specifically and the protection of the Act generally through the supplemental definitions.

Economic Impact

The adoption of the Home Financing rules will have minimal economic impact. What economic impact there is results primarily from the expense of indicating the license or certificate number and disclosure of the sales tax. Consumers

 You're viewing an archived copy from the New Jersey State Library.

receive the benefit of the expanded application of the Act. The agency may incur enforcement costs. These rules may have the effect of requiring licensing of entities not previously licensed. Such entities would incur compliance costs including biennial licensing fees, and the agency would incur administrative costs and receive fee income.

Full text of the expired rules proposed as new appears in the New Jersey Administrative Code at N.J.A.C. 3:19-1.

COMMUNITY AFFAIRS

DIVISION OF HOUSING AND DEVELOPMENT

The following proposals are authorized by John P. Renna, Commissioner, Department of Community Affairs.

Submit comments by February 5, 1986 to:
Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing and Development
CN 804
Trenton, NJ 08625

(a)

Multiple Dwellings Handicapped Parking

Proposed New Rule: N.J.A.C. 5:10-24.4

Authority: N.J.S.A. 55:13A-6(e) and -7.3.
Proposal Number: PRN 1985-701.

The agency proposal follows:

Summary

The proposed new rule will incorporate into the Regulations for the Maintenance of Hotels and Multiple Dwellings (N.J.A.C. 5:10) the provisions of P.L. 1985, c.280, which become effective February 6, 1986. These provisions require that all multiple dwellings with five or more dwelling units that provide parking for occupants and have at least one handicapped resident set aside one percent of the parking spaces, but not less than one space, for parking for the handicapped. The space must be marked as reserved and be identified with the International Symbol of Access. Width and location requirements are also established.

The statute requires that handicapped parking spaces be 12 feet wide and appropriately located "where possible." The rule does not include the words "where possible" because, in the event of impossibility, the owner has the right, under existing rules, to seek an exception from the Bureau of Housing Inspection.

Social Impact

P.L. 1985, c.280, as implemented by the proposed new rule, will allow handicapped people to use residential parking areas with greater safety and reduced inconvenience.

The incorporation of the provisions of the statute into the regulations will facilitate their enforcement by multiple dwelling inspectors by allowing them to use the same citation system used for other violations.

Economic Impact

P.L. 1985, c.280 will require installation of appropriate signs and some physical modification of parking areas. The new rule will add nothing to the costs necessitated by the statute.

Full text of the proposed new rule follows.

5:10-24.4 Parking for handicapped residents

(a) Any owner of a multiple dwelling with five or more dwelling units which provides parking to the occupants thereof, and in which a handicapped person resides, shall provide parking spaces for occupants who are handicapped located at the closest possible proximity to the principal accesses of the multiple dwelling.

(b) A minimum of one percent of the total number of parking spaces provided for the occupants of the multiple dwelling, but not less than one parking space, shall be set aside as parking for the handicapped.

1. Each space or group of spaces shall be identified with a clearly visible sign displaying the International Symbol of Access along with the the following words: "This space reserved for physically handicapped drivers."

2. Each reserved space shall be 12 feet wide to allow room for a person in a wheelchair or on braces or crutches to get in and out of either side of an automobile onto a level, paved surface suitable for wheeling and walking and shall be located so that a person in a wheelchair or using braces or crutches is not compelled to wheel or walk behind parked cars.

3. Where applicable, curb ramps shall be provided to permit a handicapped person access from the parking area to the sidewalk.

(c) For purposes of this section "handicapped" means a physical impairment which confines a person to a wheelchair; causes a person to walk with difficulty or insecurity; affects the sight or hearing to the extent that a person functioning in public areas is insecure or exposed to danger; causes faulty coordination; or reduces mobility, flexibility, coordination and perceptiveness to the extent that facilities are needed to provide for the safety of that person.

(b)

Uniform Construction Code Revocation of Licenses

Proposed Amendment: N.J.A.C. 5:23-5.11

Authority: N.J.S.A. 52:27D-124.
Proposal Number: PRN 1985-691.

The agency proposal follows:

Summary

The proposed amendment adds engaging in conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty as grounds for revoking or suspending a license of or assessing penalties against code enforcement officials. Pursuant to N.J.A.C. 5:23-5.5(c)1., these grounds would also be a basis for refusing to issue a license.

You're viewing an archived copy from the New Jersey State Library

Social Impact

By making these grounds for license revocation, suspension or non-issuance explicit, the Department can better protect the public against unworthy individuals seeking to serve as code enforcement officials and inspectors.

Economic Impact

Some individuals might suffer economic loss by reason of having licenses revoked or not issued for reason of the conduct proscribed.

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

5:23-5.11 Revocation of licenses and alternative sanctions

(a) The Department may revoke a license, suspend a license for not more than 60 days and/or assess a civil penalty of not more than $500.00, if the department determines that the holder:

1.-9. (No change.)

10. **Has engaged in any conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty;**

Renumber existing 10. as **11.** (No change in text.)

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

ENVIRONMENTAL PROTECTION

(a)

NEW JERSEY WATER SUPPLY AUTHORITY

Establishment of Proposed Adjustments to the Operations and Maintenance and Debt Service Rate Components for the Sale of Water from the Delaware and Raritan Canal and the Spruce Run/Round Valley Reservoirs.

Proposed Amendments: N.J.A.C. 7:11-2.2, 2.3 and 2.9

Authorized By: Robert E. Hughey, Chairman, New Jersey Water Supply Authority and Commissioner, New Jersey Department of Environmental Protection.

Authority: N.J.S.A. 58:1B-7.

DEP Docket No. 065-85-12.

Proposal Number: PRN 1985-710.

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

February 7, 1986 at 9:30 A.M.
Labor Education Center
Rutgers University
Ryders Lane and Clifton Avenue
New Brunswick, New Jersey 08903

Interested persons should submit in writing any questions relevant to the proposal on or before **January 24, 1986** to ensure appropriate responses to such questions at the public hearing. The New Jersey Water Supply Authority staff will make every reasonable effort to answer questions received after January 24, 1986 but before February 7, 1986 at the time of the public hearing. The New Jersey Water Supply Authority shall hold the public hearing record open to receive comments on the proposal until March 24, 1986. These submissions, and any inquires about submissions and responses, should be addressed to:

Rocco D. Ricci, Executive Director
New Jersey Water Supply Authority
Post Office Box 5196
Clinton, New Jersey 08809

Summary

The proposed amendments by the New Jersey Water Supply Authority ("Authority") shall amend the Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Delaware and Raritan Canal and the Spruce Run/Round Valley Reservoirs, N.J.A.C. 7:11-2, to reflect the rate adjustment necessary to raise revenue for the Authority's normal Fiscal Year 1987 expenses by an increase in the General Rate Schedule for Operations and Maintenance at N.J.A.C. 7:11-2.2. Also, the Authority proposes to adjust the existing Debt Service Assessment at N.J.A.C. 7:11-2.3(b)1 and 2 for funds borrowed from the New Jersey Water Bond Act of 1958, P.L. 1958, c. 35 ("1958 Bonds") and the Water Conservation Bond Act of 1969, P.L. 1969, c. 127 ("1969 Bonds"). Furthermore, the Debt Service Assessment for funds recently borrowed from the Water Supply Bond Act of 1981, P.L. 1981, c. 261 ("1981 Bonds") will be adjusted to reflect the actual terms of the Authority's loan agreement with the State Treasurer. Note 1 to N.J.A.C. 7:11-2.3(c) published in the August 5, 1985 New Jersey Register at 17 N.J.R. 1879(a) explained this plan to the regulated community. The charges for Standby Contracts at N.J.A.C. 7:11-2.9(a) 1 and 2 will also be adjusted to reflect the revised Operations and Maintenance and Debt Service Assessments charges. The current sales bases will be revised at N.J.A.C. 7:11-2.2 to 151.931 from 150.916 million gallons per day; at N.J.A.C. 7:11-2.3(b) to 150.284 from 149.986 million gallons per day; and at N.J.A.C. 7:11-2.3(c) to 151.367 from 149.472 million gallons per day.

The proposed adjustments have been summarized in tabular form as follows:

Rate Category	Present	Proposed	Difference (+/-)
Operations & Maintenance, N.J.A.C. 7:11-2.2	$ 81.80	$94.64	+$12.84
1958 Bond Debt Service Assessment, N.J.A.C. 7:11-2.3(b)1, Through 6/30/88	23.59	23.54	- 0.05
1969 Bond Debt Service Assessment, N.J.A.C. 7:11-2.3(b)2, From 7/1/88 to 6/30/2002	14.07	14.04	- 0.03
1981 Debt Service Assessment, N.J.A.C. 7:11-2.3(c) From 7/1/86 to 10/30/2006	41.98	33.94	- 8.04
Total Proposed Rate Through 6/30/88	$147.37	$152.12	+$ 4.75
Total Proposed Rate From 7/1/88 to 6/30/2002	$137.85	$142.62	+$ 4.77

You're viewing an archived copy from the New Jersey State Library.

Social Impact

The proposed amendments incorporate the substance of the Authority's existing rate schedule at N.J.A.C. 7:11-2 and should have a minimum social impact.

Economic Impact

An economic impact will result from these proposed amendments by adjusting the charges for such raw waters withdrawn, diverted or allocated from the Delaware and Raritan Canal and/or the Spruce Run/Round Valley Reservoir Complex. As noted in the Table above, some rates and charges will be increased and others decreased for users of the water from these facilities and will be incorporated in all water use agreements with users of these facilities.

The proposed amended charge for the Operations and Maintenance component at 7:11-2.2 will be $94.64 per million gallons per day, a $12.84 increase over the current rate of $81.80 per million gallons a day. However, financial savings of $8.09 will emanate through June 30, 1988 and $8.07 thereafter from the reduction in the 1958 Bond, 1969 Bond and 1981 Bond Debt Service Assessment Components. This total net increase of $4.75 per million gallons per day through June 30, 1988 and $4.77 thereafter should not represent a burden to the Authority's Contractual Water Customers.

Environmental Impact

The proposed amendments shall have a positive environmental impact by providing the Authority with the increased ability necessary to effectively operate its water supply facilities in Fiscal Year 1987 (July 1, 1986 through June 30, 1987). All such increased revenues from the proposed amendments will be absorbed in the Authority's general operating budget. The Delaware and Raritan Canal Transmission Complex and the Spruce Run/Round Valley Reservoir Complex provide the basic water supply for 1,200,000 people in central New Jersey. The proposed amendments will allow the Authority to continue to effectively operate this important water supply service.

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

7:11-2.2 General Rate Schedule

The General Rate Schedule for Operations and Maintenance per million gallons listed below is based on estimated annual primary costs, renewal and replacement reserve, pumping reserve, major rehabilitation reserve and general reserve. The current sales base of [150.916] **151.931** million gallons per day has been used in setting the rate listed below.

1. General Rate Schedule for Operations and Maintenance Component:

Allocation	Rate/Million Gallons
Million gallons per day (mgd)	[$81.80] **$94.64**

7:11-2.3 Debt Service Assessments

(a) (No change.)

(b) The debt service assessment rate for the 1958 Bonds and 1969 Bonds shall be based on a sales base of [149.986] **150.284** million gallons per day, excluding water users of the Delaware and Raritan Canal within the Delaware River Basin. This debt service assessment rate does not apply to Delaware and Raritan Canal customers in the Delaware River Basin.

1. 1958 Bond Funds:

Period	Allocation	Rate/Million Gallons
[7/1/83] **7/1/86** to 6/30/88	Million gallons per day (mgd)	[$23.59] **$23.54**

2. 1969 Bond Funds:

Period	Allocation	Rate/Million Gallons
7/1/88 to 6/30/2002	Million gallons per day (mgd)	[$14.07] **$14.04**

(c) 1981 Water Supply Bond Funds are to be borrowed from the State Treasurer [between October 1, 1985 and September 1, 1986] **by December 31, 1985** to retire the existing tax exempt commercial paper used for temporary financing of the Delaware and Raritan Canal sediment removal program. The following debt service assessment rate, based on a sales base of [149.472] **151.367** million gallons per day, in addition to that included in (b) above, will be applied to all customers [effective October 1, 1985]:

Period	Allocation	Rate/Million Gallons
[10/1/85 to see Note 1)] **7/1/86 to 10/30/2006**	Million gallons **per day (mgd)**	[$41.98] **$33.94**

[Note 1: This rate will remain in effect until the 1981 Water Supply Bond Funds are borrowed from the State Treasurer after which the rate and repayment period will be adjusted to reflect the terms of the loan from the State Treasurer.]

7:11-2.9 Standby Charge

(a) A user classified under standby service, as provided in N.J.A.C. 7:11-2.8 above shall pay a monthly minimum charge based on the capacity of his withdrawal system as specified below. Said purchaser shall also pay for all water withdrawn during the month in excess of such monthly Standby Charge, based on charges as set forth under N.J.A.C. 7:11-2.2 and 2.3.

Note: Mgd = million gallons daily; Gpm = gallons per minute.

1. For Delaware and Raritan Canal Standby Contracts within the Delaware River Basin:

Maximum withdrawal capacity	Charge per month
Each 1 mgd (700 gpm) or fraction thereof.	[$81.80] **$94.64** plus annual debt service assessment rate for 1981 Bonds.

2. For Standby Contracts within the Raritan River Basin:

Maximum withdrawal capacity	Charge per month
Each 1 mgd (gpm) or fraction thereof.	[$81.80] **$94.64** plus annual debt service assessment rates for 1958 Bonds, 1969 Bonds and 1981 Bonds.

You're viewing an archived copy from the New Jersey State Library.

HIGHER EDUCATION

STUDENT ASSISTANCE BOARD

The following proposals are authorized by the Student Assistance Board, Joseph Streit, Chairman.

Submit comments by February 5, 1986 to:
Grey J. Dimenna, Esq.
Administrative Practice Officer
Department of Higher Education
225 West State Street
CN 542
Trenton, New Jersey 08625

(a)

Student Assistance Programs Foreign Nationals

Proposed Amendment: N.J.A.C. 9:7-2.3.

Authority: N.J.S.A. 18A:71-26.5, 18A:71-26.8, 18A:71-47(a) and 18A:71-48.
Proposal Number: PRN 1985-707.

The agency proposal follows:

Summary

The proposed amendment complements a recent directive released by the U.S. Department of Education concerning changes which have been instituted in documenting the citizenship status for foreign students with regard to their eligibility and permanent resident status. These changes affect award eligibility of such foreign students. The Student Assistance Board, whenever possible, has always supported the conformity of State regulations with Federal regulations and proposes this amendment to maintain such conformance.

Social Impact

The proposed amendment brings State financial aid eligibility regulations into conformity with new Federal regulations and guidelines concerning applicants for permanent resident status who are no longer eligible for Title IV federal student assistance programs if they are the holders of Form I-94 with any one of several endorsements of temporary status.

Economic Impact

The proposed amendment has little economic impact upon the funding of the Tuition Aid Grant Program since relatively few students are affected by these changes.

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

9:7-2.3 Foreign nationals

(a) A Foreign National must present affirmative evidence that he or she is not in the United States for the temporary purpose of obtaining an education. Such evidence must include documentation from the United States Immigration and Naturalization Service that the student may remain permanently in this country and such evidence must be placed in the student's file. The student must:

1.-2. (No change.)

3. Be the holder of an Arrival Departure Record form I-94 endorsed by the Immigration and Naturalization Service showing one of the following:

i. (No change.)

ii. Refugees: Admitted as a refugee pursuant to Sec 207 of the Immigration and Naturalization Act [; or] .

[iii. Employment Authorized and Adjustment Applicant: A Foreign National holding form I-94 with this endorsement would normally meet the requirements of this regulation. However, if the institution has knowledge that the student is planning to leave the United States following the completion of his or her educational program, the Office of Student Assistance shall be notified and the award canceled.]

(b) Foreign Nationals with Student Visa Status, F1 or F2 Exchange Visitor Visa and J1 or J2 even when stamped "employment authorized" [,] **or holders of form I-94 with one of the endorsements: "adjustment applicant", "245", "245 applicant", "applicant for permanent residence", "voluntary departure", and "deferred action"**, are considered to be in the United States for the sole purpose of obtaining an education and are therefore not eligible for student assistance.

(b)

Tuition Aid Grant Program 1986-87 Award Table

Proposed Amendment: N.J.A.C. 9:7-3.1.

Authority: N.J.S.A. 18A:71-47(b) and 18A:71-48.
Proposal Number: PRN 1985-708.

The agency proposal follows:

Summary

The proposed amendment establishes an award table for the Tuition Aid Grant Program for the 1986-87 academic year with an increase in the maximum award value for independent institutions. There is no change in the maximum award levels at the county college and state college sectors, Rutgers University, UMDNJ, and New Jersey Institute of Technology which already reflect the normal tuition charged students during the 1985-86 academic year.

Social Impact

The Tuition Aid Grant Program provides awards based on financial need to enable students to obtain an undergraduate degree not only from public but also the higher cost independent colleges in New Jersey. The proposed increase in the 1986-87 maximum award at the independent college sector equals approximately 44 percent of the average tuition charged to students attending institutions in this sector and reflects their higher tuition costs.

Economic Impact

Sufficient funds for the proposed 1986-87 Award Table are contained in the Department of Higher Education's Fiscal Year 1987 Budget Request which was approved by the State Board of Higher Education and the Student Assistance Board. Adjustments will be made should funds not be available to support this proposed table.

You're viewing an archived copy from the New Jersey State Library.

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

9:7-3.1 Tuition Aid Grant Award Table

(a) The value of the grant is related to the tuition charges of the various institutional sectors in New Jersey and the student's ability to pay for educational costs. The award tables below show approximate award levels depending upon tuition and ability to pay:

AGENCY NOTE: Replace Table 1 (1984-85) in the New Jersey Administrative Code with the following 1985-86 award table, which was promulgated as Table 2 in the November 4, 1985 issue of the New Jersey Register. See: 17 N.J.R. 2643(a). The proposed 1986-87 award table is now designated as Table 2.

[2.] 1. TUITION AID GRANT (TAG) AWARD TABLE FOR 1985-86
APPROXIMATE TUITION AID GRANT VALUES
NEW JERSEY COLLEGES AND UNIVERSITIES

NJ Eligibility Index (NJEI)	County Colleges	State Colleges	Independent Institutions	Rutgers Univ. & UMDNJ[1]	NJ Inst. of Tech.
A	B	C	D	E	F
Under 950	$825	$1184	$2300	$1748	$1940
950-1349	725	1080	2150	1640	1820
1350-1749	625	980	2000	1540	1700
1750-2149	525	880	1850	1440	1580
2150-2549	425	780	1700	1340	1460
2550-2949	325	680	1550	1240	1340
2950-3349	200	580	1400	1140	1220
3350-3749	0	480	1250	1040	1100
3750-4149		380	1100	940	980
4150-4549		280	950	840	860
4550-4949		200	800	740	740
4950-5349		0	650	640	640
5350-5749			550	540	540
5750-6149			450	440	440
6150-6549			200	200	200
Over 6549			0	0	0

[1]Rutgers Engineering, Pharmacy, and Cook College students will have their awards increased to offset the higher tuition charged for these programs of study. Students enrolled in eligible programs at UMDNJ. Contact the financial aid office for details.

2. TUITION AID GRANT (TAG) AWARD TABLE FOR 1986-87
APPROXIMATE TUITION AID GRANT VALUES
NEW JERSEY COLLEGES AND UNIVERSITIES

NJ Eligibility Index (NJEI)	County Colleges	State Colleges	Independent Institutions	Rutgers Univ. & UMDNJ[1]	NJ Inst. of Tech.
A	B	C	D	E	F
Under 950	$825	$1184	$2650	$1748	$1940
950-1349	725	1080	2500	1640	1820
1350-1749	625	980	2350	1540	1700
1750-2149	525	880	2200	1440	1580
2150-2549	425	780	2050	1340	1460
2550-2949	325	680	1900	1240	1340
2950-3349	200	580	1750	1140	1220
3350-3749	0	480	1600	1040	1100
3750-4149		380	1450	940	980
4150-4549		280	1300	840	860
4550-4949		200	1150	740	740
4950-5349		0	1000	640	640
5350-5749			850	540	540
5750-6149			700	440	440
6150-6549			550	200	200
6550-6949			400	0	0
6950-7349			250		
7350-7749			200		
Over 7749			0		

[1]Rutgers Engineering, Pharmacy, and Cook College students will have their awards increased to offset the higher tuition charged for these programs of study. Students enrolled in eligible programs at UMDNJ. Contact the financial aid office for details.

HUMAN SERVICES

(a)

DIVISION OF MENTAL HEALTH AND HOSPITALS

State Psychiatric Hospitals System Levels of Supervision

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

Public Hearing

Notice of the proposed new rule and its full text were published in the November 4, 1985 New Jersey Register, 17 N.J.R. 2593(a). A public hearing on the proposed rule will be held on January 27, 1986 at 10 A.M., at the Division of Mental Health and Hospitals, 13 Roszel Road, Princeton, New Jersey. Persons interested in attending the hearing are requested to advise the Division in advance and persons who will be making presentations at the hearing are requested to provide a written summary by January 21, 1986. These submissions should be addressed to:

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

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

DIVISION OF PUBLIC WELFARE

For proposals numbered PRN 1985-693, 694, and 695, submit comments by February 5, 1986 to:

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

(b)

Assistance Standards Handbook
Available Support; Determining the Amount of Support; Deeming of Income of Parents and Guardians of Adolescent Parents; Contributions of Support

Proposed Amendment: N.J.A.C. 10:82-3.9, 3.11, 3.14, 4.13

Authority: N.J.S.A. 44:7-6 and 44:10-3, 45 CFR 303.3-303.6.

Proposal Number: PRN 1985-694.

You're viewing an archived copy from the New Jersey State Library.

The agency proposal follows:

Summary

The proposed amendments clarify procedures to be followed in determining the amount of support available from legally responsible relatives to recipients of public assistance in the Aid to Families with Dependent Children (AFDC) program.

Current regulations at N.J.A.C. 10:82-3.9(a) provide that county welfare agencies (CWAs) shall be responsible for determining the amount of contributions a legally responsible relative (LRR) is currently making or is willing to make toward the support of an eligible AFDC program unit. LRRs include the spouse of the AFDC applicant or recipient, any child of the AFDC applicant or recipient under the age of 55, and the parent of an AFDC child who is under age 18 or of a child over age 18 who is not an AFDC parent or parent-person. As such, LRRs include absent parents.

The proposed amendments, at N.J.A.C. 10:82-3.9 and 4.13 clarify that CWA IV-A units, which are responsible for the administration of the AFDC program set forth in Title IV-A of the Social Security Act, shall evaluate the capacity to support of all LRRs except absent parents. The proposal further clarifies that CWA IV-D units, which are responsible for the administration of the Child Support and Paternity program, shall be responsible for evaluating the capacity of an absent parent (LRR) to support the eligible unit. Such responsibility is consistent with the Child Support and Paternity functions concerning absent parents set forth in Title IV-D of the Social Security Act, Federal regulations at 45 CFR 303.3 through 303.6, and State rules at N.J.A.C. 10:81-11.9.

The proposed amendments to N.J.A.C. 10:82-3.11 and 3.14 clarify that, in determining the availability of income to adolescent parents, the higher of two income schedules shall be used to evaluate the support capacity of parents who are not living in the same home as the adolescent parent. An adolescent parent is a dependent child, according to the definition of dependent child in the AFDC program, who is also the parent of a dependent child.

Social Impact

The amendments clarifying the income schedule to be used in the LRR evaluation will have a positive social impact, by providing a realistic standard for determining the amount of income available to children (adolescent parents) from parents who are not living with the adolescent parents. They will permit those adolescent parents who are truly in need of assistance to remain eligible. The amendments clarifying the responsibilities of the CWA IV-A and IV-D units with respect to LRR evaluations merely provide for an allocation of work tasks within CWAs, consistent with existing responsibilities under Federal and State regulations. They will therefore have no adverse impact upon the recipient population or the general public.

Economic Impact

The amendments concerning the income schedule for evaluation of LRRs for adolescent parents may result in a very slight increase in assistance costs. The amendments concerning IV-A/IV-D evaluation of LRRs will have little or no fiscal impact on Federal, State or local expenditures for administrative costs. The economic impact of this proposal is therefore seen as negligible.

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

10:82-3.9 Available support

(a) The [agency] **CWA IV-A unit** shall determine what contributions, [and] whether in cash or in kind, the relative is currently contributing or is willing to contribute toward the support of the eligible unit.

1.-2. (No change.)

(b)-(e) (No change.)

(f) **Absent parent:** To determine the capacity of an absent parent to support his or her dependent children, the procedures at N.J.A.C. 10:81-11.18 shall be followed **by the CWA IV-D unit.**

10:82-3.11 Determining amount of support

(a) Monthly income standards: Two sets of standards provide the basis for evaluation of an LRR's capacity to contribute to the support of the eligible unit:

1. (No change.)

2. Schedule IV-B applies to all other legally responsible relatives, **including parents of adolescent parents not living in the same home as the adolescent parent,** and is based on the U.S. Bureau of Labor Statistics' moderate standard of living.

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

10:82-3.14 Deeming income of parents and guardians of adolescent parents

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

(c) If the adolescent parent does not live in the same home as his or her parents, the legally responsible relative provisions of N.J.A.C. 10:82-3.8 apply, **and Schedule IV-B of N.J.A.C. 10:82-3.11(d) shall apply.**

10:82-4.13 Contributions of support

(a) (No change.)

(b) When shelter is being provided by a legally responsible relative (**LRR**) who has **been determined by the CWA IV-A unit to have** a capacity to **provide** support, the actual cash value shall, whenever possible, be determined and recognized as unearned income to the eligible unit. Where the actual value cannot be established, and is not stipulated by a court order to be made in an identifiable cash amount to a third party, the monthly monetary values shall be recognized according to Schedule VI and shall not exceed the LRR's evaluated capacity.

(c) (No change.)

(a)

General Assistance Manual
Aliens' Sponsors

Proposed Amendment: N.J.A.C. 10:85-3.4

Authority: N.J.S.A. 44:8-111(d).
Proposal Number: PRN 1985-695.

The agency proposal follows:

Summary

The proposed amendment would delete the wording by which aliens who are sponsored by their own parents are exempt from the provision which allows income to be deemed, that is, assumed to be available. It will produce an assumption for some of such aliens that income is available, thereby rendering them ineligible for assistance or causing a reduction

You're viewing an archived copy from the New Jersey State Library.

in the assistance grant as it does for aliens sponsored by persons other than their own parents.

Social Impact

The proposed amendment will serve to disallow assistance to certain aliens. It cannot be determined exactly what social result will ensue. All of such aliens will be forced to seek some other means of support.

Economic Impact

For a certain few aliens, the proposed amendment will result in reduced grants of assistance or ineligibility for assistance. The adverse effect on the individual alien will vary with circumstances depending on how great a reduction occurs. To date only few such aliens have been identified. There is no reason to believe that any substantial number exists. Hence, while the impact on some individual aliens may be significant with respect to eligibility for assistance the impact on the public treasury is expected to be imperceptible.

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

10:85-3.4 Resources

(a) (See proposals at 17 N.J.R. 2339(a) and 17 N.J.R. 2520(a).)

(b) Identification: The person(s) applying for assistance shall identify all [his/her] **his or her** resources, shall assist in their evaluation, and, where indicated, shall participate in planning and carrying out their liquidation. The failure of any individual to identify a resource and to participate in its evaluation and/or liquidation shall render that individual ineligible for assistance.

1. Each alien admitted for permanent residence is required to have a sponsor who has certified that [he/she] **he or she** will provide support to prevent the alien from becoming a public charge. Therefore, an alien admitted for permanent residence shall supply the name and address of [his/her] **his or her** sponsor to the MWD or, if unable to do so, must cooperate in the agency's efforts to obtain the information from the Immigration and Naturalization Service (INS). The alien shall also cooperate in the agency's efforts to obtain support from the sponsor.

i.-ii. (No change.)

iii. The income and resources of an alien's sponsor shall be deemed to be unearned income and resources of an alien applicant or recipient for three years following the alien's entry into the United States. For purposes of this section, a sponsor is an individual (not an organization) who executed an affidavit of support or similar agreement on behalf of an alien [(who is not the sponsor's child)] as a condition of the alien's entry into the United States. No income or resources shall be deemed from a sponsor who is receiving public assistance.

iv.-viii. (No change.)

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

(g) (See proposal at 17 N.J.R. 2339(a).)

(a)

Ruling 11
Public Assistance Staff Development Program

Proposed Readoption with Concurrent Amendment: N.J.A.C. 10:109-1
Proposed Repeal: N.J.A.C. 10:109-2, 3, and Appendices I-II

Authority: N.J.S.A. 44:7-6, 44:7-6.1 and 44:10-3.
Proposal Number: PRN 1985-693.

The agency proposal follows:

Summary

In accordance with the "sunset" provisions of Executive Order No. 66(1978) the Department of Human Services proposes to readopt subchapter 1 of N.J.A.C. 10:109, which expires on November 16, 1986. This subchapter is necessary for the continued operation of the Division of Public Welfare's Staff Development Program. Repeal of N.J.A.C. 10:109-2, 3, and Appendices I-II is proposed inasmuch as the enactment, effective January 30, 1984, of Assembly Bill 887, as Chapter 14, Laws of 1984, (N.J.S.A. 44:7-6.1) eliminated the authority of the Division of Public Welfare to establish and regulate county welfare agency pay scales, time and leave standards and other conditions of employment.

N.J.A.C. 10:109-1 was promulgated on January 25, 1974 for the purpose of regulating public assistance staff development. It was readopted effective November 16, 1981 pursuant to Executive Order No. 66. The goal of the Staff Development Program is to improve the competence of county welfare agency personnel, in order to ensure that the highest level of service possible is available to persons receiving public assistance.

To attain this goal the subchapter mandates the establishment of a separate and specialized training unit within each county welfare agency. The subchapter also establishes a training advisory committee.

Components of the staff development and training program include initial and specialized in-service training; management and supervisory training; career and professional development and an academic degree program.

N.J.A.C. 10:109-1.4(c)2 was amended to change the amount of time a county welfare employee must serve before he or she becomes eligible for tuition aid. This amendment was proposed in the April 9, 1982 issue of the New Jersey Register and became effective August 2, 1982.

The proposed amendment found in this readoption deletes N.J.A.C. 10:109-1.4(b), (c) and (d) since they relate to conditions of employment. Under the provisions of A-887 as Chapter 14, Laws of 1984, (N.J.S.A. 44:7-6.1) the authority of the Division of Public Welfare to regulate county welfare agencies in these areas was also eliminated.

Social Impact

N.J.A.C. 10:109-1 has provided the basis for a comprehensive effort to upgrade the services available to recipients of public assistance in New Jersey. The relevant portions of N.J.A.C. 10:109-1 must be readopted to ensure continuation of the staff development program. If the subchapter is not readopted, staff training in the various county welfare agencies

You're viewing an archived copy from the New Jersey State Library.

would have no direction and could be minimized or discontinued.

Economic Impact

The provisions of N.J.A.C. 10:109-1 enable the staff of the county welfare agencies to acquire the training to deliver the services needed by New Jersey's disadvantaged population in a cost efficient manner.

In fiscal year 1984 the expenditure of public funds for programs administered by the county welfare agencies totaled $952,252,305. In view of this vast expenditure of public funds, the need for continuation of a comprehensive staff development program is self evident.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:109-1.

Full text of the proposed repeal appears in the New Jersey Administrative Code at N.J.A.C. 10:109-2, 3, and Appendices I-II.

Full text of the proposed amendment to the readoption follows (deletions indicated in brackets [thus]).

10:109-1.4 Components of the staff development and training program

(a) (No change.)

[(b) Educational leave may be full time leave with or without stipend and or tuition. This may be granted for full-time enrollment in an accredited school of the employee's choice. Only permanent employees may receive full-time leave with or without stipend and/or tuition. Such professional or technical education should be required of the position for which the employee is occupying or will be assigned to. An employee for full-time educational leave must receive prior approval from the Division of Public Welfare as well as the county welfare training advisory committee.

1. If a stipend is requested by the employee and approved by the county welfare agency training advisory committee and the Division of Public Welfare, the stipend is to equal 80 percent of the salary being earned by the employee at the time of registration or $600.00 per month, whichever is less. The stipend is subject to mandatory deductions and any elective deductions agreed upon by the employee. An employee must have current permanent status in a Civil Service title as one of the conditions for full-time leave with/without a stipend, and/or tuition. Salary is not to be paid to an employee while he/she is receiving a stipend. If the employee is eligible to receive scholarships or stipends from sources other than the agency, he/she must utilize these first and the agency stipend and/or tuition aid may be used to supplement up to the amount the agency would have authorized if it were the single funding source. Such acceptance of financial aid outside the agency must in no way obligate the employee/student to a work commitment in other than the sending CWA which is granting the release time.

2. Prior to receiving agency stipend and/or tuition aid, the employee must sign a service commitment (Educational Leave Agreement) to return to the sending CWA immediately upon completion of his/her course of study.

3. If the employee on full-time educational leave with or without stipend and/or tuition aid receives a degree and decides not to return to work, he/she has an obligation to notify the Director of the CWA of his/her intention to resign. The conditions contained in the Educational Leave Agreement must then be invoked and the employee will be required to repay the CWA all monies received (in the form of stipend, tuition, etc.) in his/her behalf.

4. If an employee terminates employment before completion of the service commitment, he/she must repay the CWA the financial value of the stipend and/or tuition that have not been repaid in work commitment.

5. The work (service) commitment to the agency is one and one half months for each month the employee/student was on leave with stipend and/or tuition aid.

(c) Tuition Aid is financial aid granted to an employee attending class part-time at an accredited institution. Release time may not exceed four hours per week per employee. If more than four hours per week is required, work schedules may be modified when feasible to accommodate the need but requires approval of the Director of the county welfare agency. If additional time is needed and the work schedule cannot be modified, a request for approval of the additional time must be made through the Division of Public Welfare.

1. An employee may not be reimbursed for more than 15 credits during a fiscal year.

2. Employees receiving tuition aid must be permanent full-time employees who have completed at least one year of continuous satisfactory service immediately preceding the beginning date of the course(s) for which reimbursement is requested.

3. Employees may request reimbursement for non-job related courses provided they are required for the completion of the minimum number of credit hours required for graduation from their approved degree program. Approvals for graduate and undergraduate degree programs must be obtained through the Division of Public Welfare prior to matriculation. Under certain circumstances, the agency may provide financial support on a reimbursement basis to those taking exams in order to obtain additional credits for subject matter learned through previous life or educational experiences.

4. Tuition reimbursement may not be made until the employee completes the course(s) with verification of satisfactory completion of the course.

5. Employees will be required to sign an employee commitment form prior to receipt of tuition aid. This is a condition of accepting and receiving aid whereby the employee agrees to remain in the employ of the sending agency for one month for each month the employee received tuition aid.

(d) Tuition aid (part-time educational leave) or full-time educational leave with or without stipend and/or tuition aid: The payment for tuition by the CWA will be the actual amount charged by the school, but may not exceed the rate charged by Rutgers-the State University of New Jersey.

1. If an employee just receives leave time on either part-time (tuition aid) or full-time educational leave and there is no money payment involved (either tuition aid or stipend, etc.), that employee has the responsibility to continue or resume work in the agency, but does not have a service agreement to work off leave time. The service agreement for working off tuition and/or stipend received for part-time or full-time educational pursuits shall not exceed a continuous work commitment to the agency of two years.

2. If more than one course is taken in the tuition aid (part-time) program, the course may be simultaneously worked off beginning the first work day after the completion of that semester so that an employee at the end of a semester never "owes" the agency more work time than one semester.

 You're viewing an archived copy from the New Jersey State Library.

3. Employees taking educational course(s) (either part-time or full-time), shall be responsible for their own travel, parking, fees, and book costs. Occasionally, there may be a special program or course of study that will not fall clearly under part-time or full-time category, therefore, under these circumstances, the CWA shall contact the Division of Public Welfare for clarification.]

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Adoptions
Adoption Subsidy

Proposed Amendments: N.J.A.C. 10:121-2.1 through 2.5

Authorized By: Geoffrey S. Perselay, Acting Commissioner, Department of Human Services.
Authority: N.J.S.A. 30:4C-45 through 49, 30:4C-31 and P.L. 96-272.
Proposal Number: PRN 1985-698.

Submit comments by February 5, 1986 to:
Mary Lou Sweeney
Operations Support
Division of Youth and Family Services
1 South Montgomery Street
CN 717
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Subsidized Adoption Law (N.J.S.A. 30:4C-45 et seq.) became effective on June 12, 1973. Since that time, benefits have been paid to over 2500 families who have adopted hard-to-place children. On January 17, 1984, Governor Thomas H. Kean signed into law amendments to the existing adoption subsidy statute which became effective as of that date. The proposed amendments to N.J.A.C. 10:121-2 are intended to implement these statutory changes.

By liberalizing the adoption subsidy program, the amended law seeks to enable more children to move out of the foster care system into the permanency of adoptive homes. The previous requirement that families demonstrate a financial need in order to be eligible to receive subsidy has been removed. Eligibility for subsidy is now based solely on the child's hard-to-place status. Families adopting after January 17, 1984 may now receive 100 percent of the board payment the child would be receiving if he were in foster care, an increase from the previous 80 percent rate. Clothing payments will also now be made. All children approved for adoption subsidy will be eligible to receive Medicaid benefits. Subsidy may now be extended beyond age 18 to age 21 when special circumstances warrant such an extension.

The new adoption subsidy law makes it possible for children in the care of private agencies, approved to practice in New Jersey, to receive adoption subsidy. Prior to the revision of the law on January 17, 1984, only children under the care of the Division were eligible to receive subsidy.

As a result of the enactment of amendments to the subsidy law, the Division is proposing to revise the existing regulations which describe the subsidy benefits available. The proposed amendments also set forth conditions under which a family receiving benefits under the old law may be considered to receive the benefits available under the new law. It is proposed that the present N.J.A.C. 10:121-2.3 (Data Collection and Evaluation) be deleted because there is no financial means test under the new law. As a consequence, there is no longer a need to collect and evaluate data regarding the income levels of adoptive parents who receive subsidy or the amount of subsidy they receive.

Social Impact

The Division's primary goal for all children who cannot return to their biological parents is to secure permanency for them, most frequently through adoption. The adoption subsidy program is meant to assist in achieving that goal. The amendments to the adoption subsidy statute, which eliminate the financial means test provide for subsidy of the board payment at 100 percent of the foster care rate, and provide Medicaid services to all children eligible for subsidy, will increase the opportunity for more children to achieve permanency through adoption. This is particularly true for those children in foster care whose foster parents have a strong motivation to adopt but whose financial situation has made adoption unrealistic, given the reduced maintenance payment and elimination of most Medicaid coverage which occurred under the old law.

Economic Impact

The purpose of the proposed amendments to the subsidized adoption regulations, necessitated by the amendment of the subsidy law, is to increase the number of adoptions of hard-to-place children. In furtherance of this goal, the State will extend full Medicaid coverage to those children who do not have a pre-existing medical condition or who are not Title IV-E eligible for subsidy under the Federal law, children who would not have been covered under the old statute and regulations. There will be the further expense to the State of extending subsidy to those children over 18 who have not yet completed their high school education. Additionally, the State will now pay 100 percent rather than 80 percent of the foster care rate for maintenance subsidy, as well as assuming clothing allowance costs (at the foster care rate) for children being adopted with subsidy.

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

SUBCHAPTER 2. ADOPTION SUBSIDY

10:121-2.1 Definitions

For the purposes of [these regulations] **this subchapter,** the following definitions shall apply.

"Adoptive family for hard-to-place child [eligible for FFP]" means [any legally married couple, single person or married person who has lived separate or apart from his or her spouse for a continuous period of at least 18 months,] **any person or persons eligible to adopt a child** who agree to adopt a hard-to-place child [eligible for FFP] **regardless of the income of the adoptive parent(s)** and who meet conditions which include but are not limited to:

1. Age: The adoptive parent(s) must attain the age of 18 before the adoption has been finalized[. There is no maximum

You're viewing an archived copy from the New Jersey State Library.

age requirement. The adoptive parent(s)] **and** shall be at least 10 years older than the person(s) sought to be adopted **unless either of these limitations is waived by the court. There is no maximum age.**

2. (No change.)

3. Residence: The adoptive parent(s) must be residents of New Jersey and/or any other state [with which cooperative agreements have been arranged] **if approved for adoption by a licensed agency in that state and all interstate requirements can be met. N.J.S.A. 9:7-1 et seq.**

4.-6. (No change.)

["Adoptive Family for a hard-to-place child not eligible for FFP" means any legally married couple, or any individual person where the person is single or married but having lived separate and apart from his or her spouse for a continuous period of at least 18 months, who agree to adopt a hard-to-place child not eligible for FFP and who meet the adoption eligibility requirements as established by the Division, except for the financial ability to adopt. These requirements shall include, but not be limited to those listed in the definition. "Adoptive Family for a hard-to-place child eligible for FFP" (see 1 through 6 above.)]

"Board rate" means the rate paid to the foster family for the child currently or that which would have been paid for the child if the child was in foster care, [ex]**including** clothing allowances [and] **but excluding** any other payments.

"80 percent Board rate" means 80 percent of the rate which was or would have been paid for the child if the child was in foster care, excluding clothing allowance and other payments. 80 percent Board rate includes any additional board increases granted by the Division as provided by law.

"Child" means any person under the age of 18.

["Child eligible for Federal Financial participation" (hereinafter "child eligible for FFP") means any child whose adoption subsidy is eligible for partial Federal Funding through Title IV-E of the Social Security Act as amended because at time adoption proceedings were initiated the child was eligible for AFDC, AFDC-Foster-Care of SSI or would have been eligible had application been made.]

["Child not eligible for Federal Financial Participation (hereinafter "child not eligible for FFP") means any child whose adoption subsidy is not eligible for Federal Funding through Title IV-E of the Social Security Act as amended.]

"Division" means the Division of Youth and Family Services in the Department of Human Services.

"Hard-to-place child" means any child [for whom] **who** the State of New Jersey has the legal right to place for adoption but who is reasonably expected not to be [or has not been] placed for adoption due to the [nonavailability] **lack** of a prospective adoptive home for any of the following reasons:

1. Any medical or dental condition which will require repeated or frequent hospitalization, **or** treatment[,]; [or follow-up care;]

2. Any physical handicap, by reason of physical defect or deformity, whether congenital or acquired by accident, injury or disease, which makes or may be expected to make a child totally or partially incapacitated for education or for [renumerative] **remunerative** occupation[:];

3. Any substantial disfigurement, such as the loss or deformation of facial features, torso **or** extremeties;

4. A diagnosed [personality] **emotional** or behavioral problem, psychiatric disorder, serious intellectual incapacity or brain damage which seriously affects the child's ability to relate to his peers or authority figures, including [mental retardation or] **but not limited to a** developmental disability;

5. **The child** [I]is one of a group of [two] **three** or more siblings (including half-siblings) and it is considered necessary that the group be placed together, **or the child is one of two siblings (including half-siblings) one of whom meets the hard-to-place criteria, and it is considered most appropriate that the children be placed together;**

6. **The child** [I]is 10 years old or older;

7. [Is a child] **The child is** over five years of age [who is] **and** a member of an ethnic group [which is substantially over-represented in foster care in relation to the average of other ethnic groups; or] **for whom adoptive homes are not readily available.** Information regarding **availability of homes may be obtained from the Adoption Services Unit of the Division.**

8. [The child is in foster care and the most appropriate adoption plan would be adoption by the foster parents with whom he is living.] **Any other condition which may be approved by the Director; or**

9. The child has been living with foster parents for at least 12 months and adoption by the foster parents would be the most appropriate plan for the child.

10:121-2.2 Payments for the care and maintenance of a hard-to-place child (adoption subsidy)

(a) The Division [may] **shall** make payments for the care and maintenance of a hard-to-place child to the person(s) with whom the child has been placed for adoption or by whom the child has been adopted when such payments are applied for prior to adoption according to such forms and procedures as may be established by the Division.

(b) The Division shall determine and approve the qualifications for subsidy payments prior to the completion of an adoption proceeding. In order to qualify for subsidy a child must meet the definition of a hard-to-place child in N.J.A.C. 10:121-2.1. The failure of the Division to complete its determination and approval of qualifications prior to the finalization of adoption shall not prevent qualification for adoption subsidy, if application for such subsidy was made in a timely manner. Eligibility for subsidy shall be subject to an annual review and redetermination as described in paragraph (g) below.

(c) No payments shall be made for any child who the Division has determined was brought into this State for the sole purpose of qualifying for adoption subsidy.

(d) Payments shall be made on behalf of a child placed for adoption by the Division except that whenever a child who would otherwise be eligible for subsidy payments is in the care of any approved New Jersey adoption agency other than the Division pursuant to P.L. 1977, c. 367 (N.J.S.A. 9:3-37 et seq.) that child shall, upon application by the agency and satisfaction of the regular requirements of the adoption subsidy program, be approved for participation in the adoption subsidy program. Subsidy payments for children in private agency adoptions do not begin until the order of adoption is signed by the court. The private agency placing the child for adoption must bear the cost of any pre-adoptive maintenance while the child is still in their legal custody. A determination as to the child's eligibility to receive subsidy may be made by the Division. However, such determination must be made prior to the child's adoptive placement, in order to assist the prospective adoptive parents in making a decision as to their ability to accept the child into their home. The Division is responsible for monitoring the adoption subsidy to the private agency. The Division may approve adoption subsidy payments for a child without legal transfer of care or custody of the child to the Division.

[(b)](e) Payments shall be made only pursuant to a written Adoption Assistance Agreement between the Division and the

 You're viewing an archived copy from the New Jersey State Library.

adoptive parent(s), which shall include:

1.-10. (No change.)

[(c)]**(f)** Except [where it would be against the best interest of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child,] **in situations involving adoption by a child's foster parent(s),** a reasonable[, but unsuccessful,] effort will be made to place the child [with appropriate] **in an** adoptive **setting** [parents] without providing a[n] [adoption] subsidy, **except where the Division determines that such efforts should not be made because of the special needs of the child or the special qualifications of the adoptive parents.**

[(d)]**(g)** The written agreement covering subsidy payments shall remain in effect **regardless of adoptive parent(s) income** until the child's 18th birthday, provided that the adoptive parent remains legally responsible for the support of the child and the child continues to receive support from such parents. On an annual basis the Division will determine that the adoptive parents continue to be legally responsible for the support of the child [eligible for FFP] and that the child continues to receive support from the adoptive parents or the subsidy payments will be terminated.

[(e)]**(h)** [For a child eligible for FFP, t] The income of the adoptive parent shall not be considered by the Division in determining whether or not to enter into such an agreement. [For a child not eligible for FFP, the income of the adoptive parent shall be considered by the Division in determining whether or not to enter such an agreement.]

[(f)]**(i)** The amount of monthly payment for care and maintenance will be [80] **100** percent of the applicable **foster care** board rate, except [as provided in (g) below.] **that families who adopted prior to January 17, 1984 will continue to receive at the 80 percent board rate. Those families who were receiving a partial subsidy prior to January 17, 1984 will now receive subsidy at the 80 percent board rate.**

[(g) An exception may be made to (f) above if the needs of a child eligible for FFP are such that strict compliance with the 80 percent limitation would result in the child not being adopted. Such exception must be agreed to, in writing, by the Division and the adoptive parent. The exception must specify that the child is eligible for FFP and that the child has a severe, permanent physical or mental handicap which existed or was identified prior to the date of the entry of judgment of adoption, or that the child is legally free for adoption and has been in Foster Care with the prospective adoptive parents for 18 months or longer and has developed significant emotional ties such that separation would be against the child's best interest. Additionally, it must specify why strict compliance with the 80 percent limitation would result in the child not being adopted, and that the subsidy payment shall not be higher than 100 percent of the applicable board rate.

(h) For a child eligible for FFP, the amount of the adoption subsidy shall be set after taking into consideration the circumstances of the adopting parents and the needs of the child being adopted, and the amount may be readjusted periodically with the concurrence of the adopting parents depending upon changes in such circumstances.

(i) For a child not eligible for FFP, the eligibility for and amount of the payment shall be subject to annual review and change.

(j) For a child eligible for FFP, so long as such a child is categorically eligible for Medicaid under Title XIX of the Social Security Act, N.J. Medicaid coverage will be provided.

(k) For a child not eligible for FFP, so long as such a child is categorically eligible for Medicaid under Title XIX of the Social Security Act, the Division may provide N.J. Medicaid. This determination shall be made on the basis of consideration of factors which includes but is not limited to the nature and extent of any physical or mental condition which existed prior to the date of entry of the judgment of adoption.]

(j) The medical costs of children determined to be "hard-to-place" will be covered through the New Jersey Medicaid Program.

[(l)]**(k)** (No change in text.)

[(m)]**(l)** (No change in text.)

10:121-2.3 [Data Collection and Evaluation] **Variations**

[Data will be gathered and maintained on the income level of the adoptive parents receiving subsidy and amount of subsidy, and such data will be evaluated annually to determined cost effectiveness.]

(a) The requirements and standards prescribed in this subchapter may be subject to exceptions as provided in (b) below in specific cases where the Division determines that strict compliance would result in undue hardship or jeopardize the health, safety and welfare of the prospective adoptive parent or child, or the public generally, except that no exception to these regulations may exceed the limitations provided by Federal or State law.

(b) Exceptions to the provisions of this chapter may be made upon request for;

1. Families who are funded below the 100 percent board rate whose cases were approved prior to January 17, 1984 as that their level of funding may be increased to the applicable 100 percent rate, if documentation shows a dramatic decrease in their financial circumstances; or

2. Medical coverage for families whose subsidy cases were approved prior to January 17, 1984 when there is documentation of the development of a severe and permanent physical or mental handicap under the hard-to-place guidelines, and there is no third party medical insurance or where inadequate third party medical insurance is available to provide for the needs of the child.

3. The continuation of subsidy payment for all cases at an 80 percent foster care board rate for those children between the ages of 18 to 21 years of age who are enrolled in a curriculum directed toward gainful employment at any educational level below college.

[10:121-2.5] **10:121-2.4** Administrative Hearings

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

[10:121-2.6] **10:121-2.5** Adoption Resource Exchange

(No change in text.)

You're viewing an archived copy from the New Jersey State Library.

CORRECTIONS

(a)

THE COMMISSIONER

Inmate Discipline

Proposed New Rules: N.J.A.C. 10A:4

Authorized By: William H. Fauver, Commissioner, Department of Corrections
Authority: N.J.S.A. 30:1B-6 and 30:1B-10.
Proposal Number: PRN 1985-702.

Submit Comments By February 5, 1986 to:
Elaine Ballai, Esq.
Special Assistant for Legal Affairs
Department of Corrections
P.O. Box 7387
Trenton, N.J. 08625

The agency proposal follows:

Summary

The proposed new rules are intended to implement due process safeguards in the disciplinary process as required by United States Supreme Court in Wolff v. McDonnell 418 U.S. 539 (1974) and Avant v. Clifford, 67 N.J. 496 (1975). The proposed rules identify inmate rights and responsibilities, the acts and activities that are prohibited, and require each facility to publish the rules to be followed in a booklet which must be provided to each inmate at the time of admission. These proposed rules also set forth the detailed procedures to be followed when an inmate receives a disciplinary charge for violating a prohibited act.

Social Impact

The proposed new rules will have no new or additional social impact on the public or correctional facilities since they simply reflect a codification of the standards into rules. These rules serve to implement procedures to ensure that the inmate is provided due process when he or she has received a disciplinary charge for violating a prohibited act.

Economic Impact

The proposed new rules will have no new or additional economic impact on the public or correctional facilities because the facilities are currently adhering to these standards and no additional costs are necessary to implement or maintain them.

Full text of the proposed new rules follows.

CHAPTER 4

INMATE DISCIPLINE

SUBCHAPTER 1. INTRODUCTION

10A:4-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish policies to assure that inmate discipline and control are consistent with the correctional objectives of the Department and the facility;

2. Establish a comprehensive code of offenses and set of permissible punishments in order that prescribed behavior may be known by both inmates and staff;

3. Establish administrative due process safeguards in the disciplinary process as required by the United States Supreme Court in Wolff v. McDonnell, 418 U.S. 539 (1974) and the New Jersey Supreme Court in Avant v. Clifford, 67 N.J. 496 (1975);

4. Enforce rules and impose appropriate sanctions for infractions;

5. Stimulate application of disciplinary procedures which encourage future voluntary acceptance of certain behavior limitations that are necessarily being imposed upon the inmate;

6. Build and maintain morale among inmates and between staff and inmates by providing impartial and fair procedures throughout the disciplinary process.

10A:4-1.2 Scope

(a) Subchapter 2 through subchapter 12 shall be applicable to the Division of Adult Institutions, the Training School for Juveniles at Jamesburg and the Juvenile Medium Security Unit unless otherwise indicated.

(b) Subchapter 13 shall be applicable to the Training School for Boys at Skillman.

10A:4-1.3 Definitions

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

"Asterisk offense" shall mean a prohibited act preceded by a number and an asterisk.

"Adjustment Committee" shall mean the committee within a facility that is authorized to hear and adjudicate inmate violations of prohibited acts.

"Administrative Segregation" shall mean removal of an inmate from the general population to a long term close custody unit because of one or more disciplinary infractions or other administrative considerations.

"Close custody unit" shall mean an area within a facility designated for assigning inmates who are removed from the general population for disciplinary or administrative reasons.

"Commissioner" shall mean the Commissioner of the New Jersey Department of Corrections.

"Custody status" shall mean the degree of supervision that is required for an inmate to enter or leave an institution.

"Department" shall mean the New Jersey Department of Corrections.

"Disciplinary Detention" shall mean removal of an inmate from the general population to a short term close custody unit because of a disciplinary infraction(s).

"Disciplinary Hearing Officer" shall mean a Department staff member designated to hear and adjudicate inmate violations of prohibited acts.

"Disciplinary report" shall mean a form on which a violation of prohibited act is recorded along with other pertinent information.

"Disciplinary Sanction" shall mean a prescribed penalty that is imposed for violation of a prohibited act.

"Extra duty" shall mean a task(s) other than those related to his/her work or program assignment(s) to which an inmate has been assigned as a result of a violation of a minor prohibited act.

You're viewing an archived copy from the New Jersey State Library.

"Institutional Classification Committee" shall mean the body within a correctional facility that is responsible for monitoring an inmate's progress and assigning him/her to appropriate programs or activities.

"Inter-Institutional Classification Committee" shall mean the body, composed of representatives from different correctional facilities, that is responsible for determining the correctional facility to which an inmate is assigned and approving requests for transfer from one correctional facility to another.

"Major violations" shall mean the violation of a prohibited act that is preceded by an asterisk.

"Minor violations" shall mean the violation of a prohibited act that is not preceded by an asterisk.

"On-the-Spot Correction" shall mean the immediate imposition of a sanction upon an inmate for the violation of a minor prohibited act.

"Prehearing detention" shall mean removal of an inmate from the general population pending an investigation and a hearing into an alleged violation of a prohibited act.

"Prison Complex" shall mean state correctional facilities designated to house inmates serving prison sentences.

"Prohibited acts" shall mean conduct in violation of rules and regulations, which will result in imposition of sanctions.

"Superintendent" shall mean the chief executive officer of any State correctional facility in the Department of Corrections.

"Special Classification Committee (S.C.C.)" shall mean the body composed of different individuals from the Prison Complex, Youth Complex and Division of Juvenile Services which consider the transfer of inmates between complexes.

"Vroom Readjustment Unit" shall mean an Administrative Segregation and Protective Custody Unit for inmates located in the Vroom Building, on the grounds of Trenton Psychiatric Hospital.

"Youth Complex" shall mean state correctional facilities designated to house inmates between the ages of 15 and 30 years, who have not previously been sentenced to a state prison in this state or in any other state.

10A:4-1.4 Forms

(a) The following forms related to Inmate Discipline are printed by the Bureau of State Use Industries and each facility shall purchase a supply of these forms by contacting the Bureau.

1. 253-I On-The-Spot Disciplinary Report/Adjudication;
2. 259 Disciplinary Report;
3. 259A Adjudication of Disciplinary Report.

(b) The following forms related to Inmate Discipline shall be reproduced by each facility from originals that are available by contacting the Standards Development Unit.

1. 251-I Chronic Violator Notice—Vroom Readjustment Unit and Clinton Correctional Institution for Women;
2. Chronic Violator Adjudication Notice;
3. On-The-Spot Disciplinary Report/Adjudication;
4. 255-I Authorization for Prehearing Detention;
5. 256-I Appeal of Disciplinary Decision;
6. 256-II Disposition of Disciplinary Appeal;
7. 257-I Appeal to Office of Administrative Law.

SUBCHAPTER 2. PUBLICATION OF RULES

10A:4-2.1 Notification of inmates about rules and regulations

(a) At the time of arrival at a correctional facility, each inmate shall be advised in writing of his/her rights and responsibilities, the acts and activities which are prohibited, the rules which must be followed and the disciplinary process within the facility. This information shall be provided in a booklet as part of the admission-orientation program. (See N.J.A.C. 10A:7, INMATE HANDBOOKS.) Each inmate shall be required to sign a form acknowledging receipt of the Handbook on Discipline. A refusal by the inmate to sign shall be noted on the form by the issuing staff member.

(b) All changes in rules shall be posted in housing units and other areas of the facility and incorporated into the next revision of the Handbook on Discipline.

(c) When a facility has a large number of inmates in the population who speak a foreign language, the rules shall be printed and presented verbally in the foreign language.

10A:4-2.2 Review of inmate rules

The Superintendent of the facility shall be responsible for maintaining an ongoing rule review process to ensure that the rules are current and appropriate.

10A:4-2.3 Promulgation of rules

The rules of a facility shall be published and promulgated only upon the approval of the Superintendent of each correctional facility.

SUBCHAPTER 3. INMATE RIGHTS AND RESPONSIBILITIES

10A:4-3.1 Notification of inmates of their rights and responsibilities

The following rights and responsibilities are found in the inmate handbook which is provided to each inmate as a part of the admission-orientation program of each facility.

Rights	Responsibilities
You have the right to be treated respectfully, impartially and fairly by all personnel.	You have the responsibility to treat others, both employees and inmates, in the same manner.
You have the right to be informed of the rules, procedures and schedules concerning the operation of the facility.	You have the responsibility to know and abide by them.
You have the right to freedom of religious affiliation and voluntary religious worship within the facility.	You have the responsibility to recognize and respect the rights of others in this regard.
You have the right to health care which includes nutritious meals, proper bedding and clothing, a laundry schedule for cleanliness of the same, an opportunity to shower regularly, sufficient warmth and fresh air, a regular exercise period, toilet articles and medical and dental treatment.	It is your responsibility not to waste food, to follow the laundry and shower schedules, to maintain neat and clean living quarters, and to seek medical and dental care as you may need it.

You're viewing an archived copy from the New Jersey State Library.

You have the right to correspond and visit with family members, friends and other persons where there is no threat to security or order in keeping with the rules and schedules of the facility.	It is your responsibility to conduct yourself properly during visits, to refuse to accept or pass contraband, and to comply with Department rules and State or federal laws through your correspondence.
You have the right to unrestricted and confidential access to the courts by correspondence.	You have the responsibility to present honestly and fairly your petitions, questions and problems to the court.
You have the right to legal counsel from an attorney of your choice by interviews and correspondence. You have the right to receive help when it is available through a legal assistance program.	It is your responsibility to use the services of an attorney honestly and fairly.
You have the right to participate in the use of law library reference materials to assist you in resolving legal problems.	It is your responsibility to use these resources in keeping with the procedures and schedule prescribed and to respect the rights of other inmates in the use of this material.
You have the right to a wide range of reading material for educational purposes and for your own enjoyment.	It is your responsibility to seek and utilize such material for your personal benefit, without depriving others of their right to use same.
You have the right to participate in counseling, education, vocational training, and employment as far as resources are available and in keeping with your interests, needs and abilities.	You have the responsibility to take advantage of activities which may help you live a successful and law abiding life within the facility and in the community. You will be expected to abide by the regulations governing the use of such activities.

SUBCHAPTER 4. INMATE PROHIBITED ACTS

10A:4-4.1 Prohibited acts

(a) An inmate who commits one or more of the following numbered prohibited acts shall be subject to disciplinary action and a sanction that is imposed by a Disciplinary Hearing Officer or Adjustment Committee. Prohibited acts preceded by an asterisk are considered the most serious and result in the most severe sanctions (See N.J.A.C. 10A:5, SCHEDULE OF SANCTIONS).

*.001 killing
*.002 assaulting any person
*.003 assaulting any person with a weapon
*.004 fighting with another person
*.005 threatening another with bodily harm or with any offense against his person or his property
*.006 extortion, blackmail, protection: demanding or receiving favors, money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing
.051 engaging in sexual acts with others
.052 making sexual proposals or threats to another
.053 indecent exposure
*.101 escape
*.102 attempting or planning escape
.103 wearing a disguise or mask
*.151 setting a fire
.152 destroying, altering, or damaging government property, or the property of another person
*.153 stealing (theft)
.154 tampering with or blocking any locking device
*.155 adulteration of any food or drink
*.201 possession or introduction of an explosive, incendiary device or any ammunition
*.202 possession or introduction of a gun, firearm, weapon, sharpened instrument, knife or unauthorized tool
*.203 possession or introduction of any narcotic paraphernalia, drugs or intoxicants not prescribed for the individual by the medical or dental staff
*.204 use of any narcotic paraphernalia, drugs or intoxicants not prescribed for the individual by the medical or dental staff
*.205 misuse of authorized medication
.206 possession of money or currency ($50 or less) unless specifically authorized
*.207 possession of money or currency (in excess of $50) unless specifically authorized
.208 possession of property belonging to another person
.209 loaning of property or anything of value
.210 possession of anything not authorized for retention or receipt by an inmate or not issued to him through regular correctional facility channels
.211 possessing any staff member's clothing and/or equipment
.212 possessing unauthorized clothing
.213 mutilating or altering clothing issued by the government
*.214 possession of unauthorized keys or other security equipment
*.251 rioting
*.252 encouraging others to riot
*.253 engaging in, or encouraging, a group demonstration
.254 refusing to work, or to accept a program assignment
*.255 encouraging others to refuse to work or to participate in work stoppage
.256 refusing to obey an order of any staff member
.257 violating a condition of any community release program
*.258 refusing to submit to urine analysis
.301 unexcused absence from work or any assignment; being late for work
.302 malingering, feigning an illness
.303 failing to perform work as instructed by a staff member
.304 using abusive or obscene language to a staff member

You're viewing an archived copy from the New Jersey State Library.

.305 lying, providing a false statement to a staff member
*.306 conduct which disrupts or interferes with the security or orderly running of the correctional facility
.351 counterfeiting, forging or unauthorized reproduction or use of any document not enumerated in prohibited act .352
*.352 counterfeiting, forging or unauthorized reproduction or use of any classification document, court document, psychiatric, psychological or medical report, money or any other official document
.401 participating in an unauthorized meeting or gathering
.402 being in an unauthorized area
.451 failure to follow safety or sanitation regulations
.452 using any equipment or machinery which is not specifically authorized
.453 using any equipment or machinery contrary to instructions or posted safety standards
.501 failing to stand count
.502 interfering with the taking of count
*.551 making or possessing intoxicants or alcoholic beverages
*.552 being intoxicated
.553 smoking where prohibited
.601 gambling
.602 preparing or conducting a gambling pool
.603 possession of gambling paraphernalia
.651 being unsanitary or untidy: failing to keep one's person and one's quarters in accordance with posted standards
.652 tattooing or self multilation
.701 unauthorized use of mail or telephone
.702 unauthorized contacts with the public
.703 correspondence or conduct with a visitor in violation of regulations
*.704 perpetrating frauds, deceptions, confidence games, riots or escape plots
.705 commencing or operating a business or group for profit or a nonprofit enterprise without the approval of the Superintendent
.706 soliciting funds and/or noncash contributions from donors within or without the correctional facility except where permitted by the Superintendent
.707 refusal to cooperate in following a prescribed course of treatment (that is, refusal to appear for or go to a scheduled exam—medical, dental, etc.)
*.708 refusal to submit to a search
.709 failure to comply with a written rule or regulation of the correctional facility
*.751 giving or offering any official or staff member a bribe or anything of value
.752 giving money or anything of value to, or accepting money or anything of value from, another inmate
.753 purchasing anything on credit
.754 giving money or anything of value to, or accepting money or anything of value from, a member of another inmate's family or another inmate's friend with an intent to circumvent any correctional facility or Departmental rule, regulation or policy or with an intent to further an illegal or improper purpose
.802 attempting to commit any of the above acts, aiding another person to commit any of the above acts or making plans to commit any of the above acts shall be considered the same as a commission of the act itself
*.803 attempting to commit any of the above acts preceded by an asterisk, aiding another person to commit any such act or making plans to commit such acts shall be considered the same as a commission of the act itself

(b) Only acts cited in (a) above preceded by an asterisk are considered to be of sufficient severity to warrant possible transfer to the Vroom Readjustment Unit. Transfer to the Vroom Readjustment Unit shall be effected only when specifically ordered by the Disciplinary Hearing Officer and subsequently confirmed by the Inter-Institutional Classification Committee.

10A:4-4.2 Reports to the prosecutor on prohibited acts

All prohibited acts which may constitute crimes of the first, second, third or fourth degree under the Criminal Code of the State of New Jersey (N.J.S.A. 2C:1-1 et seq.) shall be referred to the prosecutor of the county in which the correctional facility is located. (See N.J.A.C. 10A:21 REPORTING VIOLATIONS OF THE CRIMINAL STATUTES.)

SUBCHAPTER 5. SCHEDULE OF SANCTIONS FOR PROHIBITED ACTS

10A:4-5.1 Schedule of sanctions for prohibited acts committed at the Prison Complex, Adult Diagnostic and Treatment Center (ADTC) and Correctional Institution for Women at Clinton (CIW)

(a) A finding of guilt for any offense preceded by an asterisk (*) shall render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;
2. Loss of one or more correctional facility privileges up to 30 days;
3. Administrative Segregation for a specified time not to exceed one year, subject to confirmation by the Institutional Classification Committee;
4. Loss of commutation time up to 365 days, subject to confirmation by the Superintendent;
5. Forfeiture;
6. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days;
7. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7); and/or,
8. Confiscation.

(b) A finding of guilt in the case of all other offenses shall render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;
2. Loss of one or more correctional facility privileges up to 30 days;
3. Up to 60 days loss of commutation time, subject to confirmation by the Superintendent;
4. Administration Segregation for a specified time not to exceed 90 days subject to confirmation by the Institutional Classification Committee;
5. Forfeiture;
6. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee or 60 days;
7. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7); and/or,
8. Confiscation.

(c) In addition to the sanctions in (a) and (b) above, admin-

You're viewing an archived copy from the New Jersey State Library.

istrative action may be taken by the Institutional Classification Committee upon the recommendation of the Disciplinary Hearing Officer/Adjustment Committee or the Superintendent. Such administrative action shall include, but not be limited to, the following:

1. Recommending transfer to a more appropriate correctional facility. (This shall be subject to confirmation by the Inter-Institutional Classification Committee.);
2. Increasing custody status;
3. Changing work or housing assignments;
4. Assigning to a treatment program;
5. Assessing restitution for damage, alteration or destruction of State property or a violation of sanction .707 which results in undue expenditure of State funds;
6. Recommending loss of privileges such as contact visits for up to one year; and/or,
7. For Trenton State Prison only: placing in a "DRY" cell during prehearing and lockup status.

10A:4-5.2 Schedule of sanctions for prohibited acts committed at the Youth Complex

(a) A finding of guilt for prohibited acts preceded by an asterisk (*) still render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;
2. Up to two weeks confinement to room or housing area;
3. Up to 30 days loss of one or more correctional facility privileges;
4. Up to two weeks extra duty;
5. Confiscation;
6. Administrative Segregation for a specific term not to exceed one year subject to confirmation by the Institutional Classification Committee (for transfer to prison complex, confirmation by Central Office Special Classification Committee is required); and/or,
7. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days.

(b) A finding of guilt in the case of all other offenses shall render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;
2. Loss of one or more correctional facility privileges up to 30 days;
3. Administrative Segregation for a specified time not to exceed 90 days subject to confirmation by the Institutional Classification Committee (does not include transfer to prison complex);
4. Up to two weeks confinement to room or housing area;
5. Up to two weeks duty;
6. Confiscation;
7. Any sanction prescribed for On-The- Spot Correction (see N.J.A.C. 10A:4-7); and/or,
8. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days.

(c) In addition to the sanctions in (a) and (b) above, administrative action may be taken by the Institutional Classification Committee upon the recommendation of the Disciplinary Hearing Officer/Adjustment Committee or the Superintendent. Such administrative action shall not be limited to the following:

1. Changing work, time, housing or program;
2. Assessing restitution for damage, alteration or destruction of State property or a violation of prohibited act .707 which results in undue expenditure of State funds;
3. Recommending transfer to a more appropriate correctional facility (subject to confirmation by the Special Classification Committee or the Reception Classification Committee); and/or,
4. Increasing custody status.

10A:4-5.3 Schedule of sanctions for prohibited acts committed at the Training School for Juveniles at Jamesburg or the Juvenile Medium Security Unit

(a) A finding of guilt for prohibited acts preceded by an asterisk (*) shall render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;
2. Loss of furlough privileges for up to two months;
3. Loss of one or more correctional facility privileges up to 30 days;
4. Up to 14 hours extra duty to be done in one week;
5. Confiscation;
6. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7); and/or,
7. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days.

(b) A finding of guilt in the case of all other offenses shall render the offender subject to one or more of the following sanctions:

1. Up to five days Disciplinary Detention;
2. Loss of furlough privileges up to two months;
3. Up to 14 hours extra duty to be done in one week;
4. Loss of one or more correctional facility privileges up to 30 days;
5. Confiscation;
6. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7); and/or,
7. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee.

(c) In addition to the sanctions in (a) and (b) above, administrative action may be taken by the Institutional Classification Committee upon the recommendation of the Disciplinary Hearing Officer/Adjustment Committee or the Superintendent. Such administrative action shall not be limited to the following:

1. Changing work assignment, housing, program or time goal review;
2. Referring to the Special Classification Committee for placement in the Guidance Unit Residential Program;
3. Assessing restitution for damage, alteration or destruction of State property or a violation of prohibited act .707 which results in undue expenditure of State funds;
4. Increasing custody status; and/or
5. Recommend transfer to a more appropriate correctional facility (subject to confirmation by the Classification Committee or the Inter-Institutional Committee—Juvenile).

10A:4-5.4 Limitation on sanctions

(a) All disciplinary charges pending when the inmate begins his/her time in Disciplinary Detention must be adjudicated prior to the completion of his/her Disciplinary Detention time. No inmate may receive more than 15 days in Disciplinary Detention as a result of a single disciplinary charge.

1. If an inmate is found guilty of more than one disciplinary charge arising out of one incident, he/she may receive up to 15 days for each disciplinary charge provided that the total

You're viewing an archived copy from the New Jersey State Library.

time to be served in Disciplinary Detention does not exceed 30 days.

2. If an inmate is found guilty of more than one disciplinary charge arising out of separate incidents and occurring before he/she begins serving time in Disciplinary Detention, he/she may receive up to 15 days for each disciplinary charge provided that the total time to be served in Disciplinary Detention does not exceed 30 days.

(b) If an inmate receives one or more disciplinary charges while serving in Disciplinary Detention, he/she may receive up to 15 additional days in Disciplinary Detention per charge provided that the total time in Disciplinary Detention does not exceed a total of 30 days.

SUBCHAPTER 6. CHRONIC VIOLATOR—VROOM READJUSTMENT UNIT AND FEMALE INMATES AT THE CORRECTIONAL INSTITUTION FOR WOMEN AT CLINTON

10A:4-6.1 Scope

The rules in this subchapter apply to all male inmates assigned to adult institutions and female inmates serving prison sentences assigned to the Correctional Institution for Women at Clinton.

10A:4-6.2 Criteria for designating a chronic violator

An inmate may be designated a chronic violator if, while currently serving the maximum time in lockup (30 days), he/she continues to exhibit seriously assaultive or destructive behavior such as to constitute a continuing danger to other persons, and where alternative disciplinary sanctions or housing assignments would be inappropriate or ineffective.

10A:4-6.3 Procedures for designation of chronic violator

(a) Disciplinary charges lodged against an inmate during the time he/she is currently serving a 30 day term for other disciplinary violations shall be given directly to the Vroom Readjustment Unit (VRU) Director or the Superintendent of Clinton Correctional Institution for Women (CIW). A copy of each charge shall be given to the inmate within 48 hours unless there are exceptional circumstances.

(b) The VRU Director or CIW Superintendent shall be responsible for ordering that each charge be investigated. He/she shall review each charge and investigation to personally obtain all relevant information.

(c) If after review of all reports and personal interviews with reporting staff as is deemed necessary to clarify facts or circumstances, the VRU Director or CIW Superintendent concludes that the inmate would pose a serious threat to persons or to the security or orderly operation of the Unit or correctional facility if released from lockup, he/she shall schedule the case for a due process hearing before the Department's Disciplinary Hearing Officer.

(d) Prior to the hearing the inmate shall be examined by a psychiatrist or psychologist to ascertain his/her mental condition, need for treatment or indication of need for transfer to a psychiatric facility (See N.J.A.C. 10A:4-11, PSYCHIATRIC TRANSFERS). The psychiatrist or psychologist shall visit the inmate at least once per month during his/her continued confinement to lockup status, and shall file a written report as to the inmate's mental condition and adjustment after each visit.

(e) The inmate shall receive at least 24 hours advance written notice that he/she is under consideration for designation as a chronic violator and that he/she may have the assistance of an inmate paralegal at the scheduled hearing (See N.J.A.C. 10A:4-9, DUE PROCESS PROCEDURE and Form 251-I). The notice shall include a copy of the disciplinary charges which form the basis for this action.

(f) At the discretion of the Disciplinary Hearing Officer, the hearing may be held in front of the inmate's cell, if his/her removal therefrom would constitute a danger to others or to the security and orderly operation of the Unit or correctional facility. The hearing shall be held in accord with N.J.A.C. 10A:4-9 and may be held before the expiration of his/her 30 day term.

(g) If after review of all reports and testimony, the Disciplinary Hearing Officer concludes that the inmate cannot safely be released from lockup at the expiration of his/her 30 day term, the inmate shall be designated a chronic violator. At VRU, the Disciplinary Hearing Officer's decision shall be referred to the Unit's Special Classification Committee for review and approval. In the case of Clinton Correctional Institution for Women, the Disciplinary Hearing Officer's decision shall be referred to the Institution Classification Committee for review and approval. The inmate shall remain in Disciplinary Detention, until, at a subsequent hearing, the Disciplinary Hearing Officer determines that the inmate has demonstrated that he/she will control his/her behavior and will refrain from repetitive acts of assault or destruction of property.

(h) A due process hearing shall be held every 15 days to review the inmate's conduct and adherence to correctional facility regulations. The Disciplinary Hearing Officer shall review all disciplinary reports and shall ascertain from the reports, investigations, psychiatric evaluation and testimony where deemed necessary, whether the inmate's conduct is sufficiently under control to permit his/her safe release from lockup status.

(i) During the inmate's confinement as a chronic offender, a social worker and the shift or unit supervisor shall visit him/her daily to monitor his/her needs and provide for programmatic involvement so far as is possible. The inmate shall be permitted to shower and participate in yard exercise as is consistent with correctional facility procedures, considering the safety of the person and the continued secure, orderly operation of the Unit or correctional facility.

10A:4-6.4 Appeal

(a) At the time the inmate is adjudicated a chronic violator, he/she shall be notified of his/her right to appeal the decision of the Disciplinary Hearing Officer to the Assistant Commissioner for Adult Institutions, Department of Corrections. The appeal may be filed at any time during the inmate's continued confinement to lockup, except that appellate review shall not occur more than twice per month.

(b) Prior to rendering a decision on the appeal, the Assistant Commissioner shall confer with the VRU Director or CIW Superintendent concerning the inmate's conduct. Alternative means for control and treatment shall be explored and utilized, if available and feasible. The inmate shall be notified of the Assistant Commissioner's decision and the reasons therefor within five working days.

SUBCHAPTER 7. ON-THE-SPOT CORRECTION

10A:4-7.1 On-the-spot disciplinary report/adjudication

(a) When a violation of a prohibited act that is considered minor has occurred, the staff member witnessing the violation shall prepare Part I of Form 253-I ON-THE-SPOT DISCIPLINARY REPORT/ADJUDICATION. The disciplinary

You're viewing an archived copy from the New Jersey State Library.

report shall be completed in triplicate.

1. One copy of the report shall be served upon the inmate; and,

2. Two copies shall be forwarded immediately to the shift supervisor.

10A:4-7.2 Conference

(a) The shift supervisor shall afford the inmate the right to review the disciplinary report. The inmate shall also be afforded the right to appear at a conference with the shift supervisor to discuss the violation and argue that he/she should not be disciplined, or challenge the proposed sanction.

(b) An inmate may waive the right to attend his/her conference or he/she may forfeit that right if his/her behavior justifies removal from the conference. In either case, the reasons for the inmate's absence shall be documented on Form 253-I.

(c) The shift supervisor shall indicate on part 2 of Form 253-I ON-THE-SPOT DISCIPLINARY REPORT/ADJUDICATION whether the conference was held and enter the other data pertaining to the results of the conference that is required by the form.

(d) At the conclusion of the conference, the inmate shall receive a completed copy of Form 253-I ON-THE-SPOT DISCIPLINARY REPORT/ADJUDICATION. Should the inmate be found guilty, the remaining copy of Form 253-I shall be submitted for placement into the inmate's classification folder. Not guilty determinations shall not be forwarded for inclusion into the inmate's classification folder.

10A:4-7.3 Sanctions

(a) The following are authorized sanctions for ON-THE-SPOT CORRECTIONS:

1. Verbal reprimand;

2. Loss of recreation privileges for a period of no more than five days;

3. Up to four hours of extra work duty;

4. Up to four hours confinement to the tier, room or cell; and/or,

5. Loss of radio or television privileges for a period of no more than five days.

10A:4-7.4 Imposition of sanction

If the shift supervisor concurs with the disciplinary report and proposed sanction, the proposed sanction shall be imposed within 24 hours of the conference. If no conference is requested, the sanction shall be imposed within 24 hours of the review by the shift supervisor.

10A:4-7.5 Record of sanction

(a) The On-The-Spot Disciplinary Report/Adjudication Form shall be included in the inmate's classification folder only when an inmate has been found guilty of a minor disciplinary infraction. Information regarding a guilty infraction shall not be entered onto the progress notes or be included in the reports presented to the Parole Board.

(b) Should an inmate be found not guilty of a minor disciplinary infraction, Form 253-I shall be completed but shall not be incorporated into the inmate's classification folder. These records may be retained separately from the inmate's classification folder for accounting and statistical purposes only.

10A:4-7.6 Increasing an on-the-spot infraction to a major violation

(a) Should the shift supervisor conclude that a more serious sanction may be appropriate, the infraction shall be handled as a major violation and be referred to the Disciplinary Hearing Officer or Adjustment Committee for a disciplinary hearing and disposition.

(b) When upgrading an infraction to a major violation, the report shall be filed on Form 259. DISCIPLINARY REPORT and contain all the required information. Copies of all relevant documents shall then be forwarded to the Disciplinary Hearing Officer or Adjustment Committee chairperson with a statement of reasons for the referral and any recommendations.

SUBCHAPTER 8. ADJUSTMENT COMMITTEE OR DISCIPLINARY HEARING OFFICER

10A:4-8.1 Adjustment Committee or Disciplinary Hearing Officer

The disciplinary hearing within a correctional facility shall be conducted by either a Disciplinary Hearing Officer designated by the Commissioner or a Committee of three staff members designated by the Superintendent.

10A:4-8.2 Designation of an Adjustment Committee

(a) The Superintendent shall have the authority to designate an Adjustment Committee only at those correctional facilities where the Commissioner has not designated a Disciplinary Hearing Officer to perform such function, or in extraordinary circumstances when a Disciplinary Hearing Officer is not available.

(b) The Superintendent may appoint persons to serve permanently, or may rotate members, or appoint one or more members to serve permanently and rotate other members.

(c) The Superintendent shall designate one of the Committee members to serve as chairperson. The chairperson shall be the presiding officer and he/she shall have the responsibility for the proper operation of the Committee.

10A:4-8.3 Composition of the Adjustment Committee

(a) The Adjustment Committee, other than the Capital Sentence Unit, shall be composed of at least three persons which shall include:

1. A supervisory correctional officer of the rank of Captain or above (or a Lieutenant in case of a Captain's absence); or,

2. A Head Juvenile Officer at the Training School for Juveniles at Jamesburg;

3. A correctional facility supervisor from the medical, administrative, social work, educational or treatment staff; and,

4. A civilian line staff member.

(b) The Adjustment Committee of the Capital Sentence Unit (C.S.U.) shall consist of three members of the Unit Management Team. They are:

1. A Lieutenant in charge of the Unit;

2. A social worker; and

3. A psychologist.

(c) A staff member shall not sit as a member of the Adjustment Committee if it is hearing an incident that he/she has reported and/or investigated.

10A:4-8.4 Authority of Disciplinary Hearing Officer or Adjustment Committee

(a) The Disciplinary Hearing Officer or Adjustment Committee shall have the authority to summon witnesses, take testimony, receive documentary evidence and shall have access to all correctional facility records which are relevant and necessary to the adjudication of any disciplinary case.

(b) The Disciplinary Hearing Officer or Adjustment Committee shall have the discretion to keep the hearing within reasonable limits and to refuse to permit the collection and

You're viewing an archived copy from the New Jersey State Library.

presentation of evidence which is not necessary for an adequate understanding of the case. The Committee Chairperson or Disciplinary Hearing Officer shall exercise control over all presentations to prevent lack of relevancy, harassment, abuse or repetitiveness and to insure that the hearing does not develop into an adversary proceeding.

10A:4-8.5 Decisions of the Adjustment Committee

Decisions of an Adjustment Committee at those correctional facilities utilizing such a Committee shall be by majority vote with each member having an equal vote and an equal right to participate in the fact-finding, discussions and deliberations of the Committee.

SUBCHAPTER 9. DUE PROCESS

10A:4-9.1 Disciplinary report

(a) When a violation of a prohibited act as identified in N.J.A.C. 10A:4-4, INMATE PROHIBITED ACTS has occurred, the staff member who witnessed it or who has probable cause to believe that a prohibited act has occurred shall prepare Form 259. DISCIPLINARY REPORT and forward it to the appropriate correctional supervisor.

(b) The correctional supervisor may change the report to an On-The-Spot correction report or forward it to the Disciplinary Hearing Officer or Adjustment Committee for further disposition.

10A:4-9.2 Notification of inmate

The disciplinary report shall be served upon the inmate within 48 hours after the violation unless there are exceptional circumstances. The report shall be delivered by the reporting staff member or the investigating officer. The report shall be signed by the person delivering it and the date and time of delivery shall be noted. The inmate shall have 24 hours to prepare his/her defense.

10A:4-9.3 Notification of use of immunity

In all cases, the inmate shall be advised of his/her right to use immunity at any investigative interview and at the disciplinary hearing. This warning shall consist of a statement that any statements made in connection with the disciplinary hearing or any evidence derived directly or indirectly from those statements shall not be used in any subsequent criminal proceeding. The failure to give this warning by the investigating officer shall not be grounds for dismissing the disciplinary report. The Disciplinary Hearing Officer at his/her discretion may grant a postponement if it is determined that such failure has precluded the inmate from adequately preparing his/her defense at the hearing.

10A:4-9.4 Effect of use immunity

(a) An inmate's failure to invoke use immunity and make a statement in his/her defense may be considered by the Disciplinary Hearing Officer or Adjustment Committee together with the other evidence in decision making.

(b) A finding of guilt at a disciplinary hearing, however, shall not be predicated solely upon an inmate's silence.

10A:4-9.5 Investigation

(a) An investigation of the infraction shall be conducted by the correctional facility within 48 hours of the time the disciplinary report is served upon the inmate.

(b) The Superintendent shall appoint a coordinator of investigations who shall be an employee of supervisory level. The Superintendent may also appoint one or more investigating officers who shall ordinarily be employees of supervisory level who have not been involved in the particular incident to be investigated.

(c) The coordinator shall be responsible for all investigations of disciplinary charges. He/she may assign individual investigations to an investigating officer who shall be responsible to the coordinator for completing his/her assignments.

(d) The investigator shall thoroughly investigate the incident. As part of this investigation, he/she shall verify that the inmate has received the written charge. He/she shall also read the charge to the inmate, inform him/her of his/her use immunity rights, take his/her plea, and ask if he/she wishes to make a statement concerning the incident or infraction. He/she shall take the inmate's statement concerning the incident. He/she may talk to witnesses and the reporting staff member and summarize their statements as may be necessary. Comments about the inmate's attitude may be included in the investigatory report.

(e) The investigator may include comments and conclusions on the inmate's prior record and behavior, his/her analysis of any conflicts between witnesses, and his/her conclusions of what in fact happened. The inmate shall not receive a copy of the investigation.

10A:4-9.6 Requiring further investigation of charges

The Disciplinary Hearing Officer or the Chairperson of the Adjustment Committee may direct a further investigation in any case where he/she is of the opinion that the report is not properly made out or the facts and circumstances are not sufficient to set forth a basic understanding of the incident. The Disciplinary Hearing Officer or Chairperson shall append the supplementary information, in writing, to the original investigation report. The person who supplied the additional information shall sign that section of the report.

10A:4-9.7 Review of postponed cases

Hearings which have been postponed for further investigation shall be reviewed by the Disciplinary Hearing Officer or Adjustment Committee within 48 hours of the postponement if the inmate is in Prehearing Detention or within seven days in all other cases to determine if a further postponement is warranted. Further postponements shall be granted only in exceptional circumstances.

10A:4-9.8 Scheduling hearing

(a) Meetings with the Disciplinary Hearing Officer or the Adjustment Committee shall be convened at such times as are appropriate to carry out the work of the Disciplinary Hearing Officer or Adjustment Committee.

(b) The inmate shall be entitled to a hearing within seven days of the alleged violation, including weekends and holidays, unless such hearing is prevented by exceptional circumstances, unavoidable delays or reasonable postponements. Should the seventh day fall on a Saturday, Sunday or holiday, the last day for the hearing shall be the weekday immediately following the weekend or holiday.

(c) Inmates confined in Prehearing Detention shall receive a hearing within three days of their placement in Prehearing Detention, including weekends and holidays, unless there are exceptional circumstances, unavoidable delays or reasonable postponements. Should the third day fall on a Saturday, Sunday or holiday, the hearing shall be held on the weekday immediately following the weekend or holiday.

(d) Inmates confined in Prehearing Detention shall be given priority in scheduling their appearance before the Disciplinary Hearing Officer or Adjustment Committee.

You're viewing an archived copy from the New Jersey State Library.

(e) No delays in hearing a case shall be permitted for the purpose of punishment or discipline.

10A:4-9.9 Failure to adhere to time limits

(a) The failure to adhere to any of the time limits prescribed by this subchapter shall not mandate the dismissal of a disciplinary charge. However, the Disciplinary Hearing Officer or Adjustment Committee may, in its discretion, dismiss a disciplinary charge because of a violation of time limits. Such discretion shall be guided by the following factors:

1. The length of the delay;
2. The reason for the delay;
3. Prejudices to the inmate in preparing his/her defense; and,
4. The seriousness of the alleged infraction.

10A:4-9.10 Excluding the inmate from the hearing

(a) An inmate shall be permitted to be present throughout the hearing except during the necessary deliberations of the Disciplinary Hearing Officer or Adjustment Committee and except in instances where correctional facility security would be jeopardized by his/her presence.

(b) The reasons for excluding an inmate from the hearing must be well documented in the record.

10A:4-9.11 In absentia hearings

(a) A full in absentia hearing shall be conducted if the inmate refuses to appear at the hearing.

(b) The following procedural process shall apply at all hearings conducted in absentia which will enable the Disciplinary Hearing Officer or Adjustment Committee to ensure that the inmate has been given every opportunity to be present for his/her hearing.

1. The escorting officer shall report the inmate's refusal to appear to the Disciplinary Hearing Officer or Adjustment Committee.

2. The Disciplinary Hearing Officer or Adjustment Committee Chairperson shall make the following notation in the inmate's statement section of the "Adjudication of Disciplinary Charge" form:

"I voluntarily refuse to appear at this hearing. I understand that the hearing will be held in my absence."

3. An investigating officer shall return the form to the inmate and shall advise him/her that refusal to appear at the hearing may result in an incomplete understanding by the Disciplinary Hearing Officer or Adjustment Committee of the circumstances surrounding the charges lodged against him/her. If the inmate still refuses to appear at the hearing, he/she shall be requested to sign the "Adjudication" form immediately after the statement noted above in 2.

4. In the event the inmate refuses to sign his/her name and still refuses to appear, the form shall be returned to the Disciplinary Hearing Officer or Adjustment Committee Chairperson and the following entry shall be made in the inmate's statement section:

"Inmate refuses to sign _____.
Signature of Investigating Officer

5. The following statement shall be included in the inmate statement section of the Adjudication Form: "No statement taken as the inmate refused to appear at the hearing".

10A:4-9.12 Aid in presentation of inmate's case

(a) When the Disciplinary Hearing Officer or Adjustment Committee determines that an inmate is illiterate or cannot adequately collect and present the evidence in his/her own behalf, the inmate may elect to receive the services of a counsel substitute or he/she may request that he/she be represented by a staff member.

1. Where the inmate requests the services of a staff member, the Superintendent or his/her designate shall appoint a staff member to provide representation.

2. The counsel substitute shall be permitted reasonable time to speak to the inmate and shall be given at least 24 hours to prepare the inmate's defense.

3. If necessary, the inmate shall be allowed to present a defense through an interpreter.

10A:4-9.13 Opportunity to call witnesses and present evidence

(a) Inmates shall be allowed to call witnesses and present documentary evidence in their defense when permitting them to do so will not be unduly hazardous to correctional facility safety or correctional goals. The Adjustment Committee or Disciplinary Hearing Officer shall review the evidence offered as reasonably available and necessary for proper understanding of the circumstances surrounding the charge. The Disciplinary Hearing Officer or Adjustment Committee has the discretion to keep the hearing within reasonable limits and to refuse to call witnesses that may create a risk of reprisal. Repetitive witnesses need not be called. Unavailable witness may be asked to submit written statements. If the Disciplinary Hearing Officer or Adjustment Committee shall refuse to call one or more witnesses, the reasons for each such refusal shall be separately specified on the Adjudication Form.

(b) Witnesses requested by the inmate who are called may be questioned by members of the Adjustment Committee or the Disciplinary Hearing Officer and the inmate or his/her counsel substitute. Inmates or their representatives may request that certain questions be directed by the Adjustment Committee members or the Disciplinary Hearing Officer to any witnesses. The Disciplinary Hearing Officer or Adjustment Committment may take testimony in a manner or form which is determined to be necessary to protect correctional facility safety or goals. Such manner or form shall include, but shall not be limited to, the consideration of confidential reports.

10A:4-9.14 Confrontation and cross examination

(a) The opportunity for confrontation and cross examination, if requested, shall be provided to the inmate in such instances where the Adjustment Committee or Disciplinary Hearing Officer deems it necessary for an adequate presentation of the evidence, particularly when serious issues of credibility are involved.

(b) The Disciplinary Hearing Officer or Adjustment Committee may refuse confrontation and cross examination when said would be unduly hazardous to correctional facility safety or goals.

10A:4-9.15 Evidence required

(a) A finding of guilt at a disciplinary hearing shall be based upon substantial evidence that the inmate has committed a prohibited act.

(b) Evidence relied upon in making a determination shall be specified on the Adjudication Form.

10A:4-9.16 Alteration of charge during disciplinary hearing

(a) Whenever it becomes apparent at a disciplinary hearing that an incorrect prohibited act is cited in the disciplinary report but that the inmate may have committed another prohibited act, the Adjustment Committee or Disciplinary Hearing Officer shall modify the charge and give the inmate

You're viewing an archived copy from the New Jersey State Library.

the option of a 24 hour postponement to prepare his/her defense against the new charge or adjudicate the new charge at that time.

(b) If, after reviewing the charge, the inmate's past disciplinary record and any special reports, the Disciplinary Hearing Officer or Adjustment Committee concludes that the infraction is of a minor nature suitable for handling as an On-The-Spot Correction, the charge may be referred back to the appropriate Shift Supervisor for handling under N.J.A.C. 10A:4-7, ON-THE-SPOT CORRECTION.

10A:4-9.17 Disciplinary sanctions

(a) The disciplinary action shall be individualized in keeping with such factors as the:

1. Offender's past history of correctional facility adjustment;

2. Setting and circumstances for the adverse behavior;

3. Involved inmate's accountability;

4. Underlying reasons for noncompliance with regulations; and,

5. Correctional goals set for the inmate.

(b) The sanction shall be one or more of those enumerated in N.J.A.C. 10A:4-5, SCHEDULE OF SANCTIONS FOR PROHIBITED ACTS.

(c) Whenever an inmate damages or destroys plumbing fixtures, or floods his cell at Trenton State Prison, he may be placed in Prehearing Detention or Disciplinary Detention in a "DRY" cell to serve the sanction imposed.

10A:4-9.18 Confiscation of contraband items

All items determined to be contraband found in the inmate's possession shall be confiscated and disposed of in accordance with N.J.A.C. 10A:3, SECURITY AND CONTROL.

10A:4-9.19 Guidance and referrals

The Adjustment Committee or Disciplinary Hearing Officer shall give guidance to the inmate with respect to the reason for the rules and policies of the correctional facility. The elements of the inmate's behavior or attitude that are deemed to be unsatisfactory shall be pointed out.

10A:4-9.20 Emergency intra-complex transfer

(a) When it shall appear that an inmate has committed a disciplinary infraction which requires his/her immediate transfer to a Prehearing Detention of another correctional facility or unit within the complex or another correctional facility or unit within the complex, the notice and disciplinary hearing shall be granted after the transfer.

(b) The Disciplinary Hearing Officer or Adjustment Committee assigned to the correctional facility to which the inmate has been transferred shall conduct the hearing.

(c) The sending facility shall be responsible for preparing the disciplinary charges, conducting the investigation and delivering this material to the receiving facility.

(d) All due process safeguards shall be provided as soon after the transfer as practicable and shall be in compliance with this subchapter except that written statements of unavailable witnesses shall be liberally accepted instead of live testimony.

(e) Inmates who are transferred from one prison to another prison shall be entitled to a prompt review of the transfer by the Inter-Institutional Classification Committee. (See N.J.A.C. 10A:9, CLASSIFICATION PROCESS.)

(f) Inmates who are transferred from one youth correctional institution to another youth correctional institution shall be entitled to a prompt review of the transfer by the Youth Reception Classification Committee. (See N.J.A.C. 10A:9, CLASSIFICATION PROCESS.)

(g) Juvenile residents who are transferred from one juvenile facility to another shall be reviewed by the Juvenile Inter-Institutional Classification Committee at its next scheduled meeting. (See N.J.A.C. 10A:4-9, CLASSIFICATION PROCESS.)

(h) No transfer as described in this Subchapter shall be effected unless the Superintendent and either the Assistant Commissioner or Deputy Director (or the Deputy Commissioner if both the Assistant Commissioner and the Deputy Director are unavailable) shall have determined that there are emergency conditions in the sending correctional facility justifying the transfer.

10A:4-9.21 Emergency inter-complex transfer

(a) When it shall appear that an inmate from the Youth Correctional Institution Complex has committed a disciplinary infraction which requires his immediate transfer to the Prison Complex, the notice and disciplinary hearing shall be granted after the transfer.

(b) The disciplinary hearing shall be conducted by the Disciplinary Hearing Officer or Adjustment Committee assigned to the correctional facility to which the inmate has been transferred.

(c) The sending facility shall be responsible for preparing the disciplinary charges, for conducting the investigation and for delivering the material to the receiving facility.

(d) All due process safeguards shall be provided as soon after the transfer as practicable and shall be in compliance with this subchapter except that written statements of unavailable witnesses shall be liberally accepted instead of live testimony.

(e) Inmates who are transferred from the Youth Correctional Complex to the Prison Complex shall be entitled to a prompt review of the transfer. (See N.J.A.C. 10A:9, CLASSIFICATION PROCESS.)

(f) No transfer as described in this section shall be effected unless the Superintendent and either the Assistant Commissioner or Deputy Director (or the Deputy Commissioner if both the Assistant Commissioner and the Deputy Director are unavailable) shall have determined that there are emergency conditions in the sending correctional facility justifying the transfer.

(g) Transfers of juveniles from the Division of Juvenile Services to the Youth Correctional Institution Complex in the Division of Adult Institutions can only be effected by an approved variance signed by the Superintendent, Assistant Commissioner and Commissioner. (See N.J.A.C. 10A:1, ADMINISTRATION, ORGANIZATION AND MANAGEMENT.)

10A:4-9.22 Transfer from satellite units

(a) When a minimum security inmate at a satellite unit commits a serious disciplinary infraction requiring transfer for reasons of security to the main correctional facility, he/she shall be provided with a disciplinary hearing at the main facility.

(b) The satellite unit shall be responsible for preparing the disciplinary charges.

(c) The investigation shall be conducted by either the main correctional facility or the satellite unit.

10A:4-9.23 Disciplinary decision

(a) After the hearing has been completed, a written statement of the fact-findings shall be given to the inmate by the

You're viewing an archived copy from the New Jersey State Library.

Disciplinary Hearing Officer or by the Adjustment Committee chairperson. This statement shall include evidence relied upon, the decision and the reason for the disciplinary action taken, unless doing so would jeopardize correctional facility security. The written statement shall also indicate the reason for refusing to call a witness or to disclose items of evidence whether it be for irrelevance, lack of necessity or the hazards presented in individual cases. When an inmate has been denied the opportunity for confrontation and cross-examination, the reason for such denial shall be entered in the record and made available to the inmate.

(b) A copy of the disciplinary decision shall be kept in the Disciplinary Hearing Officer's/Adjustment Committee's records and in the inmate's folder unless it has been decided that the inmate has been found not guilty of the charge(s), in which case the records of the charge(s) shall be expunged from the inmate's folder.

10A:4-9.24 Discipline record card (Form 254-I)

For the purpose of assisting the Disciplinary Hearing Officer or Adjustment Committee in determining the appropriate sanction to impose, each correctional facility shall have available at the hearing a Discipline Record Card (Form 254-I) for each inmate. This card shall accompany the inmate should he/she be transferred to another correctional facility.

10A:4-9.25 Expungement

If an inmate shall be adjudicated not guilty on a disciplinary charge, the results of the hearing shall not be entered onto the inmate's progress sheet. In addition, all references to the disciplinary charge (including any entry onto the progress sheet, the disciplinary report, the investigation report and the adjudication sheet) shall be removed from the inmate's classification folder. Copies of the disciplinary report, investigation and adjudication sheet shall be maintained by the correctional facility and the Disciplinary Hearing Officer or Adjustment Committee in the event of judicial review and for statistical and accounting purposes only. These records shall be maintained separately from the inmate's classification folder.

(b) In the event that a finding of guilt is rescinded on appeal and no further disciplinary action is taken, the inmate's records shall be expunged in accordance with the above procedure. Copies of the appeal and the disposition on appeal shall be forwarded to the Disciplinary Hearing Officer or Adjustment Committee for their records.

(c) The provisions of this subchapter shall be applicable to disciplinary reports prepared on or after September 1, 1980.

10A:4-9.26 Reopening a disciplinary hearing

(a) A finding of not guilty shall represent the final disposition of a disciplinary charge. Except when new information is discovered, an inmate may not be recharged with an offense for which he/she has been found not guilty.

(b) New information shall be defined to include only information which was not available at the time of the initial hearing and which could not reasonably have been ascertained in the course of the correctional facility's investigation.

(c) Information which was overlooked as the result of a careless or incomplete investigation shall not be considered new information within the meaning of this subchapter.

10A:4-9.27 Records of disciplinary reports

(a) A result sheet shall be prepared and submitted to the Superintendent or his/her designate no less then weekly /containing the following information:

1. The names of the inmates who received disciplinary actions;
2. Inmate numbers;
3. Housing location;
4. Nature of violations;
5. Staff members' names who wrote reports;
6. Disposition of charges; and,
7. Staff members' names who adjudicated the cases.

(b) The result sheet shall be kept on file for two years.

SUBCHAPTER 10. DETENTION PROGRAM

10A:4-10.1 Confinement in Prehearing Detention

(a) An inmate shall be confined in Prehearing Detention in those instances where it appears necessary to remove or isolate him/her from the general population until an investigation into his/her alleged misconduct can be completed and a disciplinary hearing can be held pursuant to N.J.A.C. 10A:4-9, DUE PROCESS. Confinement in Prehearing Detention shall be deemed necessary only where it appears that, if the inmate remained in his/her existing housing unit, he/she would constitute a threat to other inmates, staff members, himself/herself or to the orderly operations of the correctional facility.

(b) Confinement in Prehearing Detention may consist of placement in the Detention Unit or confinement to his/her room or housing unit.

(c) The following factors shall be considered in determining whether retention of the inmate in his/her present housing unit would constitute a threat to other inmates, staff members, himself/herself or to the orderly operations of the correctional facility:

1. The inmate has been charged with an assault upon another person and, in the opinion of the correctional staff, there is a substantial possibility that he/she may assault another inmate or staff member;
2. The inmate has been charged with threatening another person and, in the opinion of the correctional staff, there is a substantial possibility that he/she will act on his/her threat;
3. The inmate has been charged with being under the influence of drugs or intoxicants and, in the opinion of the correctional staff, his/her behavioral controls appear to be impaired;
4. The inmate has been charged with inciting others to engage in an assault upon another person, causing serious destruction of property or participating in a group demonstration or work stoppage and, in the opinion of the correctional staff, there is a substantial possibility he/she will continue such incitement;
5. The inmate has been charged with arson or serious destruction of property and, in the opinion of the correctional staff, there is a substantial likelihood that he/she may engage in additional arson or destruction of property. (Whenever the destruction to property consists of flooding the cell or damaging plumbing fixtures, the inmate may be placed in Prehearing Detention in a "DRY" cell—Trenton State Prison only);
6. The inmate has received a disciplinary charge and, in the opinion of the correctional staff, there is a substantial possibility that he/she will attempt to harm, threaten or intimidate potential witnesses or that he/she will attempt to organize or encourage others to harm, threaten or intimidate potential witnesses;
7. The inmate has been charged with participating in an unauthorized gathering or group demonstration and he/she refuses to abandon his/her participation; and
8. The inmate has been charged with escape or attempted escape and evidence has been produced which indicates that

You're viewing an archived copy from the New Jersey State Library.

the inmate presents a serious escape risk if permitted to remain in general population.

(d) If an inmate is confined in Prehearing Detention as a result of any of the factors in (c) above, such confinement must be authorized, in writing, by the shift supervisor. Form 255-I, Authorization for Prehearing Detention, shall be utilized for this purpose. A separate form must be completed for each inmate and, wherever possible, the form should be completed prior to placing the inmate in Prehearing Detention. When an emergency exists which precludes completion of the form prior to placement, the form must be completed immediately following placement. After all appropriate parties have signed the form, it should be placed in the inmate's folder. Additional copies of the completed form may be kept on file, for record keeping purposes, in areas designated by the Superintendent and the Director of Custody Operations.

(e) Each such confinement in Prehearing Detention shall be reviewed, and approved or disapproved, by either the Superintendent, Assistant Superintendent or Director of Custody within 24 hours of the placement. When none of these individuals are in the correctional facility during the 24 hour period, one of them shall be contacted by telephone to review the placement.

(f) Any time spent in Prehearing Detention shall be credited against any subsequent sentence imposed.

10A:4-10.2 Placement in Disciplinary Detention

(a) Inmates shall be placed in Disciplinary Detention by the Adjustment Committee or Disciplinary Hearing Officer for a period not to exceed 15 days.

(b) If it shall be determined that the inmate has committed a new major violation during the period of Disciplinary Detention, this time may be extended. In response to the commission of this new infraction, the Adjustment Committee or Disciplinary Hearing Officer shall provide the inmate with a due process hearing pursuant to N.J.A.C. 10A:4-9, DUE PROCESS prior to extending the 15 day period of Disciplinary Detention. The period of Disciplinary Detention shall not extend beyond 30 days, except as provided in N.J.A.C. 10A:4-6, CHRONIC VIOLATOR—VROOM READJUSTMENT UNIT AND FEMALE INMATES AT THE CORRECTIONAL INSTITUTION FOR WOMEN AT CLINTON.

(c) In the event of further infractions in the Unit or correctional facility, the Adjustment Committee or Disciplinary Hearing Officer shall consider alternative programs for regulating the inmate's behavior within acceptable limits.

(d) The inmate shall be entitled to appear before the Adjustment Committee or Disciplinary Hearing Officer unless the inmate refuses to appear or his/her presence would pose a threat to the security of the correctional facility. Under no circumstances shall force be used to compel the attendance of the inmate at the hearing. A refusal to appear shall be entered upon the adjudication sheet by the Disciplinary Hearing Officer or Adjustment Committee Chairperson.

(e) The time an inmate spends in Disciplinary Detention shall be proportionate to the offense committed, taking into consideration the inmate's prior conduct, his/her specific program needs and other relevant factors.

10A:4-10.3 Separate facilities

(a) Facilities utilized to separate inmates from the general population shall be physically separate so that materials allowed inmates in one section cannot be passed to inmates in Disciplinary Detention.

(b) An inmate may be confined to his/her room or housing unit to serve his/her Disciplinary Detention under appropriate circumstances (for example, overcrowding, riots, fires, etc.). All requirements of the Detention Program shall apply when the inmate serves his/her Disciplinary Detention separate from the general population or when his/her Disciplinary Detention is served in his/her room or housing area.

10A:4-10.4 Ventilation, heating, lighting and sanitation in Detention Program

(a) Ventilation and reasonable temperature shall be maintained on a 24 hour basis. Light of sufficient intensity shall be maintained to allow visual observation of inmates at all times. When admitted, inmates shall not be placed in cells that lack cleanliness or have malfunctioning sanitary fixtures or lights. Daily inspections shall be made to insure the cells are kept secure, clean and sanitary.

(b) Toilets that are flush controlled from outside the cells shall be flushed as often as is necessary to maintain good sanitary conditions.

(c) Inmates confined to "DRY" cells shall be permitted to shower at least once every three days. Drinking water shall be available upon request.

10A:4-10.5 Visual observation

Inmates in Disciplinary Detention shall be observed regularly and frequently by custodial staff. There shall be no physical obstruction to visual observation of inmates at any time. Full or partial curtains shall not be permitted over the cell door.

10A:4-10.6 Personal items

(a) All inmates shall be admitted to Disciplinary Detention dressed in normal correctional clothing after a thorough search for contraband except that:

1. No belts shall be permitted; and
2. Shoestrings may be removed or shoes may be replaced with cloth or paper slippers at the discretion of the Superintendent.

(b) Each inmate shall be provided with the following items for use in the cell to the same extent as such items are provided for inmates in the general population:

1. Clothing required for use in the cell;
2. Bedding and mattresses;
3. Personal hygiene supplies (including soap, deodorant, toothbrush and toothpaste or powder, towel and toilet paper);
4. Utensils and supplies for adequately cleaning the cell;
5. Eyeglasses;
6. Writing materials; and
7. Legal materials.

10A:4-10.7 Withdrawal of personal items or special activities

(a) Whenever in the judgment of the supervisor of the Unit there shall be imminent danger that an inmate will destroy any item or will do injury to himself/herself, to another person or to property with any item, the supervisor may direct that the inmate be deprived of the item, if practicable. In such case, however, every effort shall be made to supply a substitute for the item or to permit the inmate to use the item under the supervision of an officer.

(b) Whenever an inmate shall be deprived of any usually authorized item or activity, a written report shall be immediately forwarded to the Superintendent or his/her designee, identifying the inmate, the item or activity of which he/she has been deprived and the reason thereof.

(c) Whenever the circumstances are such that all the in-

You're viewing an archived copy from the New Jersey State Library.

mate's clothing is removed, the Superintendent or his/her designee shall be contacted immediately for approval of this action. The written report outlined in N.J.A.C. 10A:4-10.7(b) shall be sent to the Superintendent or his/her designee.

(d) Arrangements shall be made for a physician or other appropriate treatment staff to visit the inmate as soon as possible after the withdrawal of personal item(s) or activities.

(e) In all cases, the item or activity shall be restored to the inmate as soon as restoration appears to be consistent with safety.

(f) No inmate shall ever, under any circumstances, be deprived of any of these items or activities for the purposes of punishment or discipline.

10A:4-10.8 Medical and psychiatric services

(a) Inmates in Disciplinary Detention shall receive a daily visit by a member of the medical staff which can be a nurse, paramedic, doctor or other authorized health care personnel.

(b) Medical and psychiatric emergencies shall be attended to immediately. Requests for medical attention for inmates in nonemergency situations shall be responded to by the physician, or a medical person designed by him/her within 24 hours.

(c) Whenever it shall appear that an inmate is suffering from an emotional or psychiatric disturbance, arrangements shall be made for a psychiatric or psychological evaluation.

10A:4-10.9 Emergency evacuation

Each correctional facility shall develop an evacuation plan in case of fire or other emergencies.

10A:4-10.10 Visits by social work and correctional supervisory staff

(a) A member of the correctional facility social work staff shall visit the inmates in Disciplinary Detention daily to determine any emergencies or unusual needs of the inmates.

(b) Inmates shall receive at least daily visits from the senior correctional supervisor in charge of the Disciplinary Detention area.

10A:4-10.11 Chaplain services

(a) Inmates confined in Disciplinary Detention shall not be denied pastoral services. The correctional facility chaplain or an outside religious leader approved by the chaplain and Superintendent to conduct religious activities shall visit this area in response to an inmate's written request to provide religious counseling or other pastoral services.

(b) The inmate handbook shall state that inmates in Close Custody Units may request a visit by the chaplain or other approved religious group leader.

10A:4-10.12 Food

(a) Disciplinary Detention or Prehearing Detention inmates shall be served the normal correctional facility meals on the menu of the day or such special diet as shall be prescribed.

(b) Disposable utensils shall be used when necessary.

10A:4-10.13 Correspondence, visits and telephone calls

(a) Inmates in Disciplinary Detention shall have the same correspondence opportunities that are available to inmates in the general population (see N.J.A.C. 10A:8, COMMUNICATION, MAIL AND VISITS).

(b) Inmates in Disciplinary Detention shall not be provided with visit or telephone opportunities while in Disciplinary Detention with the exception of legal telephone calls.

1. The Superintendent or his/her designee may authorize a special visit or telephone call for an inmate when there are compelling reasons to do so.

2. Every effort shall be made to notify expected social visitors of the restriction on ordinary visiting procedures prior to the next regularly scheduled visiting period. If ample time for correspondence shall exist, the burden of this notification shall be placed on the inmate.

10A:4-10.14 Grooming, showering and shaving

Barbering and hair care services shall be provided in the Disciplinary Detention area, as needed. Each inmate shall be given the opportunity to shave and shower not less than two times a week, unless permitting these activities would present an undue security hazard. Correctional facilities capable of providing for more frequent shaving and showering shall do so not less than three times per week.

10A:4-10.15 Reading material

Inmates in Disciplinary Detention shall be permitted to retain in their possession an amount of reading material that is consistent with the maintenance of security and the orderly operation of the Unit. Reading material not permitted in Disciplinary Detention is outlined in N.J.A.C. 10A:18, COMMUNICATION, MAIL AND UNITS.

10A:4-10.16 Recreation

Where conditions permit, correctional facilities shall provide recreation outside the cells at least five hours per week.

10A:4-10.17 Records in Disciplinary Detention

(a) The following information on inmates confined in Disciplinary Detention status shall be available in the Unit for the use of the custodial staff:

1. Inmate's name;
2. Number;
3. Housing location;
4. Unit;
5. Cell or room assignment;
6. Date admitted;
7. Disciplinary charge leading to Disciplinary Detention;
8. Expiration date of Disciplinary Detention; and
9. Special medical or psychiatric problems.

(b) Visits by medical, psychiatric, social work or correctional supervisory staff and all unusual behavior shall be noted in the Unit log book together with the time and date.

10A:4-10.18 Correctional facility procedures

(a) Each correctional facility shall develop written procedures and post orders consistent with this subchapter.

(b) The written procedures and post orders for the Detention Program shall be submitted to the Office of the Deputy Commissioner for review and approval on or before January 31 of each year.

SUBCHAPTER 11. APPEALS OF DISCIPLINARY DECISIONS

10A:4-11.1 Time limit to file an appeal

(a) The inmate shall be advised in writing by the Disciplinary Hearing Officer or Adjustment Committee of the opportunity to appeal to the Superintendent or his/her designee at the time he/she is provided with the disciplinary decision.

1. Inmates within the main facilities of the Division of Adult Institutions shall have 48 hours from receipt of the disciplinary decision to make such appeal.

2. Inmates in the Training School at Jamesburg and the Juvenile Medium Security Unit shall have 72 hours in which to appeal.

You're viewing an archived copy from the New Jersey State Library.

3. Inmates in satellite units of the prison complex or youth complex shall have 48 hours to present the appeal form to a designeted individual at the unit who shall deliver it to the Superintendent.

(b) In all cases, the Superintendent or his/her designee may, for good cause shown, accept appeals submitted after the prescribed deadline.

10A:4-11.2 Processing appeal

(a) The inmate shall use the Appeal of Disciplinary Decision Form 256-I.

(b) Upon submission of the appeal, the person accepting the appeal form shall sign, date and note the time on the original and carbon copies in the inmate's presence. The carbon copy shall be given to the inmate.

(c) The appeal form shall be brought to the Superintendent's office during the same shift on which it is received from the inmate.

(d) All appeals shall be considered by the Superintendent of the correctional facility in which the charge was received.

(e) If the inmate has been transferred before the appeal is heard, the appeal form shall be delivered to the Superintendent of the correctional facility from which the charges were issued within 48 hours of its receipt from the inmate.

(f) Inmates unable to complete an appeal form may request assistance in preparing the form from a fellow inmate. Where the appeal has been completed by an inmate other than the inmate who received the charge, the name of the preparer should appear on the form.

10A:4-11.3 Suspension of sanctions pending appeal

(a) Inmates who wish to have their sanctions suspended pending a decision of their appeal, must make a request to the Superintendent or his/her designete for this consideration. If this request is not made, then no action shall be taken to suspend any sanctions received in the disciplinary hearing.

(b) If requested, a disciplinary sanction shall not be suspended pending appeal unless the inmate establishes by clear and convincing evidence that his/her release from Disciplinary Detention will not jeopardize correctional facility security and order, that witnesses or victims will not be intimidated and that he/she will not engage in any action which could otherwise interfere with the administration of justice.

(c) In those cases where the Superintendent grants the inmate's request for release from Disciplinary Detention pending appeal, the release shall not preclude the correctional facility from denying outside privileges; e.g., furloughs for the inmate even though other disciplinary sanctions are suspended pending the outcome of the appeal.

10A:4-11.4 Investigation of appeal

(a) The Superintendent of his/her designee shall order an independent investigation of the charge and proceedings of the hearing in those instances in which the inmate's appeal and information furnished after the initial disciplinary hearing appear to warrant such action.

(b) The Superintendent shall have the option to request a total or partial reinvestigation of the charge or proceedings of the hearing. The reinvestigation may be conducted by any person or unit designeted by the Superintendent; provided, however, that the individual shall have had no contact with the issuance of first investigation of the charge.

(c) The reinvestigation may include any of the components of the original investigation such as reinterviewing witnesses, inmates and officers, reevaluating reports and reexamining evidence.

(d) If on the basis of new evidence, the Superintendent finds serious issues of credibility, he/she may also request a polygraph examination as part of the reinvestigation. Such requests shall be in accordance with N.J.A.C. 10A:3, SECURITY AND CONTROL.

(e) In reviewing an appeal the following factors shall be considered:

1. Compliance with the subchapters on inmate discipline which prescribe procedural safeguards;

2. Whether the decision of the Disciplinary Hearing Officer or Adjustment Committee was based upon substantial evidence;

3. Whether the sanction imposed was proportionate to the offense in view of the inmate's recent disciplinary history and present custody status; and/or,

4. Whether extenuating circumstances were considered.

10A:4-11.5 Disposition of appeal

(a) At the conclusion of the Superintendent's review of an appeal, one of the following actions shall be taken:

1. The Superintendent or his/her designee shall rescind the decision of the Disciplinary Hearing Officer or Adjustment Committee if the review and/or investigation indicates that the evidence fails to demonstrate that any violation was committed, or he/she determines that there was such a failure to adhere to proper procedures at the initial hearing that the inmate had been irreparably prejudiced and would be unable to present a defense at a rehearing. No further disciplinary action shall be taken. The copies of the infraction and all notations concerning the infraction shall be promptly expunged from the inmate's records.

2. The Superintendent or his/her designee shall rescind the original decision and order a new hearing if the review and/or investigation indicates that procedural safeguards prescribed for inmate disciplinary hearings were not followed, or if new evidence not available at the original hearing is revealed. If a new hearing is ordered, there shall be no increase in the severity of the sanctions unless new evidence warrants such action.

3. The Superintendent or his/her designee shall downgrade the sanctions if the review and/or investigation indicates that the sanction is disproportionate to the offense in accordance with factors enumerated in N.J.A.C. 10A:4-9, DUE PROCESS.

4. The Superintendent or his/her designee shall order a new hearing if the review and/or investigation indicates that the evidence does not support the findings of the Adjustment Committee or Disciplinary Hearing Officer but would support some form of disciplinary action for a lesser included offense than that with which the inmate was charged.

5. The Superintendent or his/her designete, in all other cases, shall uphold the decision of the Adjustment Committee or Disciplinary Hearing Officer and make no change in the penalty.

(b) In no event shall there be an increase in severity of sanctions issued by the Adjustment Committee or Disciplinary Hearing Officer solely as a result of the review of the appeal.

10A:4-11.6 Policy regarding rehearings

(a) If a rehearing if required, the inmate shall be accorded all procedural rights applicable to a disciplinary hearing.

(b) The hearing body may be the same as that which heard the original charge unless the composition of that body was the procedural defect requiring the rehearing or unless there is a substantial likelihood of prejudice.

You're viewing an archived copy from the New Jersey State Library.

1. In the absence of exceptional circumstances, a rehearing shall be scheduled no more than 14 days from the date of the original hearing.

2. When a disciplinary sanction has not been suspended pending the outcome of the appeal, a rehearing shall be scheduled within 24 hours of the Superintendent's decision to have the matter reheard, excluding weekends and holidays, in the absence of exceptional circumstances.

(c) Rehearings may be appealed and the Superintendent may exercise the same options as provided for in N.J.A.C. 10A:4-11.5.

10A:4-11.7 Notification of inmate on appeal results

(a) In all cases, the inmate shall be notified in writing of the results of the review of his/her appeal and the reasons therefor.

1. If an inmate is being held in Disciplinary Detention which resulted from disciplinary action, the written decision on the appeal shall be given to the inmate within 72 hours of receipt of the appeal, excluding weekends and holidays.

2. In all other cases, or if the sanctions have been suspended, the Superintendent of his/her designee shall respond in writing to the inmate within seven working days of receipt of the appeal. Form 245-II, Disposition of Disciplinary Appeal shall be used for this purpose.

(b) Copies of the decision shall also be distributed to the Adjustment Committee or the Disciplinary Hearing Officer and the inmate's file. Other copies may be distributed as determined to be necessary by the Superintendent.

(c) Only for reasons of significant importance may a Superintendent or his/her designee extend the time limit to act on an appeal. In such case, the inmate shall be notified in writing within the prescribed time period that action on his/her appeal has been extended. Where possible, the reason for the extension shall be explained in general terms to the inmate.

10A:4-11.8 Expungement

Expungement of a disciplinary charge when an inmate has been found not guilty, shall be done in accordance with N.J.A.C. 10A:4-9, DUE PROCESS.

10A:4-11.9 Appeal to the Office of Administrative Law

In those cases in which an inmate has received a sanction of 365 or more days loss of commutation time arising out of a single incident, the inmate may request a de novo hearing by the Office of Administrative Law. Form 257-I shall be used for this purpose (see N.J.A.C. 10A:4-12, APPEAL TO OFFICE OF ADMINISTRATIVE LAW).

SUBCHAPTER 12. APPEAL TO OFFICE OF ADMINISTRATIVE LAW (OAL)

10A:4-12.1 Opportunity to appeal to OAL and time limit

(a) In those cases in which the decision of the Disciplinary Hearing Officer/Adjustment Committee to impose a sanction of 365 days or more loss of commutation time is affirmed by the Superintendent, the inmate shall be advised in writing by the Superintendent or his/her designee, at the time the result of the inmate's appeal is returned to him/her, of the opportunity to further appeal the decision to the Office of Administrative Law. A copy of Form 257-I shall be provided for this purpose.

(b) The inmate shall have 48 hours from receipt of the appeal decision to make such further appeal.

(c) In all cases, the Superintendent or his/her designee may, for good cause shown, accept appeals submitted after the prescribed deadline.

10A:4-12.2 Processing appeal

(a) The inmate shall complete Form 257-I Appeal to Office of Administrative Law and submit it to a staff person. The person accepting the appeal form shall, in the presence of the inmate, sign, date and note the time on the original copy. A copy shall then be returned to the inmate.

(b) If the inmate has been transferred to another correctional facility before completing Form 257-I, the completed form shall be delivered to the Superintendent of the correctional facility from which the charges emanated within 48 hours of its receipt from the inmate.

(c) Inmates unable to complete an appeal form may request assistance in preparing the form from a fellow inmate. When the appeal has been completed by an inmate other than the inmate who received the disciplinary sanction, the name of the preparer should appear on the form.

10A:4-12.3 Transmittal to Commissioner

(a) Within three working days after the Superintendent receives Form 257-I Appeal to Office of Administrative Law, he/she shall send it to the Commissioner or his/her designee together with legible copies of the following:

1. Disciplinary charge(s);
2. Investigation(s);
3. Adjudication(s);
4. Special reports, whether from custody staff, medical staff or others;
5. Authorization for Prehearing Detention, if any;
6. Polygraph result, if any;
7. Confidential reports, if any;
8. Inmate's appeal with exceptions, if any;
9. Any other relevant documentary evidence; and
10. Appeal decision.

(b) Physical evidence shall be maintained in the Office of Internal Affairs at Trenton State Prison, or at the correctional facility where the disciplinary infraction took place, until further notice to produce it at the OAL hearing, or at the request of the Commissioner or his/her designee.

10A:4-12.4 Suspension or stay of sanctions pending appeal to OAL

(a) Inmates who wish to have their sanctions suspended or stayed pending a decision on their appeal, must make a request to the Commissioner or his/her designee for this consideration. If this request is not made, then no action shall be taken to suspend or stay any sanctions received in the disciplinary hearing.

(b) If requested, a disciplinary sanction shall not be suspended or stayed pending appeal unless the inmate establishes by clear and convincing evidence that:

1. A suspension or stay will not jeopardize correctional facility security and order;
2. Witnesses or victims will not be intimidated; and,
3. He/she will not engage in any action which could otherwise interfere with the administration of justice.

(c) In those cases where the Commissioner grants the inmate's request for a suspension or stay pending appeal, the suspension or stay shall not preclude the correctional facility from denying outside privileges (for example, furloughs, etc.) for the inmate even though other disciplinary sanctions are suspended or stayed pending the outcome of the appeal.

(d) The decision of the Commissioner to grant or to deny a suspension or stay is a final agency action and may not be transmitted to the Office of Administrative Law as a contested case issue. The decision may be appealed to the Appellate Division of Superior Court pursuant to court rules.

You're viewing an archived copy from the New Jersey State Library.

10A:4-12.5 Transmittal to OAL

(a) Within three working days after receipt of the inmate's Appeal to the Office of Administrative Law, the Commissioner shall send the appeal to the OAL, together with the following:

1. Disciplinary charge(s);
2. Adjudication(s);
3. Inmate's appeal with exceptions, if any;
4. Result of appeal to Superintendent;
5. Result of application for a stay; and,
6. Request for representation by the Attorney General.

10A:4-12.6 Place for hearing

Office of Administrative Law hearings shall be held at the correctional facility in which the inmate is confined. A suitable room at each facility shall be provided, together with security as deemed necessary by the OAL Judge and Superintendent.

10A:4-12.7 Conduct of hearing

The hearing shall be conducted by an OAL Judge assigned by the Office of Administrative Law, in accordance with procedures established and promulgated by the Office of Administrative Law in N.J.A.C. 1:10A-1.1 et seq.

10A:4-12.8 Burden and standard of proof

The correctional facility shall have the burden of proving by a preponderance of evidence that the adjudication of guilt and the penalty are warranted by the facts and the law.

SUBCHAPTER 13. RESIDENT DISCIPLINE PROGRAM FOR THE TRAINING SCHOOL FOR BOYS AT SKILLMAN

10A:4-13.1 Scope

The rules in this subchapter apply to the residents of the Training School for Boys at Skillman.

10A:4-13.2 Staff responsibilities

All staff members shall be responsible for enforcing correctional facility rules and regulations.

10A:4-13.3 Orientation

All residents shall receive orientation by the cottage staff of Skillman to the Resident Discipline Program at Skillman within the first 10 days following their arrival at the correctional facility. This orientation program shall include information about the facility's rules and regulations as well as an explanation of the disciplinary process.

10A:4-13.4 Handbook

Residents shall be provided with a handbook which includes a chapter on discipline which shall explain the resident's rights and responsibilities, the rules and regulations of the facility, a list of possible remedial measures and a basic description of the correctional facility's disciplinary procedures.

10A:4-13.5 Responsibilities and prohibited acts

(a) The list of basic responsibilities and prohibited acts concerning resident conduct in (b) and (c) below shall be included in the handout for new residents and shall be reviewed with all residents during orientation.

(b) Each resident shall be expected to:

1. Maintain a positive attitude toward authority;
2. Show respect for other residents and staff and not use abusive or obscene language;
3. Avoid fighting or other aggressive acting out behavior;
4. Remain on grounds unless authorized for off grounds;
5. Keep himself clean;
6. Keep his bed and locker clean;
7. Remain under the supervision of a staff person except when authorized to engage in unsupervised activity;
8. Follow directions for going from one place to another as a group;
9. Have a pass whenever going to a permitted place by himself;
10. Make appropriate use of correctional facility property;
11. Respect the property of others;
12. Be honest;
13. Follow the instructions of staff members;
14. Learn and follow the routines of the cottage and classroom;
15. Learn and obey all rules of the campus and cottage; and
16. Keep only items which are permitted.

(c) No resident shall be permitted to;

1. Assault or fight with another person;
2. Threaten another person;
3. Use obscene language to a staff member,
4. Leave correctional facility grounds unless authorized by a staff member;
5. Destroy correctional facility property or the property of another person;
6. Lie;
7. Refuse to obey an order of a staff member;
8. Disobey a written rule or regulation of the correctional facility or unit;
9. Be in an unauthorized area;
10. Engage in sexual acts with others or make sexual proposals or threats to others;
11. Smoke;
12. Have or use drugs or medications not allowed;
13. Possess money unless permitted;
14. Have cigarettes, matches, gum, spray paint, tools and sharp instruments;
15. Interfere with the handling of situations involving staff and other residents; and
16. Possess anything not authorized.

10A:4-13.5 Rules and regulations

(a) The correctional facility and each unit shall develop more specific rules and regulations as determined by the composition and programs at the particular units.

(b) Each unit shall acquaint each resident with the specific rules and regulations of the unit.

10A:4-13.6 Disciplinary report form

(a) When a violation of a prohibited act has occurred, the staff member who witnessed it or has probable cause to believe that a prohibited act has occurred shall prepare a Skillman Incident Report form and forward it to his/her immediate supervisor. The incident report shall be made out in triplicate and contain the following information:

1. The resident's name;
2. Housing location;
3. Date;
4. Time;
5. Persons involved in the incident;
6. Description of the misconduct;
7. Location of the misconduct; and
8. Any immediate control or remedial action taken.

(b) The report writer shall make every effort to obtain reliable information on the circumstances under which the misconduct occurred.

You're viewing an archived copy from the New Jersey State Library.

(c) Staff members may provide additional information on an incident by submitting a supplemental report.

(d) In instances of major misconduct violation as described in N.J.A.C. 10A:4-13.13 which results in a referral to the Inter-Institutional Classification Committee (I.I.C.C.) for a disciplinary reason, a copy of the report shall be given to the resident within 24 hours of the referral.

10A:4-13.7 Conference

(a) A conference shall be held with the resident by the Unit Director of the cottage or the Supervisor of Education within one week of the writing of the disciplinary report.

(b) At the conference, the resident shall be given the opportunity to discuss the disciplinary report and receive appropriate counseling.

(c) Immediately following the conference, a copy of the report shall be forwarded to the Cottage Treatment Team together with the recommendations of the Director or Supervisor.

10A:4-13.8 Referral to Cottage Treatment Team

(a) The Cottage Treatment Team shall consist of representatives from the academic area, social services, cottage life services and a chairperson designeted by the Director of Professional Services.

(b) As part of the regular weekly meeting, the team shall process all incident reports written for violations of prohibited acts and make a determination of an appropriate sanction. The sanction shall be one of those enumerated in N.J.A.C. 10A:4-13.11.

(c) The Cottage Treatment Team shall also review each ongoing sanction weekly and shall have the authority to suspend the balance of any sanction previously imposed based upon the resident's subsequent positive behavior and attitude.

10A:4-13.9 Role of the Administrative Case Review Committee

(a) The Administrative Case Review Committee shall consist of the following:

1. Assistant Superintendent, as chairperson;
2. Director of Professional Services;
3. Supervisor of Cottage Life;
4. Social Work Supervisor;
5. Supervisor of Education;
6. Head Nurse; and
7. Psychologist.

(b) The Committee shall periodically review the total program of each resident including his disciplinary record.

(c) The Committee may reverse or modify any disciplinary decision of the Cottage Treatment Team. Nothing in this Subchapter shall require the Committee to review decisions of the Cottage Treatment Team in all cases.

10A:4-13.10 Role of the Superintendent

(a) The Superintendent or his/her designee shall have the authority to reverse or modify any disciplinary decision of the Cottage Treatment Team or the Administrative Case Review Committee.

(b) Nothing in this subchapter shall require the Superintendent to review decisions of these bodies in all cases.

10A:4-13.11 Range of sanctions

(a) A finding of guilt for violation of a prohibited act shall render the resident subject to one or more of the following sanctions:

1. Campus restriction, which consists of loss of privilege to participate in off grounds activities including home visits, weekly movie, swimming pool, gym and cottage based volunteer activities for no more than one month;
2. Loss of home visiting privilege for no more than two months;
3. Loss of off grounds privileges for no more than three weeks;
4. Loss of individual recreation privilege for no more than three weeks;
5. Up to four hours of extra work duty to be performed in one week at no more than one hour per day;
6. Restitution;
7. Forfeiture;
8. Counseling and/or reprimand;
9. Loss of a specified individual cottage unit program privilege; and/or,
10. Any combination of the above.

10A:4-13.12 On-the-spot correction (minor violations)

(a) In cases involving less serious disciplinary infractions, staff members may take immediate disciplinary action. This disciplinary action is limited to the following:

1. Restriction from a specific unit recreational activity or program privilege for the day;
2. After school detainment for one day;
3. Temporary separation from the group or activity;
4. Verbal reprimand; and
5. Counseling.

(b) In all such minor disciplinary cases, a copy of the disciplinary report shall be forwarded to the Cottage Treatment Team.

10A:4-13.13 Major misconduct violations

(a) Serious or major misconduct shall be the violation of a prohibited act that threatens the security of the Training School or causes serious intentional injury to self or others.

(b) Should the Cottage Treatment Team, Administrative Case Review Committee or Superintendent find that a resident's misconduct warrants consideration for disciplinary measures beyond those which may be imposed at the Training School for Boys, Skillman, the Administrative Case Review Committee, with the concurrence of the Superintendent, may refer the case to the Juvenile Inter-Institutional Classification Committee for transfer to the Training School for Juveniles at Jamesburg. (See N.J..C. 10A:9, CLASSIFICATION PROCESS)

(c) Copies of incident reports concerning major acts of misconduct shall always be forwarded to the Superintendent or his/her designee by the Cottage Life Office as soon as received.

(d) If an emergency situation occurs requiring immediate transfer of a resident to the Training School for Juveniles at Jamesburg, the procedures shall be followed as outlined in N.J.A.C. 10A:9, CLASSIFICATION PROCESS.

10A:4-13.14 Remedial action

(a) To the extent possible, sanctions shall be directly related to the violation and, except for authorized immediate corrective actions, shall be imposed subsequent to the review of the incident report at the next scheduled meeting of the Cottage Treatment Team.

(b) Disciplinary measures which shall not be utilized under any circumstances include:

1. Corporal punishment;
2. Degrading action or language; and
3. Deprivation of meals, regular evening snacks, mail or eligible visits.

You're viewing an archived copy from the New Jersey State Library.

10A:4-13.15 Segregation and detention units

There shall be no segregation or detention units as part of the Resident Discipline Program at Skillman.

10A:4-13.16 Contraband items

Any items on the correctional facility list of contraband which is found in the resident's possession shall be confiscated and disposed of in accordance with N.J.A.C. 10A:3, SECURITY AND CONTROL.

INSURANCE

The following proposals are authorized by Jasper J. Jackson, Acting Commissioner, Department of Insurance.

Submit comments by February 5, 1986 to:

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

(a)

DIVISION OF LICENSING

Approval of Insurance Schools and Company Training Programs
Continuing Education Courses

Proposed Amendment: N.J.A.C. 11:2-19.2

Authority: N.J.S.A. 17:1-8.1; 17:1C-6(e); 17B-22-13(a) as amended by P.L. 1983, c.533, sec. 9; 17:22-6.6.
Proposal Number: PRN 1985-715.

The agency proposal follows:

Summary

The proposed amendment, N.J.A.C. 11:2-19.2(a)7, requires each insurance school or company training program approved or seeking approval by the Commissioner to offer at least two continuing education courses each year as approved by the Commissioner pursuant to N.J.A.C. 11:2-20.5.

The original proposal of the approval of schools rule, published at 16 N.J.R. 2920(b), included this provision. The provision was deleted upon adoption at 17 N.J.R. 2910(b) because of its relation to the continuing education rule (N.J.A.C. 11:2-20) which had not been adopted.

At this time, N.J.A.C. 11:2-20 has been reproposed in the December 16, 1985 New Jersey Register, and thus the reference to the continuing education rule may be included in the approval of schools rule.

The Department believes that this amendment is necessary to aid the implementation of N.J.A.C. 11:2-20. In order to have sufficient continuing education courses to meet the need created by the continuing education rule, all insurance schools and company training programs must offer courses. If the schools are not mandated to provide these courses, it will not be possible for agents to fulfill the requirements of N.J.A.C. 11:2-20.

Social Impact

The proposed amendment places a responsibility on insurance schools and training programs to offer continuing education courses. This will enable agents to fulfill their continuing education requirement, which will in turn protect the interests of insurance consumers by producing more competent and informed agents.

Economic Impact

The insurance schools and company training programs may experience a slight increase in cost as a result of the required provisions of these courses. However, they should receive a commensurate increase in tuition, as agents will have to pay for the courses required for completion of the continuing education rule.

The Department will experience an increase in administrative costs as a result of having to monitor compliance with the amendment, but expects to absorb this increase in its existing budget.

Full text of the proposal follows.

11:2-19.1 Standards for insurance schools and company training programs

(a) Each insurance school or company training program approved or seeking approval by the Commissioner must:

1.-6. (No change.)

7. Offer at least two continuing education courses each year as approved by the Commissioner pursuant to N.J.A.C. 11:2-20.5.

(b) (No change.)

(b)

DIVISION OF ADMINISTRATION

Actuarial Services
Blindness; Partial Blindness or Other Physical or Mental Impairments; Unfair Discrimination

Proposed Amendment: N.J.A.C. 11:4-20

Authority: N.J.S.A. 17:1-8.1; 17:1c-6(e); 17-29B-1 et seq. and 17B:30-1 et seq.
Proposal Number: PRN 1985-713.

The agency proposal follows:

Summary

The original purpose of N.J.A.C. 11:4-20 was to eliminate unfair discrimination in the underwriting, insuring and rating of individuals who are blind, partially blind, or physically or mentally impaired, but who are otherwise normal insurance risks. N.J.A.C. 11:4-20 was promulgated in response to complaints received from blind and other physically or mentally handicapped persons who had been denied insurance coverage allegedly without actuarial justification.

Recently, Congressional hearings have confirmed that blind persons have been denied insurance coverage without any actuarial justification in spite of State laws and regulations prohibiting unfair discrimination. As a result of these hearings, Congress has proposed legislation, H.R. 2741 and

You're viewing an archived copy from the New Jersey State Library.

S.1290, which would strengthen the standard for permissible discrimination insurers would have to meet. In response to these recent Congressional findings, the New Jersey Department of Insurance proposes to strengthen the standard in N.J.A.C. 11:4-20 for permissible discrimination.

The current language, which prohibits discrimination except if it is "based on sound, actuarial principles or is related to actual or reasonably anticipated experience," is being eliminated. Instead, the proposed amendments to N.J.A.C. 11:4-20 reflect the standard for permissible discrimination, "clearly demonstrated through sound actuarial evidence", as set forth by Congress. Definitions for blindness, partial blindness and physical or mental impairments are also added to the rule for clarity.

Social Impact

The proposed amendments to N.J.A.C. 11:4-20 benefit blind and partially blind persons, as well as the mentally or physically impaired, by ensuring that insurers will not discriminate unless such action is clearly demonstrated through sound actuarial evidence. The proposed amendments provide insurers with standard definitions of blindness, partial blindness and physical or mental impairments which should aid in the underwriting process. There will be no social impact on the Department of Insurance.

Economic Impact

Insurance rates will be more affordable for blind, partially blind and physically or mentally impaired persons who are otherwise normal insurance risks. Insurers will not experience any increase in benefit payments in providing insurance to persons who are normal insurance risks. There will be no economic impact on the Department of Insurance.

Full text of the proposal follows.

SUBCHAPTER 20. BLINDNESS; PARTIAL BLINDNESS OR OTHER PHYSICAL OR MENTAL IMPAIRMENTS; UNFAIR DISCRIMINATION

11:4-20.1 Purpose

The purpose of this subchapter is to eliminate unfair discrimination in the underwriting, insuring and rating of individuals who are normal insurance risks in spite of blindness, partial blindness, or other physical or mental impairments.

11:4-20.2 Definitions

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

"Blindness" means central visual acuity of not more than 20/200 in the better eye, after correction, or visual acuity greater than 20/200 but with a limitation in the fields of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"Partial blindness" means any limitation in visual acuity or the field of vision, without regard to the severity of such condition.

"Physical or mental impairment" means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems; neurological; muscoloskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

[11:4-20.2] **11:4-20.3** Unfairly discriminatory acts or practices

(a) The following are hereby identified as acts or practices which constitute unfair discrimination between individuals of the same class:

1. Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness, or partial blindness or other physical or mental impairments, except where refusal, limitation or rate differential is [based on sound, actuarial principles or is related to actual or reasonably anticipated experience.] **clearly demonstrated through sound actuarial evidence.**

(a)

DIVISION OF ACTUARIAL SERVICES

Reporting of Liquor Law Liability Loss Experience Statistics

Proposed New Rule: N.J.A.C. 11:4-27.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:22-6.45, 17:23-16, 17 and 18.

Proposal Number: PRN 1985-714.

The agency proposal follows:

Summary

N.J.S.A. 17:23-16, 17 and 18, enacted by the New Jersey Legislature in 1983, effective in February 1984, established a three year reporting and study program on the liquor law liability loss experience of insureds which use alcohol breath analyzer machines and those which do not. These statutes require the Commissioner of Insurance to determine whether that experience justifies a differentiation in premium rates based on the use or absence of those machines on insureds' premises and to make a report to the Governor and the Legislature with recommendations within 180 days after the three year period.

The intent of N.J.S.A. 17:23-16, 17 and 18 is to encourage the installation of breath analyzer machines on premises licensed to dispense alcoholic beverages for on premises consumption. The installation of these machines enables members of the public to have the opportunity to measure their blood alcohol content prior to driving and make an informed decision about driving after drinking.

The proposed new rule implements the statutory intent of N.J.S.A. 17:23-16, 17 and 18 by setting forth the schedule and procedure for the reporting of liquor law liability loss experience data.

N.J.A.C. 11:4-27.1 sets forth the purpose of the new rule.

N.J.A.C. 11:4-27.2, the scope section, sets forth that this rule applies to all insurers, including surplus lines insurers, who issue policies covering liquor law liability for insureds in New Jersey.

You're viewing an archived copy from the New Jersey State Library.

N.J.A.C. 11:4-27.3 contains definitions of the terms "calendar-accident year," "earned premiums," "written premiums," incurred losses paid" and "incurred losses outstanding."

N.J.A.C. 11:4-27.4 sets forth the schedule for the reporting of liquor law liability loss experience. In this section, insurers writing liquor law liability insurance must report, on an annual basis, for three calendar-accident years, 1984, 1985 and 1986. For calendar accident year 1984, losses valued as of March 31, 1985 are due on May 15, 1986. For calendar-accident years 1984 and 1985, losses valued as of March 31, 1986 are also due on May 15, 1986. For calendar-accident years 1984, 1985 and 1986, losses valued as of March 31, 1987 are due on May 15, 1987.

This section also requires that the loss experience data required in this rule must contain, for each calendar-accident year, segregated experience for those insureds which have an alcohol breath analyzer machine on their premises from those which do not.

Finally, this section sets forth that the information required by this rule is to be provided on the forms which are part of the rule.

N.J.A.C. 11:4-27.5 is the penalty section for non-compliance with this subchapter.

Form A in the appendix sets forth the schedule for reporting loss data for risks with alcohol breath analzyer machines on premises.

Form B in the appendix sets forth the schedule for reporting loss data for risks without alcohol breath analzyer machines on premises.

Social Impact

The public will benefit since the new rule implements the statutory intent of N.J.S.A. 17:23-16, 17 and 18. The data obtained through this rule is designed to enable the Commissioner of Insurance to evaluate whether a rate differentiation is needed for insureds with breath analyzer machines on their premises. Existence of a lower rate could encourage tavern owners to install these machines on their premises. Use of these machines may, in turn, help patrons of taverns to make informed decisions about driving after drinking.

Companies writing liquor law liability insurance will experience an impact since they would now be required to maintain statistics of risks with and without breath analyzer machines on their premises. The Department of Insurance will experience an impact since it will be required to monitor and review the data and report to the Legislature its finings.

Economic Impact

This new rule will not have any direct economic impact on the public. It may, however, have an eventual impact on the premium rates for insureds who purchase liquor law liability policies. If the Commissioner determines that the data required by this rule justifies a rate differentation for risks with breath analzyer machines on their premises, liquor law liability insureds could save money on their premiums.

Insurers who write liquor law liability policies will experience an added expense in complying with this new rule. This expense should be minimal.

The Department of Insurance will also experience an added administrative expense in monitoring and reviewing the data and reporting to the Legislature. This added expense will be absorbed by the general operating budget.

Full text of the proposed new rule follows.

SUBCHAPTER 27. REPORTING OF LIQUOR LAW LIABILITY LOSS EXPERIENCE STATISTICS

11:4-27.1 Purpose

The purpose of this subchapter is to implement the statutory intent of N.J.S.A. 17:23-16, 17 and 18.

11:4-27.2 Scope

This subchapter shall apply to all insurers, including surplus lines insurers, authorized to do business in New Jersey who issue policies covering liquor law liability for insureds in New Jersey.

11:4-27.3 Definitions

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

"Calendar-accident year" means the premiums earned during a twelve month period, and the paid and outstanding losses and claims resulting from accidents that occurred during the same period.

"Earned premium" means the portion of the written premium applicable to the expired or used part of the period for which the premium has been charged.

"Incurred losses outstanding" means the total amount of unpaid losses for claims for which the insurer is liable as of a specific date.

"Incurred losses paid" means all money paid to claimants or policyholders in direct settlement of a loss covered by the policies, including allocated claim expenses.

"Written premiums" means the total amount of premiums for all policies, plus additional premiums from endorsements and audits, but less return premiums from endorsements and cancellations. Reinsurance premiums are not to be considered either for reinsurance ceded or accepted.

11:4-27.3 Schedule and procedures for reporting liquor law liability loss experience statistics

(a) Each insurer authorized to do business in New Jersey, which issues policies covering liquor law liability for insureds in New Jersey, shall provide the Commissioner of Insurance with liquor law liability premium, loss and claim experience data, on an annual basis, for three calendar-accident years, 1984, 1985 and 1986 in accordance with the following schedule: for calendar-accident year 1984, losses valued as of March 31, 1985 shall be due on May 15, 1986; for calendar-accident years 1984 and 1985, losses valued as of March 31, 1986; shall be due on May 15, 1986; for calendar-accident years 1984, 1985 and 1986, losses valued as of March 31, 1987 shall be due on May 15, 1987.

(b) Each insurer authorized to do business in New Jersey, which issues policies covering liquor law liability for insureds in New Jersey, shall segregate, for each calendar-accident year, the data required in (a) above for those insureds which have an alcohol breath analyzer machine on their premises from those insureds which do not.

1. The data required by this subchapter shall be indicated on Forms A and B, appended to this subchapter, and shall be submitted to:

Chief of Statistical Services
State of New Jersey
Department of Insurance
201 East State Street
CN 325
Trenton, New Jersey 08625

You're viewing an archived copy from the New Jersey State Library.

11:4-27.5 Penalties

Failure to comply with this subchapter shall result in penalties pursuant to the insurance laws of New Jersey.

APPENDIX A

STATE OF NEW JERSEY
DEPARTMENT OF INSURANCE
LIQUOR LAW LIABILITY INSURANCE
RISKS WITH ALCOHOL BREATH ANALYZER
MACHINES ON PREMISES

FORM A

Company Name _____

Calendar-Accident Year	Losses Valued As of	Premiums Written	Premiums Earned	Incurred Losses Paid	Incurred Losses Outstanding	Number of Claims†
1984	3/31/85					
1984	3/31/86					
1984	3/31/87					
1985	3/31/86					
1985	3/31/87					
1986	3/31/87					

†NOTE: Cases to be counted as claims shall be only those in connection with which a loss payment has been made or a loss reserve established. A claim partly paid and partly outstanding shall be counted only once. A claim on which more than one payment is made shall be counted only once.

APPENDIX B

STATE OF NEW JERSEY
DEPARTMENT OF INSURANCE
LIQUOR LAW LIABILITY INSURANCE
RISKS WITHOUT ALCOHOL BREATH ANALYZER
MACHINES ON PREMISES

FORM B

Company Name _____

Calendar-Accident Year	Losses Valued As of	Premiums Written	Premiums Earned	Incurred Losses Paid	Incurred Losses Outstanding	Number of Claims†
1984	3/31/85					
1984	3/31/86					
1984	3/31/87					
1985	3/31/86					
1985	3/31/87					
1986	3/31/87					

†NOTE: Cases to be counted as claims shall be only those in connection with which a loss payment has been made or a loss reserve established. A claim partly paid and partly outstanding shall be counted only once. A claim on which more than one payment is made shall be counted only once.

LAW AND PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES

Proposals numbered PRN 1985-716, 717 and 718 are authorized by Robert S. Kline, Acting Director, Division of Motor Vehicles.

Submit comments by February 5, 1986 to:

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

(a)

Enforcement Service
Safety Glazing Material; Other Equipment

Proposed Readoption with Amendment: N.J.A.C. 13:20-25.1 through 13:20-25.5.

Authority: N.J.S.A. 39:3-43 and 39:3-75.
Proposal Number: PRN 1985-717.

The agency proposal follows:

Summary

The Division of Motor Vehicles proposes to readopt the provisions of N.J.A.C. 13:20-25.1 through 13:20-25.5 concerning approval of safety glazing material used in motor vehicle windows and other motor vehicle equipment. These rules were initially filed and became effective prior to September 1, 1969. The rules were subsequently amended on January 16, 1981 and will expire on January 16, 1986. They are now being readopted in accordance with Executive Order 66(1978).

The rules implement those provisions of the Motor Vehicle and Traffic Law (N.J.S.A. 39:3-43 and 39:3-75) pertaining to the approval of motor vehicle equipment generally and safety glazing material specifically and the procedure to be followed in submitting motor vehicle equipment and safety glazing material for approval by the Division of Motor Vehicles.

N.J.A.C. 13:20-25.1 (Letters requesting approval) provides that a manufactuer of safety glazing material, motor vehicle equipment or motor vehicle device shall submit a letter requesting approval of the safety glazing material, equipment or device to the Director of the Division of Motor Vehicles. N.J.A.C. 13:20-25.2 (Application requesting approval) directs that an application for approval have attached thereto a report from a recognized independent testing laboratory indicating that the safety glazing material, motor vehicle equipment or motor vehicle device for which approval is requested meets or exceeds the specifications and standards established by the Society of Automotive Engineers, the American Standards Association, the Director of Motor Vehicles or the American Association of Motor Vehicle Administrators. N.J.A.C. 13:20-25.3 (Samples) provides that a properly identified sample of a safety glazing material, a motor vehicle equipment or a motor vehicle device shall be submitted to the Director for test and record purposes. N.J.A.C. 13:20-25.4 (Determination of approval) provides that the Director shall determine from review of the report of the testing laboratory and examin-

You're viewing an archived copy from the New Jersey State Library.

ation of the sample whether the safety glazing material, motor vehicle equipment or motor vehicle device meets the established specifications and standards. The Director shall inform the manufacturer of his determination by letter. N.J.A.C. 13:20-25.5 (Safety glazing material approval procedure) establishes the approval procedure for safety glazing material. This section is being amended to include the standards and specifications established by the American National Standard "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," Z26.1-1966, July 15, 1966, as supplemented by Z26.1a—1969, March 7, 1969. These standards and specifications comport with Federal Motor Vehicle Safety Standard No. 205 (49 CFR§571.205).

The Division of Motor Vehicles has reviewed the rules in accordance with Executive Order 66 and has determined that they are "necessary, adequate, reasonable, efficient, understandable and responsive for the purposes for which they were promulgated". The rules promote highway safety and provide an efficient procedure for the administration of those provisions of the Motor Vehicle and Traffic Law relating to the approval of motor vehicle equipment and safety glazing material.

Social Impact

The rules proposed for readoption promote the public interest in matters relating to highway safety by providing a procedure for the approval of safety glazing material, motor vehicle equipment and motor vehicle devices prior to their installation on motor vehicles which will be operated on the highways of this State.

Economic Impact

There is no economic impact on the general public. There is an economic impact on the State in funding the operation of the Division of Motor Vehicles' Bureau of Vehicle Inspection. The Equipment Approval Program is entirely State funded but the actual cost of administration is unknown since it is only a part of the overall vehicle equipment inspection program. The administrative cost of continuing the Equipment Approval Program is justified in light of the highway safety benefits which result. Presumably, the Program reduces costs to society by preventing motor vehicles with unapproved equipment from being operated on the public highways thereby reducing the number of accidents caused by substandard equipment.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:20-25.

Full text of the proposed amendment to the readoption follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]).

13:20-25.5 Safety glazing material approval procedure

(a) Standards and specifications for the approval of safety glazing materials shall [be those established by the USA Standards Institute Z26.1-1966 Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways.] **conform to the American National Standard "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," Z26.1-1966, July 15, 1966, as supplemented by Z26.1a-1969, March 7, 1969.**

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

(a)

Licensing Service
Special Permits

Proposed Readoption with Amendments: N.J.A.C. 13:21-7.1 through 13:21-7.4

Authority: N.J.S.A. 39:3-10 and 39:3-13.1.
Proposal Number: PRN 1985-718.

The agency proposal follows:

Summary

The Division of Motor Vehicles proposes to readopt the provisions of N.J.A.C. 13:21-7.1 through 13:21-7.4 concerning special permits. These rules were initially filed and became effective on January 9, 1970 and were subsequently amended on February 18, 1981. The rules will expire on February 18, 1986 and are now to be readopted in accordance with Executive Order 66 (1978).

The rules implement those provisions of the Motor Vehicle and Traffic Law (N.J.S.A. 39:3-10 and 39:3-13.1) pertaining to the issuance of special permits to persons over 16 years of age who are enrolled in a course of behind-the-wheel automobile driving education approved by the State Department of Education or who are taking a course of behind-the-wheel automobile driving instruction conducted by a drivers' school licensed by the Division of Motor Vehicles. N.J.A.C. 13:21-7.1 (Special permit defined) sets forth the definition of the term "special permit" as used in the subchapter. N.J.A.C. 13:21-7.2 (Driving test appointment requirements) sets forth the standards for driving test appointments. A holder of a special permit must establish that he has passed the law-knowledge and vision tests in order to be granted a driving test appointment. N.J.A.C. 13:21-7.3 (Method of securing appointment) specifies that a holder of a special permit may present his special permit at any Driver Testing Center for the purpose of securing an appointment for the driving test provided he has completed six hours of "behind-the-wheel" automobile driver training. N.J.A.C. 13:21-7.4 (Validation of special driver examination permits) lists the requirements that must be met for validation of a special permit for practice driving. The holder of the special permit must have (1) completed the "behind-the-wheel" driver training, (2) successfully completed the law-knowledge test, and (3) passed a vision examination.

The Division of Motor Vehicles has reviewed the rules in accordance with Executive Order 66 and has determined that they are "necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were promulgated." The rules provide an efficient procedure for the administration of the special permit provisions of the Motor Vehicle and Traffic Law and protect the public interest in an area relating to the safe operation of motor vehicles on the State's highways. The rules will continue to protect the public interest in this regard.

Social Impact

The rules proposed for readoption have a positive impact on highway safety. Student drivers are permitted to operate dual pedal controlled motor vehicles while enrolled in a behind-the-wheel driver training course and to practice drive conventional automobiles after successfully completing the behind-the-wheel course.

You're viewing an archived copy from the New Jersey State Library.

The rules proposed for readoption will have a continuing beneficial impact on highway safety and have been determined necessary to assure such safety.

Economic Impact

There is an economic impact on the State in funding the Division's Bureau of Driver Testing. The Program is entirely State funded but the actual cost of administration is unknown since it is only a part of the driver testing and driver improvement programs which conduct numerous tests and administrative hearings to determine driver qualification. The cost of continuing the Program is justified in light of the highway safety benefits which result. Presumably, the Program reduces costs to society by teaching safe driving methods to student drivers thereby reducing the number of motor vehicle accidents and the resultant expenses.

There is no general impact on the general public other than the $5.00 special permit fee which the student driver must pay to secure the special permit.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:21-7.

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

13:21-7.2 Driving test appointment requirements

(a) Driving test appointments may be granted and recorded on the driver examination permits prior to the 17th birthday of the applicant; provided that:

1. The student will be at least 17 years of age on the date of appointment;

2. The student has passed the law-knowledge test administered by a representative of the Division of Motor Vehicles, and submits an approval certificate indicating that he has passed. An oral law-knowledge test may be administered by a representative of the Division of Motor Vehicles to a student having a hearing impairment. An interpreter of sign language approved by the New Jersey Division of the Deaf, Interpreter Referral Service must accompany the student for the oral test.

3. The special permit, when presented for the driving test, bears the Snellen eye reading recorded by the school nurse or a representative of the Division of Motor Vehicles;

4. The special permit, when presented for the driving test, bears the signatures of the principal, commercial driver school owner, school nurse and student. A school principal, commercial driver school owner or school nurse may use a signature stamp in place of hand-written signature.

5. The student will have completed an approved "behind-the-wheel" training course on the date of appointment.

13:21-7.3 Method of securing appointment

A student may present his special permit at any Driver [Qualification] **Testing** Center for the purpose of securing an appointment for the driving test; provided, however, that the applicant has completed six hours of "behind-the-wheel" automobile driver training [or has reached the age of 16½].

13:21-7.4 Validation of special driver examination permits

(a) A special driver examination permit may be validated for practice driving a motor vehicle of the class for which a basic driver's license is required during the hours between sunrise and sunset while in the company and under the control of a licensed driver of this State who has had at least three years experience as a licensed motor vehicle driver when:

1. A student has completed "behind-the-wheel" driver training [or is at least 16½ years old] and has successfully completed the law-knowledge test administered by a representative of the Division of Motor Vehicles, and submits an approved certificate indicating that he has passed.

2.-4. (No change.)

(a)

Licensing Service
Age Requirements; Proof of Identity and Date of Birth

Proposed Amendment: N.J.A.C. 13:21-8.2.

Authority: N.J.S.A. 39:3-10, 39:3-11.1, 39:3-13 and 39:3-13.1.

Proposal Number: PRN 1985-716.

The agency proposal follows:

Summary

The proposed amendment supplements N.J.A.C. 13:21-8.2(b)1 by including a photo identification card issued by the New Jersey Casino Control Commission as a document which may be submitted to the Division of Motor Vehicles as proof of identity and date of birth.

Social Impact

The proposed amendment will facilitate the driver license procedure for applicants who hold photo identification cards issued by the New Jersey Casino Control Commission. The photo identification card issued by the Casino Control Commission may be submitted as proof of identity and date of birth for licensing purposes.

Economic Impact

There is a beneficial economic impact on the Division of Motor Vehicles and the citizens of New Jersey in that the proposed amendment facilitates the driver license application procedure. The economic impact is not readily quantifiable in that it entails savings in man-hours at the Driver Qualification Centers.

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

13:21-8.2 Age requirements; proof of identity and date of birth

(a) All applicants must have reached the age of 17 years, except applicants making application under the provisions of N.J.S.A. 39:3-11.1 and [39:3-3.1] **39:3-13.1.**

(b) All applicants will be required to furnish proof of identity and date of birth. Proof of identity and date of birth may be established in the following manner:

1. Submission of the original or certified copy of a birth certificate showing the name and date of birth of the applicant and bearing the registrar's signature and seal of office, **or a photo identification card issued by the New Jersey Casino Control Commission showing the name and date of birth of the applicant and bearing the seal of the Casino Control Commission.**

2. Submission of one or more of the following documents

You're viewing an archived copy from the New Jersey State Library.

when the original or certified copy of a birth certificate is unavailable, **or when a photo identification card issued by the New Jersey Casino Commission is not presented,** or when the applicant is not a citizen of the United States.

i.-viii. (No change.)

3.-4. (No change.)

(a)

BOARD OF MEDICAL EXAMINERS
Standards for Licensure of Physicians Graduated from Medical Schools Not Approved by American National Accrediting Agencies

Proposed Amendment: N.J.A.C. 13:35-3.11

Authorized By: Board of Medical Examiners, Edward W. Luka, M.D., President.
Authority: N.J.S.A. 45:9-2.
Proposal Number: PRN 1985-696.

Submit comments by February 5, 1986 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 amendment would specify an additional requirement for physicians trained in foreign medical schools who wish to secure licenses in New Jersey. Such applicants would present, in addition to current requirements of this rule and of the Medical Practice Act, a document indicating a passing score on the examination administered by the Educational Commission on Foreign Medical Graduates.

Social Impact

The Educational Commission on Foreign Medical Graduates is a long-established private agency which administers a minimum basic medical knowledge examination to students of any school in the world which is authorized by the country of domicile to confer a medical degree. Most, but not all United States hospitals require that applicants for post-graduate training positions demonstrate that they have successfully passed the examination given by ECFMG. Although passage of that examination is by no means an indication that the applicant has completed a thorough and comprehensive medical education, it is the best examination available to date which is both widely accessible all over the world, widely known among medical school students, and generally accepted by United States hospitals as part of the screening mechanism for employment of hospital resident physicians in training. It should be noted that the Educational Commission on Foregin Medical Graduates issues two types of documents: one is a document indicating merely that the holder has taken and passed the ECFMG examination. The other, typically known as "ECFMG Certificate," indicates that the holder has not only passed the examination but has also submitted documentation deemed sufficient by the ECFMG to demonstrate graduation from a medical school which is authorized by its host country to confer a medical degree. While the full certificate might be preferable as a minimum screening for hospitals in this country to require, the Medical Board recognizes that many U.S. nationals have attended schools in countries (such as Mexico) which require that the student complete a year of social service in a clinical setting in addition to the standard four years of medical school in order to qualify for a full diploma. Many of those students have completed only four of the five years and therefore do not have regular diplomas. Some U.S. hospitals are nevertheless willing to accept those students into a one-year clinical program (usually referred to as the "Fifth Pathway"). As that tradition is long established, and does not appear to have any adverse impact on the extent of medical education received during the four years of study, the Board is not requiring the "ECFMG Certificate" but merely the document indicating a passing score on the examination.

Economic Impact

No substantial economic impact is anticipated, as most U.S. hospitals do require that a potential hospital resident present either the "ECFMG Certificate" or a certificate indicating completion of four years at a foreign medical school followed by a year of clinical training in a U.S. hospital for those persons who were refused a graduation diploma because they had not performed social service. Nevertheless, it has come to the attention of the Board that not all hospitals have routinely required any indication of ECFMG testing. Starting July 1984 the Educational Commission on Foreign Medical Graduates has conducted a newly designed and more rigorous examination called Foreign Medical Graduate Examination in Medical Science, or "FMGEMS." The proposed rule amendment permits submission of a document from either exam, depending upon which one was administered at the time the test was taken.

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

13:35-3.11 Standards for licensure of physicians graduated from medical schools not approved by American national accrediting agencies

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

(f) A graduate of a foreign medical school shall demonstrate **a document indicating a passing score on the examination administered by the Educational Commission on Foreign Medical Graduates (FMGEMS or ECFMG, as applicable) followed by** successful completion of three years of post-graduate training approved by the Board of Medical Examiners. [This section shall apply to all persons receiving a medical degree on or after July 1, 1985.]

(g)-(j) (No change.)

You're viewing an archived copy from the New Jersey State Library.

(a)

DIVISION OF STATE POLICE

Firearm Dealer Rules

Proposed Repeal and New Rules: N.J.A.C. 13:54.

Authorized By: Colonel Clinton L. Pagano, Superintendent, Division of State Police.
Authority: N.J.S.A. 2C:58-1 et seq.
Proposal Number: PRN 1985-697.

Submit comments by February 5, 1986 to:
Colonel Clinton L. Pagano, Superintendent
New Jersey State Police
P.O. Box 7068
West Trenton, New Jersey 08625

The agency proposal follows:

Summary

This proposal repeals the existing text of N.J.A.C. 13:54 and replaces it with new rules to accomplish necessary revision, updating and clarification of the terms and conditions applicable to the Administration of the firearms dealer laws, including licensing in the State of New Jersey. The proposed rules properly designate the Superintendent of the Division of State Police as the appropriate State official with all appropriate regulatory power to regulate the firearms industries in New Jersey.

The proposed rules result in several changes in the existing rules as well as proposing certain new requirements with the view being an updating of procedural and licensing requirements. The Superintendent of the Division of State Police has determined that new rules are necessary, reasonable and responsive to the purpose set forth in N.J.S.A. 2C:58-1 et seq. A summary of the proposal follows:

N.J.A.C. 13:54-1 defines words and terms used in the regulations and prescribes standards for the issuance of Firearm Purchasers Identification Card and Permit to Purchase a Handgun.

N.J.A.C. 13:54-2 prescribes standards for the issuance of Permit to Carry a Handgun.

N.J.A.C. 13:54-3 sets forth the requirement for obtaining a Retail Dealer License and the licensee responsibilities.

N.J.A.C. 13:54-4 sets forth the requirement for obtaining a Certificate of Registration for Wholesale Dealer or Manufacturer and the licensee responsibilities.

N.J.A.C. 13:54-5 prescribes the final form to be utilized in applying for permits, identification cards and licenses.

N.J.A.C. 13:54-6 prescribes security requirements for Firearm Dealers.

Social Impact

The proposed new rules will assist the Division of State Police in their responsibilities in administering the statutory and regulatory provisions for the operation of a firearm business in the State of New Jersey. The new rules are in accordance with the legislative intent of N.J.S.A. 2C:58-1 et seq. The social impact due to this revision is to clarify certain rules for the benefit of license holders and the public at large. It is also anticipated that the social impact will be one of providing both license holders and the public at large with better protection and safety prior to and during the operations of a firearms business.

Economic Impact

The proposed new rules will present a minimal cost, if any, to license holders. This minimal economic impact is anticipated as the proposed rules governing licensee regulations are presently being adhered to in the firearms industry. Furthermore, it is anticipated that the updating of the safety requirements and clarification of present rules will assist in minimizing the possibility of any danger to the Public Health, Safety and Welfare during the operation of a firearms business.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:54.

Full text of the proposed new rules follows:

CHAPTER 54
FIREARMS AND WEAPONS

SUBCHAPTER 1. FIREARMS PERMIT AND IDENTIFICATION CARD

13:54-1.1 Firearms permit and identification card; general

This subchapter prescribes requirements for issuance of firearms purchaser identification card, a permit to purchase a handgun and the general rules for holders of such permits and identification cards.

13:54-1.2 Permit or identification card required

No person shall receive, purchase or otherwise acquire a rifle, shotgun, antique cannon, or handgun, except antique rifles and shotguns, unless he has first obtained a firearms purchaser identification card or a permit to purchase a handgun as issued under this chapter.

13:54-1.3 Definition

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

"Ammunition" means various projectiles together with their fuses, propelling charges and primers that are fired from firearms or weapons.

"Body armor penetrating bullets" means any bullet primarily designed for handguns and whose core is of tungsten carbide or hard bronze or with a jacket thicker than .025 of an inch or is made of other material which is harder than a rating of 72 or greater on the Rockwell B. Hardness Scale and is capable of breaching or penetrating body armor.

"Firearm or firearms" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectile, ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas, or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

 You're viewing an archived copy from the New Jersey State Library.

"Gunsmith" means a person who repairs or services firearms.

"Handgun" means any pistol, revolver, or other firearms originally designed or manufactured to be fired by the use of single hand.

"Manufacturer" means any person(s) who receive(s) or obtain(s) raw materials or parts and processes them into firearms or finished parts of firearms, except a person who exclusively processes grips, stocks, and other nonmental parts of firearms. The term does not include a person who repairs existing firearms or receives new and raw materials or parts solely for the repair of existing firearms.

"Person" means any individual, corporation, partnership, firm or association of any kind or nature whatsoever; any public entity of any kind or nature; the plural as well as the singular and any gender.

"Retail dealer" means any person, including a gunsmith, except a manufacturer or a wholesale dealer, who sells, transfers, or assigns for a fee or profit any firearm or parts of firearms or ammunition which he has purchased or obtained with the intention or for the purpose of reselling or reassigning to persons who are reasonably understood to be the ultimate consumer, and includes any person who is engaged in the business of repairing firearms or who sells any firearm to satisfy a debt secured by the pledge of a firearm.

"Rifle" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire a single projectile through a rifled bore for each single pull of the trigger.

"Sawed-off shotgun" means any shotgun having a barrel or barrels of less than 18 inches in length measured from the breach to the muzzle, or a rifle having a barrel or barrels of less than 16 inches in length measured from the breach to the muzzle, or any firearm made from a rifle or a shotgun, whether by alteration, or otherwise, if such firearm as modified has an overall length of less than 26 inches.

"Shotgun" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each pull of the trigger, or any firearm designed to be fired from the shoulder which does not fire fixed ammunition.

"Superintendent" means Superintendent of State Police.

"Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all:

1. Firearms, even though not loaded or lacking a clip or other component to render them immediately operable;

2. Components which can be readily assembled into a weapon; and

3. Gravity knives, switch-blades knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cestus or similar leather bands studded with metal filings or razor blades imbedded in wood; and any weapons or other device which projects, releases or emits tear gas or any other substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air.

"Wholesale dealer" means any person, except a manufacturer, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are reasonably understood not to be the ultimate consumer, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms, in furtherance of such purpose, except that it shall not include those persons dealing exclusively in grips, stocks and other nonmetal parts of firearms.

13:54-1.4 Application for a firearms purchaser identification card (rifles, shotguns and antique cannons only)

(a) Every person applying for a firearms purchaser identification card shall furnish such information and particulars as are set forth in the application form designated STS-33. Forms can be obtained from police departments and State Police stations, and licensed retail firearms dealers.

(b) The completed application, together with two sets of the applicant's fingerprints and fingerprint fees as established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq. (L. 1985 c. 69), a consent for mental health records search form designated STS-1 and a nonrefundable application fee of $5.00 shall be submitted to the chief of police of an organized full time police department in the municipality in which the applicant resides. If the municipality does not have an organized full time police department, application shall be made to the state police station servicing the municipality in which the applicant resides.

13:54-1.5 Prerequisites for permit or identification card

Every person issued a permit to purchase, or an identification card, shall be 18 years of age and of good repute in the community in which he lives.

13:54-1.6 Limitations on issuance

(a) A permit to purchase, or an identification card, shall not be issued to any person who is subject to any of the following disabilities:

1. Convicted of any crime;

2. A drug dependant person;

3. Confined or treated for a mental disorder or psychiatric condition;

4. A habitual drunkard or alcoholic;

5. Suffering from a physical defect or disease which would make it unsafe for him to handle firearms;

6. Where the issuance would not be in the interest of the public health, safety and welfare;

7. Knowingly falsifies any information on the application forms for a permit to purchase a handgun or firearms purchaser identification card.

8. Refuses to waive statutory or other right of confidentiality relating to institutional confinement.

13:54-1.7 Exception for physical disability or mental disorder

A permit or identification card shall be issued to a person who suffers from a physical defect or disease, or mental disorder, or is an alcoholic if a certificate of a medical doctor or psychiatrist licensed in New Jersey or other satisfactory proof that he is no longer suffering from that particular disability in such a manner that it would interfere with or handicap him in the handling of firearms is provided by the applicant.

13:54-1.8 Limitations in the interest of public safety or welfare

A permit or identification card shall not be issued to any person where issuance would not be in the interest of the public health, safety and welfare.

13:54-1.9 A non-resident application

Any person who is not a resident of this State shall make application at a State Police station.

You're viewing an archived copy from the New Jersey State Library.

13:54-1.10 Issuance of identification card

(a) The chief of police or the Superintendent of State Police, as the case may be, shall cause the applicant to be investigated and either approve or disapprove the application upon completion of the investigation.

(b) If the application is approved, the chief of police or the superintendent shall issue a firearms purchaser identification card.

13:54-1.11 Duration

The identification card shall be valid permanently or until such time as the holder becomes subject to any of the disabilities set forth in this subchapter.

13:54-1.12 Return of identification card

Upon becoming subject to any of the disabilities set forth in this subchapter, the card shall be void and shall be returned to the Superintendent within five days.

13:54-1.13 Revocation

(a) A firearms purchaser identification card may be revoked by the judge of the Superior Court of the county wherein the card was issued.

(b) The county prosecutor, any law enforcement officer or any citizen may request a hearing for revocation by applying to the Superior Court having jurisdiction.

13:54-1.14 Duplicate firearms purchaser identification card

(a) Persons shall apply for a duplicate firearms purchaser identification card to replace a lost, stolen or mutilated card, or a change of residence by the holder within 30 days of such loss, theft, mutilation, or change of residence.

(b) The applicant will complete an application for a duplicate firearms purchaser identification card designated as form STS-3 and a consent for mental health records search designated as form STS-1 and present them to the police department where the applicant resides or the State Police in all other cases.

(c) It shall be the responsibility of the chief of police of the municipality wherein the applicant currently resides or the Superintendent of State Police in all other cases, to make a criminal history records check with the State Bureau of Identification to determine if the applicant is subject to any of the disabilities as provided by law and to issue the duplicate card, should the applicant qualify. The applicant shall pay the appropriate fee for the Criminal History Record Check as established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq. (L. 1985 c. 69).

13:54-1.15 Application for permit to purchase a handgun

(a) Every person applying for a permit to purchase a handgun shall furnish such information and particulars as set forth in the application form designated STS-33A. Forms can be obtained from police departments and State Police stations, and licensed retail firearms dealers.

(b) The completed application together with two sets of the applicant's fingerprints and fingerprint fees as established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq. (L. 1985 c. 69), a consent for mental health records search from designated STS-1 and a nonrefundable fee of $2.00 for each permit requested, shall be submitted to the chief of police of an organized full time police department in the municipality in which the applicant resides or the State Police in all other cases.

(c) Applicants are not limited to one permit per application.

(d) The number of permits requested and each permit number shall be entered in the spaces provided on the application.

13:54-1.16 Issuance of a permit

(a) The chief of police or the Superintendent, as the case may be, shall cause the applicant to be investigated to determine whether the application should be approved or disapproved.

(b) If the application is approved, the chief of police or the Superintendent shall issue a permit to purchase a handgun.

13:54-1.17 Duration

(a) A permit to purchase a handgun shall be valid for a period of 90 days from the date of issuance and may be renewed by the issuing authority for an additional 90 days for a total of 180 consecutive days.

(b) Only one handgun can be purchased with each permit.

13:54-1.18 Appeal

(a) Any person denied a firearms purchaser identification card or a permit to purchase a handgun may request a hearing in the Superior Court of the county in which he resides or in the Superior Court of the county in which his application for a firearms purchasers identification card was filed if he is a nonresident.

(b) The request for a hearing shall be made in writing within 30 days of the denial.

SUBCHAPTER 2. HANDGUNS

13:54-2.1 Permit to carry handgun

This subchapter prescribes requirements for issuance of a permit to carry a handgun and the general rules for holders of such permits.

13:54-2.2 Permit required

No person, not otherwise permitted by law, shall carry, hold or possess a handgun in any automobile or other vehicle, or on or about his clothes or person, or otherwise in his possession or under his control in any public place or public areas without first having obtained a permit to carry the same in accordance with the provision of this chapter.

13:54-2.3 Application for a permit to carry a handgun

(a) Every person applying for a permit to carry a handgun shall furnish such information and particulars as set forth in the application form designated SP-642. Applications can be obtained at police departments and State Police stations.

(b) The completed application together with two sets of the applicant's fingerprints and fingerprint fees as established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq. (L. 1985 c. 69), four photographs (1 1/2 x 1 1/2 square), a consent for mental health records search form designated STS-1 and a permit fee of $20.00 payable to the County Clerk where the permit is to be issued shall be submitted to the chief of police of the municipality in which the applicant resides or the State Police if the applicant is a non-resident or an employee of an armored car company and in all other cases.

13:54-2.4 Proof of familiarity and need required

(a) All persons issued a permit to carry shall demonstrate that he is thoroughly familiar with the safe handling and use of handguns and that he has a justifiable need to carry such handgun.

(b) In addition to the requirements of N.J.S.A. 2C:58-4 any application to carry a handgun by an employee of an armored car company shall be accompanied by a letter from the chief executive officer of the armored car company verifying employment of the applicant; endorsing approval of the application; and agreeing to notify the superintendent within five days of the termination of the employee or any person to

 You're viewing an archived copy from the New Jersey State Library.

whom a permit is issued and to obtain from the employee the permit which shall thereupon be surrendered to the superintendent.

13:54-2.5 Limitations on issuance

A permit to carry a handgun shall not be issued to any person who is subject to any of the disabilities which would prevent his obtaining a permit to purchase a handgun or a firearms purchaser identification card as provided in this chapter.

13:54-2.6 Approval of application

The chief of police or the Superintendent, as the case may be, shall cause the applicant to be investigated and either approve or disapprove the application after completion of the investigation. If the application is approved, it shall be forwarded to the county clerk for presentation to a judge of the Superior Court where the applicant resides, or if a nonresident to the county where he intends to carry the handgun.

13:54-2.7 Issuance of a permit to carry a handgun

(a) Upon being satisfied of the sufficiency of the application and the fulfillment of the provisions of Chapter 58, Laws of 1979, the judge shall issue a permit.

(b) The court may, at its discretion, issue a limited type permit which would restrict the applicant as to the types of handguns he may carry and where and for what purposes such handguns may be carried.

13:54-2.8 Appeal

(a) Any person making application for a permit to carry a handgun who is denied approval by the chief of police or the superintendent, may request a hearing in the Superior Court of the county wherein the application was made. Such request shall be made in writing within 30 days of denial of approval of the application.

(b) If the application is denied by the judge of the Superior Court the appeal shall be made in accordance with law.

13:54-2.9 Duration

All permits to carry a handgun shall expire two years from the date of issuance or, in the case of an employee for an armored car company, upon termination of his employment by the company occurring prior thereto whichever is earlier in time.

(b) Permits may be renewed in the same manner and subject to the same provisions by which the original permit was obtained.

13:54-2.10 Return of permit

Upon becoming subject to any disability set forth in this chapter, or should the applicant need requirement no longer exist, the permit to carry a handgun shall be void and shall be returned to the superintendent within five days.

SUBCHAPTER 3. RETAIL DEALERS

13:54-3.1 Licensing of retail dealers; general

This subchapter prescribes requirements for issuance of a license for the retail sale of firearms, retail sale of ammunition, gunsmithing and the general rules for holders of such licenses.

13:54-3.2 Retail license required

No retail dealer shall sell or expose for sale or possess with intent to sell, any firearm, parts of firearms, ammunition, or engage in gunsmithing, unless he has first obtained a retail dealers license as issued under this chapter.

13:54-3.3 Application for license

(a) Every person, partnership or corporation applying for a license shall furnish such information and particulars as set forth in the application form designated SP-649 and in the case of partnerships and corporations, also the application form designated SP-649A. Such forms may be obtained from the Firearms Investigation Unit, Division of State Police, Box 7068, West Trenton, New Jersey 08625.

(b) The completed application, together with two sets of the applicant's fingerprints, a consent for mental health records search form designated STS-1 and a nonrefundable fee of $50.00 for three years, in addition to the fingerprint fees as established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq. (L. 1985 c. 69) shall be submitted to the superintendent.

(c) Any person who possesses an actual or equitable controlling interest in an applicant corporation shall complete the necessary application form and be fingerprinted.

13:54-3.4 Standards and qualifications

(a) Every indivdual proprietor, every member of a partnership, and every officer and director of a corporation, making application for a retail dealers license, shall possess the qualifications required to obtain a firearms purchaser identification card as provided in this chapter.

(b) In the conduct of a retail business, no retail dealer, as provided in this subchapter, shall permit any employee or other person to engage in the purchase for sale or offering for sale of firearms, ammunition or engage in gunsmithing, unless such employee or person submits a completed application form NJSP-641 two sets of fingerprints, consent for mental health records search form STS-1 and would qualify to possess a firearms purchaser identification card as provided in this chapter and has been issued an employee license to sell firearms by the Superintendent of State Police. An employee who possesses a firearms purchaser identification card which was issued within two years previous to the employee application need not be fingerprinted, provided he includes the number of his firearms purchaser identification card in block number 29 of the application. A nonrefundable fee of $5.00 shall be paid by the Retail Dealer to the Superintendent for each employee in addition to the fingerprint fees as established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq. (L. 1985 c. 69).

(c) An employee who is licensed to engage in the purchase or sale of firearms, ammunition or engage in gunsmithing is permanently licensed until such time as he terminates his employment or becomes disabled as provided in this chapter.

(d) Should an employee be transferred from his licensed location to another location, within the same employer, that employee shall apply for a transfer of his employee license by submitting application form NJSP-641 consent for mental health records search form STS-1 and surrender his current employee license to the Superintendent of State Police.

(e) The retail dealer shall, within five days, return any employees' license for an employee who has been terminated, transferred, or has become disqualified as provided in this chapter, to the Superintendent of State Police.

(f) No retail dealer shall conduct a retail business in a mobile or temporary facility (mobile meaning easily moved from one location to another; temporary meaning facility not having permanency to it). Temporary includes but is not limited to garage sales, flea markets, gun shows and exhibits.

(g) No retail dealer shall conduct a retail firearms business

You're viewing an archived copy from the New Jersey State Library.

unless local zoning requirements are satisfied for the operation of such a business.

13:54-3.5 Exemptions for physical handicap

A physical handicap shall not disqualify an applicant unless such handicap would interfere with the activities of the applicant or employee to the extent that it would endanger the public health, safety or welfare.

13:54-3.6 Exceptions for corporations

(a) A public corporation whose stock is listed on a major stock exchange at the time of filing of an application for a retail dealer's license shall not be required to furnish the personal data as set forth in the application form for officers or directors of such corporation or for the stockholders of such corporation unless such officer, directors or stockholders directly engage in the sale or purchase of firearms for the corporation.

(b) A certification shall be filed by the member or members holding an actual or equitable controlling interest in each corporation or partnership certifying that such member(s) shall take the appropriate action to inform all employees directly engaged in the sale, purchase or manufacture of firearms or ammunition of the pertinent laws and regulations governing the sale, purchase and manufacture of such firearms or ammunition.

13:54-3.7 Licensing

(a) The Superintendent shall cause the applicant to be investigated.

(b) The application shall then be forwarded by the superintendent to a judge of the Superior Court in the County wherein the retail dealer has his place of business.

(c) The judge shall issue a license to an applicant who conforms to the standards and qualifications prescribed by the Superintendent.

(d) A retail dealers license shall not be issued to any person who is subject to any of the disabilities which would prevent obtaining a permit to purchase a handgun or a firearms purchaser identification card as provided by this chapter.

13:54-3.8 Duration

A retail dealer's license shall be effective for three years from the date of issuance.

13:54-3.9 Renewal

(a) An applicant for renewal of a retail dealer's license shall follow the same procedure as required for the issue of the initial license. Such applications shall be accompanied by a nonrefundable fee of $50.00 payable to the Superintendent of State Police.

(b) In addition to the licensee, all licensed employees who engage in the purchase or sale of firearms, ammunition or engage in gunsmithing, are required to submit renewal applications to continue transacting business for the licensee. An appropriate fee for a Criminal History Record Check shall be paid by the Retail Dealer for each Renewal Employee Application.

13:54-3.10 Revocation

(a) Any retail license may be revoked for breach of any of the conditions under which it was granted or provided for in this chapter, after a hearing by the issuing court.

(b) Any law enforcement officer may make application for such revocation to the Superior Court having jurisdiction.

(c) Any employee license may be revoked for breach of any conditions under which it was granted, or provided for in this chapter, by the Superintendent of State Police.

13:54-3.11 Location of business; security required

(a) The business shall be carried on only in the building or buildings designated in the license.

(b) Each retail dealer shall install a system for the prevention and detection of the theft of firearms or ammunition from the business premises.

(c) The proposed security system shall be subject to approval by the Superintendent of State Police, and plans for such proposed security system shall be submitted to the Superintendent prior to the installation thereof.

(d) The Superintendent shall prepare and furnish dealers a list of approved security systems.

13:54-3.12 Window display prohibited

No firearm, ammunition, or imitation thereof shall be placed in any window or in any part of the premises where it can readily be seen from the outside.

13:54-3.13 Requirements for sale or rifle or shotgun or receiver

Every purchaser must present a firearms purchaser identification card to the dealer who is required to confirm the identity of the purchaser. The purchaser must also sign a certificate of eligibility, filled out by the dealer or his licensed employee, for each rifle or shotgun or receiver purchased. The certificate shall be retained by the dealer.

13:54-3.14 Requirements for sale of a handgun or frame

(a) Every purchaser must present a valid permit to purchase a handgun to the dealer who is required to confirm the identity of the purchaser. A permit is valid for the purchase of one handgun or receiver. The dealer is also required to execute the following procedures:

1. Complete a form of register, which is part of the permit to purchase a handgun, (designated SP-671) for each handgun sold and obtain the signature and address of the purchaser in the purchaser's own handwritting;

2. Complete the permit to purchase a handgun in the space provided on the form;

3. Deliver the handgun unloaded and securely wrapped;

4. Forward the permit to purchase a handgun and form of register copies to the respective individuals, as noted on the left center of the forms, within five days of the date of sale. If the issuing authority is the State Police, both the original and the second copy of the permit to purchase and the form of register are to be forwarded to the State Police.

13:54-3.15 Permanent record or receipt and disposition

(a) Every retail dealer of firearms or gunsmith shall maintain a permanent record of each firearm acquisition and disposition, including firearm frames and receivers. The record shall be maintained in a bound form and shall be kept at the location where the business is being conducted. The purchase or other acquisition of a firearm by the licensed dealer must be recorded no later than at the close of the next business day following the date of such purchase or other acquisition. The record shall show the date each firearm was purchased or otherwise acquired, the type, manufacturer, importer, caliber or gauge, model, name and address of the person from whom received, and the serial number of the firearm. The sale or other disposition of a firearm must be recorded by the licensed dealer not later than the close of the next business day following the date of such sale or disposition. The record shall show the date of sale or other disposition of each firearm and the name and address of the person to whom the firearm was transferred. The information prescribed for the record required by the subchapter shall be in addition to the main-

 You're viewing an archived copy from the New Jersey State Library.

taining of the permit to purchase handgun and form of register (SP-671) and the certificate of eligibility NJSP-634.

(b) Every retail dealer of ammunition shall maintain a permanent record of ammunition acquisition and disposition. The record of purchase or acquisition shall consist of invoices or other commercial records which shall be filed in an orderly manner separate from other commercial records he maintains. Such record shall show the name of the manufacturer, the type, caliber or gauge, quantity of the ammunition acquired in the transaction, the date of each acquisition and from whom received. The record of sale or disposition shall be maintained in a bound form and shall contain the date of the transaction, name of manufacturer, caliber or gauge, quantity of ammunition sold, name, address and date of birth of purchaser, and identification used to establish the identity of purchaser. No record need be maintained for the sale or disposition of shotgun or rifle ammunition. However, sales or other dispositions of ammunition which are interchangeable between rifles and handguns, as well as hollow-nosed or dum-dum ammunition must be recorded. The records shall be maintained in chronological order by date of acquisition and disposition and shall be kept at the location the business is being conducted.

(c) The firearms and ammunition acquisition and disposition record as prescribed under this section need not be required, providing the dealer maintains an updated federal firearms and ammunition record on firearms or ammunition purchased or acquired and sold as prescribed in Title 26, Internal Revenue, Chapter 1 "Commerce in Firearms and Ammunition."

(d) Body armor penetrating bullets shall only be sold to a federally licensed collector of firearms and ammunition, military, law enforcement agencies and licensed firearms dealers.

1. Collectors will be limited to three rounds of each different cartridge.

2. The seller shall record all sales of such ammunition including the name of the purchaser, the agency represented, the authorizing chief of police or highest ranking officer, the date, time and amount of ammunition.

3. All of the above information shall be forwarded to the Superintendent of the State Police within 24 hours of the sale or disposition.

13:54-3.16 Records available to Division of State Police

Records are to be retained by the dealer and shall, for law enforcement purposes, be made available for inspection during reasonable hours to any member of the Division of State Police.

13:54-3.17 Records to Superintendent

Upon discontinuance or termination of a retail dealers license all firearm acquisition and disposition records and ammunition disposition records maintained as provided for in this chapter shall, within five days, be forwarded to the Superintendent of State Police. In addition, the retail dealers license and any employee licenses shall also be forwarded.

13:54-3.18 Appeal

Any person making application for a retail dealer license, who is denied approval by a Superior Court judge of the county wherein the application was made, may file an appeal in accordance with law.

SUBCHAPTER 4. WHOLESALE DEALERS AND MANUFACTURERS

13:54-4.1 General provisions

This subchapter prescribes standards and qualifications for registration of wholesale dealers and/or manufacturers of firearms and the general rules for holders of registration certificates to conduct such business.

13:54-4.2 Registration required

No person shall manufacture or sell at wholesale any firearm or part of a firearm unless he has registered under the provisions of this chapter.

13:54-4.3 Application for a certificate of registration

(a) Every person, partnership or corporation applying for a certificate of registration shall furnish such information and particulars as set forth in the applications forms designated STS-280 and 280A. The forms may be obtained from the Firearms Investigation Unit, Division of State Police, Box 7068, West Trenton, New Jersey 08625.

(b) Any person who possesses an actual or equitable controlling interest in the applicant shall complete the necessary application form and be fingerprinted.

(c) The completed application together with two sets of the applicant's fingerprints, a consent for mental health records search from STS-1 and a nonrefundable fee of $150.00 for three years, in addition to the fingerprint fees as established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq. (L. 1985 c. 69), shall be submitted to the Superintendent of State Police.

13:54-4.4 Standards and qualifications

(a) Every individual proprietor, every member of a partnership and every officer and director of a corporation, registered as a wholesale dealer and/or manufacturer of firearms shall possess the qualifications required to obtain a firearms purchaser identification card as provided in this chapter.

(b) In the conduct of a business to wholesale or manufacture firearms, no wholesale dealer or firearms manufacturer registered as provided in this subchapter shall permit any employee or other person to engage in the purchase or sale or offering for sale of firearms or finished parts of firearms, unless such employee or person submits completed application form NJSP-641 two sets of fingerprints, consent for mental health records search form STS-1 and would qualify to possess a firearms purchaser identification card as provided in this chapter and has been issued an employee license to sell firearms by the Superintendent of State Police. A nonrefundable fee of $5.00 shall be paid by the employer to the Superintendent for each employee in addition to the fingerprint fees as established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq. (L. 1985 c. 69).

(c) An employee who is licensed to engage in the purchase, sale or manufacturer of firearms is permanently licensed until such time as he terminates his employment or becomes disabled as provided in this chapter.

(d) Should an employee be transferred from his licensed location to another location, within the same employer, that employee shall apply for a transfer of his employee license by submitting application form NJSP-641 consent for mental health records search form STS-1 and surrender his current employee license to the Superintendent of State Police.

(e) The wholesale dealer and/or manufacturer shall, within five days, return any employee license for an employee who has been terminated, transferred or has become disqualified as provided by this chapter, to the Superintendent of State Police.

(f) No wholesale dealer and/or manufacturer shall conduct a business in a mobile or temporary facility (mobile meaning easily moved from one location to another; temporary mean-

You're viewing an archived copy from the New Jersey State Library.

ing not having permanency to it). Temporary includes but is not limited to garage sales, flea markets, gun shows and exhibits.

13:54-4.5 Exemptions for physical handicap

A physical handicap shall not disqualify an application to be registered as a wholesale dealer or manufacturer of firearms unless such handicap would interfere with the activities of the applicant or employee to the extent that it would endanger the public health, safety and welfare.

13:54-4.6 Exceptions for corporations

(a) A public corporation whose stock is listed on a major stock exchange at the time of the filing an application for registration as a wholesale dealer and/or manufacturer of firearms, shall not be required to furnish the personal data as set forth in the application form STS-280 for officers or directors of such corporation or for the stockholders of such corporation, unless such officers, directors or stockholders directly engage in the sale or purchase of firearms for the corporation.

(b) A certification shall be filed by the member or members holding an actual or equitable controlling interest in each corporation or partnership certifying that such member(s) shall take the appropriate action to inform all employees directly engaged in the sale, purchase or manufacture of firearms or ammunition of the pertinent laws and regulations governing the sale, purchase and manufacture of such firearms or ammunition.

13:54-4.7 Certification; security required

(a) The Superintendent of State Police shall cause the applicant to be investigated and either approve or deny the application. If the application is approved, the superintendent shall issue a certificate of registration to wholesale and/or manufacture firearms or parts of firearms.

(b) Each registrant as a wholesale dealer and/or manufacturer shall install a system for the prevention and detection of the theft of firearms from the business premises.

(c) The proposed security system shall be subject to approval by the Superintendent of State Police and plans for such proposed system shall be submitted to the superintendent prior to installation thereof.

(d) The Superintendent shall prepare and furnish wholesale dealers and/or manufacturers a list of approved security systems.

(e) A certificate of registration for a wholesale dealer and/or manufacturer shall not be issued to any person who would not qualify for a firearms purchaser identification card as provided by this chapter.

13:54-4.8 Duration

The certification of registration shall expire three years from the date of issuance.

13:54-4.9 Renewal

(a) An applicant for renewal of a certificate of registration shall follow the same procedure required for the initial registration. Renewal application(s) shall be accompanied with a fee of $150.00 payable to the Superintendent of State Police.

(b) In addition to the registrant, all licensed employees who engage in the purchase or sale or firearms or parts of firearms are required to submit renewal applications in order to transact business for the registrant. An appropriate fee for a Criminal History Record Check shall be paid by the employer for each Renewal Employee Application.

13:54-4.10 Revocation

(a) Any certificate of registration may be revoked for breach of any of the conditions under which it was granted, or provided for in this chapter by the Superintendent of State Police.

(b) Any employee license may be revoked for breach of any conditions under which it was granted, or provided for in this chapter, by the Superintendent of State Police.

13:54-4.11 Appeals

Any person who has been refused registration as a manufacturer or wholesale dealer or any person whose name has been removed from registration by the superintendent, may appeal to the Superintendent within 30 days. If the appeal is denied by the Superintendent, he may appeal to the Appellate Division of the Superior Court.

13:54-4.12 Permanent record of receipt and disposition

(a) Each manufacturer and/or wholesale dealer of firearms shall record the type, model, caliber or gauge, and serial number of each complete firearm, frame or receiver he manufactures or otherwise acquires, and the date of manufacture or acquisition of such firearm, frame and receiver. This information shall be recorded no later than the close of the next business day following the date of manufacture or acquisition.

(b) A record of sale or other disposition of a firearm, frame or receiver must be recorded no later than the close of the next business day following the date of such sale or disposition. The record shall indicate the date of the sale or disposition of each firearm, frame or receiver and the name of address of the dealer to whom the firearm, frame or receiver was transferred.

(c) The firearms records as prescribed under this section need not be required providing the dealer maintains an updated federal firearms record on firearms manufactured, purchased or acquired and sold as prescribed in Title 26, Internal Revenue, Chapter I "Commerce in Firearms and Ammunition."

13:54-4.13 Records available to law enforcement agencies

Records are to be retained by wholesale dealers and/or manufacturers and shall, for law enforcement purposes, be made available for inspection during reasonable hours to any member of the Division of State Police.

13:54-4.14 Records to Superintendent

Upon discontinuance or termination of wholesale dealers and/or manufacturers certificate of registration, all firearm acquisition and disposition records maintained as provided for in this chapter shall, within five days, be forwarded to the Superintendent of State Police. In addition, the certificate of registration and any employee licenses shall also be forwarded to the Superintendent.

13:54-4.15 Identification of firearms required

Each registered manufacturer of firearms shall legibly identify each firearm manufactured by engraving, casting, stamping, or otherwise conspicuously placing or causing to be engraved, cast, stamped or placed on the frame, receiver or barrel thereof in a manner not susceptible to being readily obliterated, altered, or removed, an individual serial number not duplicating any serial number placed on any other firearm, manufactured and by engraving, casting stamping, or otherwise conspicuously placing or causing to be engraved, cast, stamped or placed on the frame, receiver, or barrel thereof in a manner not susceptible to being readily obliterated, altered or removed, the model, if such designation has been made;

 You're viewing an archived copy from the New Jersey State Library.

the caliber or gauge; the name of the manufacturer and also, the city wherein the registered manufacturer maintains his place of business. A firearm frame, receiver or barrel which is not a component part of a complete firearm at the time it is sold, shipped or otherwise disposed of by a registered manufacturer shall be identified as required by this subchapter.

SUBCHAPTER 5. SECURITY SYSTEMS FOR DEALERS

13:54-5.1 Definition of "dealer"

The word "dealer", when used in this subchapter, means retail dealers as well as wholesale dealers and shall also include manufacturers of firearms unless the context clearly indicates otherwise.

13:54-5.2 Approval of plans by Superintendent

(a) The dealer shall submit a plan of the selected security system to the Superintendent of State Police.

(b) Upon approval of such plan by the Superintendent, the dealer shall install such system prior to maintaining any inventory of firearms, parts of firearms, or ammunition.

(c) A plan that is not approved will be returned to the applicant along with the reasons for such rejection.

(d) The applicant shall have the opportunity to submit a revised plan.

(e) All security systems shall be subject to inspections by a member of the Division of State Police at any time.

(f) If at any time the system is found to be defective, the dealer shall make the necessary repairs or adjustment within seven days to correct the defect.

(g) Failure of a dealer to comply with any of the security standards may result in the revocation of the license or registration of such dealer.

13:54-5.3 Systems to detect and protect firearms and ammunition in a business premises

(a) The following general list of approved security systems has been formulated as a guide to the firearms dealer, any one of which may be acceptable upon investigation and approval by the Superintendent of State Police.

1. An alarm system designated to activate a bell, gong, horn or siren located on the outside of the business premises which is audible for a minimum distance of 500 feet. The system shall be equivalent or greater to the minimum standards as outlined in N.J.A.C. 13:54-5.4;

2. Silent alarm system capable of automatically transmitting an alarm to a constantly attended central station alarm company and/or to a police department headquarters providing full time service. The system shall be equivalent or greater to the minimum standards as outlined in N.J.A.C. 13:54-5.4;

3. A watchman or security guard on duty during nonbusiness hours;

4. A system other than those listed above proposed by a dealer which is acceptable by the Superintendent of State Police.

13:54-5.4 Minimum requirements for installment of a tape, contact or invisible ray alarm system

(a) The installation of a tape, contact or invisible ray alarm system must:

1. Completely protect all accessible windows doors, transoms, skylights and other openings leading from the premises; or

2. Protect with contacts only, all movable accessible openings leading from the premises and which provides one or more invisible rays or channels of radiation, with the minimum overall length of the rays or radiation, equivalent to the longest dimensions of the area or areas to detect movement through the channel at a rate of one step per second; or

3. Protect with contact only, all doors leading from the premises and provide a system of invisible radiation to all sections of the enclosed areas so as to detect movement. The system shall respond to the movement of a person walking not more than four consecutive steps at a rate of one step per second.

13:54-5.5 Internal security of firearms and ammunition

(a) In addition to the alarm system, a dealer shall provide for the internal security of firearms and ammunition.

(b) The following is a list of approved internal security methods for the safeguarding of firearms and ammunition during nonbusiness hours. A dealer shall select the method(s) which is most compatible with his type of operation:

1. Shotguns and rifles secured in a rack equipped with a locking device such as a metal bar or a steel cable;

2. Firearms and ammunition secured in a heavy gauge metal cabinet equipped with an adequate locking device;

3. Firearms and ammunition secured in a heavy gauge mesh wire cage equipped with an adequate locking device on the door(s);

4. Firearms and ammunition secured in a safe or vault;

5. Metal bars on all windows and on glass portion of door(s);

6. Other method proposed by the dealer which is approved by the Superintendent of State Police.

(c) The method(s) selected by a dealer shall be included in the Security System form STS-61.

(d) Any other building(s) where firearms and/or ammunition are stored shall be subject to the same requirements as applicable to a business premise.

13:54-5.6 Report concerning theft of firearms

(a) Dealers are required to complete form STS-62 and such other forms as shall be required by the Superintendent of State Police, reporting the loss of firearm(s) and/or ammunition, as a result of a burglary, robbery or any other cause, from the business premise. The dealer shall forward the completed form to the Superintendent of State Police within 48 hours of the loss of theft of firearm(s) and/or ammunition. The police department where the business is located shall be notified by the dealer of the theft or loss of firearm(s) and/or ammunition as soon as such loss or theft is discovered.

(b) A complete description, including the type, make, model, barrel-length, caliber and serial number of the stolen/missing firearm(s) shall be given to the investigating police department.

(c) Failure of the dealer to comply with any of the above requirements may result in the revocation of the license of such dealer.

13:54-5.7 Regulations during a civil disturbance or declared emergency period

(a) In the interest of the public health, safety and welfare, firearms dealers shall discontinue the sale of firearms and ammunition upon notification by the Superintendent of State Police or the chief of police of the municipality where the firearms dealers' business is located, that a civil disturbance or other emergency exists.

(b) Those businesses affected shall not resume the sale of firearms or ammunition until such time as the Superintendent of State Police or the chief of police of the municipality de-

You're viewing an archived copy from the New Jersey State Library.

termines that the civil disturbance or other emergency no longer exists.

(c) All dealers located in the area affected by such disturbance or emergency shall be required to comply with one of the following:

1. Arrange with the chief police officer of the municipality for appropriate security of firearms and ammunition;

2. Remove all firearms and ammunition from the business premises to a secure location.

(d) Failure of the dealer to comply with any of the above requirements may result in the revocation of the license of such dealer.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Administration
Due Dates; Transmittals and Reports

Proposed Amendments: N.J.A.C. 17:1-1.3

Authorized By: Douglas R. Forrester, Director, Division of Pensions.
Authority: 52:18A-95 et seq.
Proposal Number: PRN 1985-709.

Submit comments by February 5, 1986 to:
Peter J. Gorman, Esq.
Administration Practice Officer
Division of Pensions
20 West Front St.
CN 295
Trenton, N.J. 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 17:1-1.3(f) clarifies that the due date for transmittals and reports for the Judicial Retirement System, the Public Employees' Retirement System and the Teachers' Pension and Annuity Fund is the 10th day of the month as is indicated in the text of N.J.A.C. 17:1-1.3(e) pertaining to the Police and Firemen's Retirement System. The proposed amendment does not reflect a change in procedure since all such systems have the same reporting date but merely is an attempt to correct an apparent omission in the rule. The amendment will clearly indicate when transmittals and reports are due. The amendment is intended to conform the Division's policy to have all similar rules governing all systems to be as similar as is possible.

Social Impact

The proposed amendment will only affect current and future public employers who are required to forward transmittals or reports to the Division of Pensions.

Economic Impact

The proposed amendment will have no significant, adverse economic impact upon any employers affected since the amendment has actually been the established policy for many years.

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

17:1-1.3 Due dates for transmittals and reports

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

(f) Quarterly transmittals and reports, including the remittance for the third month of the calendar quarter, for the Public Employees' Retirement System, the Judicial Retirement System and the Teachers' Pension and Annuity Fund are due in the **Division of Pensions the 10th day of the** month following the close of the preceding quarter.

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

HEALTH

(b)

LOCAL AND COMMUNITY HEALTH SERVICES

Designated Fluid Milk Products

Proposed New Rule: N.J.A.C. 8:21-10

Authorized By: J. Richard Goldstein, M.D., Commissioner, Department of Health.
Authority: N.J.S.A. 24:10-57.1 et seq., specifically 24:10-57.1, 24:10-57.20 and 24:10-57.24b.
Proposal Number: PRN 1985-706.

Submit comments by February 5, 1986 to:
Kenneth Kolano
Chief, Food and Milk Program
New Jersey Department of Health
Local and Community Health Services
CN 364
Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed new rules concern the adoption of standards of identity for milk and fluid milk products and the sanitary requirements for producers, processors and handlers of milk and fluid milk products. The standard of identity determines the common or usual name of the product, specifies the labelling requirements, the ingredients that can be used in certain milk and fluid milk products and the quantities of the ingredients that must be present. Previous rules concerning milk and fluid milk products expired on December 10, 1985 pursuant to Executive Order No. 66(1978). They can presently be found at N.J.A.C. 8:21-10.

The previous and currently proposed milk regulations are based substantially upon the standards of identity of the Federal Government and the agreements of the National Conference on Interstate Milk Shipments (NCIMS) as published in the "Grade A Pasteurized Milk Ordinance" (PMO). The primary purpose of the NCIMS was to establish uniform requirements for milk and fluid milk products. This provided

You're viewing an archived copy from the New Jersey State Library.

for easier enforcement among the states and freer flow of products within interstate commerce. The NCIMS meets every two years to update the PMO. The proposed regulations contain the latest (1985) revisions to this document.

The purpose of establishing standards of identity is to provide uniformity in product composition, labelling and product terminology. Adoption of identical standards with the other states involved in the Conference permits the free flow of New Jersey product into interstate commerce.

The proposed new rules also identify the specific sanitary requirements for producers, processers and handlers of milk and fluid milk products. Adoption of identical sanitary requirements with other states of the Conference allows for reciprocity between the states and relieves New Jersey of the responsibility and cost of inspecting milk producers and processers in other states. The specific sanitary requirements covered in the proposal include: sanitary requirements for dairy farms, sanitary requirements for milk plants, frequency of product sampling, bacterial and chemical standards, animal health, personnel requirements, plan review for new construction and dating of products.

Social Impact

The social impact of these proposed regulations falls into the following areas. The establishment of standards of identity for milk and fluid milk products ensures the consumer that valuable labelling information is being provided by the processer. Also, consumers are assured that product standards are being met, whereby the consumer will receive products of a consistent quality.

The Department is proposing that certain milk and fluid milk products which have a reduced milkfat content be fortified with vitamin A. This would mean that consumers would be assured of a minimum amount of vitamin A, even if the milkfat content of the product was reduced.

This proposal would provide regulations to govern the processing and packaging of aseptically processed milk and milk products. The aseptic processing and packaging of milk and milk products is a technology relatively new to the United States and allows for the packaging of a milk that requires no refrigeration prior to opening and has an extremely long shelf life. Products processed and packaged in this manner are in more demand by the consumer for camping trips and as emergency rations. The Department's proposal would set the standards such processors would have to meet.

The Department's proposal would bring New Jersey's regulations into conformity with the other states of the National Conference on Interstate Milk Shipments (NCIMS). This would allow for the entry of milk and milk products not produced in New Jersey to be available to New Jersey residents. It would also permit New Jersey products to be sold outside of the state.

The other major social impact of these proposed regulations are the public health aspects of the sanitary requirements for producers, processors and handlers of milk and milk products. The sanitary requirements are an important part of the Department's efforts to prevent foodborne illness and ensure that standards of cleanliness and proper operations to prevent product contamination are being maintained by the industry. The need for strict sanitary requirements is especially necessary at this time in light of recent foodborne outbreaks associated with contaminated milk and cheese.

Economic Impact

The Department believes that the economic impact upon the dairy industry would be minimal and is outweighed by benefits to the industry and consumers.

The economic impact of the proposed regulations generally lies in three areas. The first area is that of exclusion of milk from the marketplace for a minimum of two days when the milk has been found to contain antibiotics or is excessively high in bacteria. The two day exclusionary rule is standard company policy for most milk plants receiving milk from the farmer. The proposal would provide regulatory back-up to milk company policy. This proposed regulation penalizes the farmer for producing a substandard, potentially contaminated product; and assures the consumer a higher quality product in the store.

The second impact is the fortification of lowfat and nonfat milk and milk products with vitamin A. The vast majority of milk plants in New Jersey currently fortify their reduced milkfat products. A few milk plants would be required to fortify their products and change their labelling accordingly, or cease production of the product.

Finally, all milk plants (21) would be required under the proposal to identify the piping within their plants. The expense of this regulation would depend upon the size of the operation. Full compliance with this requirement would assist the Department and the operator by providing a more visible knowledge of the workings of the operation and hopefully prevent the possibility of cross connections between raw and pasteurized products and/or pasteurized product and cleaning solutions.

The Department, by implementing these rule changes, would bring the State into compliance with the National Conference on Interstate Milk Shipments agreement thereby relieving the Department from conducting costly out of state milk producer and dairy plant inspections.

Full text of the proposed new rule follows.

SUBCHAPTER 10. DESIGNATED FLUID MILK PRODUCTS

8:21-10.1 Definitions of product standards

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. The following standards of identity conform to the code of Federal Regulations for milk and cream (21 CFR 131).

"Acidified Sour Cream"

(a) Description. Acidified sour cream results from the souring of pasteurized cream with safe and suitable acidifiers, with or without addition of lactic acid producing bacteria. Acidified sour cream contains not less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of milkfat is not less than 18 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 14.4 percent milkfat. Acidified sour cream has a titratable acidity of not less than 0.5 percent, calculated as lactic acid.

(b) Optional ingredients.

1. Safe and suitable ingredients that improve texture, prevent syneresis, or extend the shelf life of the product.
2. Rennet.
3. Safe and suitable nutritive sweeteners.
4. Salt.
5. Flavoring ingredients, with or without safe and suitable coloring, as follows:

i. Fruit and fruit juice, including concentrated fruit and fruit juice.

You're viewing an archived copy from the New Jersey State Library.

ii. Safe and suitable natural and artificial food flavoring.

(c) Methods of analysis. Referenced methods in paragraph (c)(1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," current edition.

1. Milkfat content—"Fat—Official Final Action."

2. Titratable acidity—"Acidity—Official Final Action."

(d) Nomenclature. The name of the food is "Acidified sour cream." The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in section 101.22 of Title 21 CFR. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened."

(e) Label declaration. Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of Title 21 CFR, except that bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream."

"Acidified Sour Half-and-Half"

(a) Description. Acidified sour half-and-half results from the souring of pasteurized half-and-half with safe and suitable acidifiers, and with or without addition of lactic acid producing bacteria. Acidified sour half-and-half contains not less than 10.5 percent but less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of milkfat is not less than 10.5 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 8.4 percent milkfat. Acidified sour half-and-half has a titratable acidity of not less than 0.5 percent, calculated as lactic acid.

(b) Optional ingredients.

1. Safe and suitable ingredients to improve texture, prevent syneresis, or extend the shelf life of the product.

2. Rennet.

3. Safe and suitable nutritive sweeteners.

4. Salt.

5. Flavoring ingredients, with or without safe and suitable coloring, as follows:

i. Fruit and fruit juice, including concentrated fruit and fruit juice.

ii. Safe and suitable natural and artificial food flavoring.

(c) Methods of analysis. Referenced methods in paragraph (c)(1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," current edition.

1. Milkfat content—"Fat—Official Final Action."

2. Titratable acidity—"Acidity—Official Final Action."

(d) Nomenclature. The name of the food is "Acidified sour half-and-half." The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in section 101.22 of Title 21 CFR. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened."

(e) Label declaration. Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of Title 21 CFR, except that bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream."

"And/or" where the term "and/or" is used, "and" shall apply where appropriate, otherwise "or" shall apply.

"Aseptically processed milk and milk products" means products which are hermetically sealed in a container and so thermally processed in conformance with 21 CFR 113 and the provisions of these regulations so as to render the product free of microorganisms capable of reproducing in the product under normal non-refrigeration conditions of storage and distribution. The product shall be free of viable microorganisms (including spores) of public health significance.

"Aseptic processing" means that the product has been subjected to sufficient heat processing, and packaged in a hermetically sealed container, to conform to the applicable requirements of 21 CFR 113 and these regulations and maintain the commercial sterility of the product under normal non-refrigerated conditions.

"Butter" means the food product known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 percent of milkfat, all tolerances having been allowed for.

"Buttermilk" means a fluid product resulting from the manufacture of butter from milk or cream. It contains not less than 8¼ percent of milk solids-not-fat.

"Bulk Milk Pickup Tanker" means a vehicle including the truck, tank and those appurtenances necessary for its use, used by a milk hauler to transport bulk raw milk for pasteurization from a dairy farm to a transfer station, receiving station or milk plant.

"Butter oil" means the clean, wholesome and unadulterated milkfat obtained from milk, cream, or butter, and which contains not less than 99 percent milkfat.

"Certified industry inspector" means an individual certified by the Department to conduct dairy farm inspections of producers shipping to New Jersey permit holders. Such certification shall be in accordance with the procedures established by the Department pursuant to the provisions of the Grade A Pasteurized Milk Ordinance (1978) (PHS-FDA Publication 229).

"Certified milk" means milk produced in compliance with the laws of this State, the State Sanitary Code, rules and regulations of the Department, and such methods and standards as may be established by the certifying Medical Milk Commission so empowered by law and shall include certified milk which may have been pasteurized, homogenized or modified in accordance with practices approved by the Department and the Certifying Medical Milk Commission.

"CFR" means the Code of Federal Regulations of the United States Government.

"Cheese" shall mean and include those cheeses, processed cheeses, cheese foods, cheese spreads and related food for which definitions and stanards of identity have been promulgated under the provisions of the Federal, Drug and Cosmetics Act and shall conform to such definitions and standards of identity as set forth therein.

"Commissioner" shall mean the Commissioner of the State Department of Health or his/her duly appointed agent.

"Concentrated milk and/or fluid milk products" means and includes the fluid products resulting from the removal of a considerable portion of the water from the milk and/or fluid milk products, which, when combined with potable water in

You're viewing an archived copy from the New Jersey State Library.

accordance with instructions printed on the container, conform with the definitions of the corresponding product as defined.

"Cream" means the liquid milk product high in fat separated from milk, which may have been adjusted by adding thereto: Milk, concentrated milk, dry whole milk, skim milk, concentrated skim milk, or nonfat dry milk. Cream contains not less than 18 percent milkfat.

"Cultured milk"

(a) Description. Cultured milk is the food produced by culturing one or more of the optional dairy ingredients specified in paragraph (c) of this standard with characertizing microbial organisms. One or more of the other optional ingredients specified in paragraphs (b) and (d) of this standard may also be added. When one or more of the ingredients specified in paragraph (d)(1) of this standard are used, they shall be included in the culturing process. All ingredients used are safe and suitable. Cultured milk contains not less than 3.25 percent milkfat and not less than 8.25 percent milk solids not fat and has a titratable acidity of not less than 0.5 percent, expressed as lactic acid. The food may be homogenized and shall be pasteurized or ultrapasteurized prior to the addition to the microbial culture, and when applicable, the addition of flakes or granules of butterfat or milkfat.

(b) Vitamin addition (optional).

1. If added, vitamin A shall be present in such quantity that each 946 milliliters (quart) of the food contains not less than 2,000 International Units (400 ug of retinol equivalence) thereof, within limits of good manufacturing practice.

2. If added, Vitamin D shall be present in such quantity that each 946 milliliters (quart) of the food contains 400 International Units (10 ug) thereof, within limits of good manufacturing practice.

(c) Optional dairy ingredients. Cream, milk, partially skimmed milk, or skim milk, used alone or in combination.

(d) Other optional ingredients.

1. Concentrated skim milk, nonfat dry milk, buttermilk, whey, lactose, lactalbumins, lactoglobulins, or whey modified by partial or complete removal of lactose and/or minerals, to increase the nonfat solids content of the food: Provided, that the ratio of protein to total nonfat solids of the food, and the protein efficiency ratio of all protein present, shall not be decreased as a result of adding such ingredients.

2. Nutritive carbohydrate sweeteners. Sugar (sucrose), beet or cane; invert sugar (in paste or sirup form); brown sugar; refiner's sirup; molasses (other than blackstrap); high fructose corn sirup; fructose; fructose sirup; maltose; maltose sirup; dried maltose sirup; malt extract, dried malt extract; malt sirup, dried malt sirup; honey; maple sugar; or any of the sweeteners listed in 21 CFR 168, except table sirup.

3. Flavoring ingredients.

4. Color additives that do not impart a color simulating that of milkfat or butterfat.

5. Stabilizers.

6. Butterfat or milkfat, in the form of flakes or granules.

7. Aroma and flavor-producing microbial culture.

8. Salt.

9. Citric acid, in a maximum amount of 0.15 percent by weight of the milk used, or an equivalent amount of sodium citrate, as a flavor precursor.

(e) Methods of analysis. Referenced methods in paragraph (e) (1), (2) and (3) of this standard are from "Official Methods of Analysis of the Association of Official Analytical Chemists," current edition.

1. Milkfat content—"Fat—Official Final Action."

2. Milk solids not fat content—Calculated by subtracting the milkfat content from the total solids content as determined by "Total Solids, Method I—Official Final Action."

3. Titratable acidity—"Acidity—Official Final Action."

(f) Nomenclature. The name of the food is "cultured milk." The full name of the food shall appear on the principal display panel in type of uniform size, style and color. The name of the food shall be accompanied by a declaration indicating the presence of any characterizing flavoring as specified in 21 CFR 101.22, and may be accompanied by a declaration such as a traditional name of the food or the generic name of the organisms used, thereby indicating the presence of the characterizing microbial organisms or ingredients, e.g., "kefir cultured milk," "acidophilus cultured milk," or when characterizing ingredients such as those in paragraphs (d) (6), (7), (8) and (9) of this standard, and lactic acid-producing organisms are used the food may be named "cultured buttermilk."

1. The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half of the height of the letters used in such name:

i. The phrase "vitamin A" or "vitamin A added" or "vitamin D" or "vitamin D added," or "vitmain A and D added," as appropriate. The word "vitamin" may be abbreviated "vit."

ii. The word "sweentened" if nutritive carbohydrate sweetener is added without the addition of characterizing flavor.

2. The term "homogenized" may appear on the label if the dairy ingredients used are homogenized.

(g) Label declaration. Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of 21 CFR 101.

"Dairy drink" means a product consisting of fluid skim milk or concentrated or dried skim milk recombined with water, with or without added milkfat, to which has been added a syrup or flavoring material, and which contains not less than 7 1/2 percent milk solids-non-fat.

"Department" means the State Department of Health.

"Eggnong"

(a) Description. Eggnog is the food containing one or more of the optional dairy ingredients specified in paragraph (b), one or more of the optional egg yolk-containing ingredients specified in paragraph (c) of this standard and one or more of the optional nutritive carbohydrate sweeteners specified in paragraph (d) of this standard. One or more of the optional ingredients specified in paragraph (e) of this standard may also be added. All ingredients used are safe and suitable. Eggnog contains not less than 6 percent milkfat and not less than 8.25 percent milk solids not fat. The egg yolk solids content is not less than 1 percent by weight of the finished food. The food shall be pasteurized or ultra-pasteurized and may be homogenized.

(b) Optional dairy ingredients. Cream, milk, partially skimmed milk or skim milk, used above or in combination.

(c) Egg yolk-containing ingredients. Liquid egg yolk, frozen egg yolk, dried egg yolk, liquid whole eggs, frozen whole eggs, dried whole eggs or any one or more of the foregoing ingredients with liquid egg white or frozen egg white.

(d) Nutritive carbohydrate sweeteners. Sugar (surcrose), beet or cane; invent sugar (in paste or sirup form); high fructose corn sirup; fructose; fructose sirup; maltose; maltose sirup, dried maltose sirup; malt extract, dried malt extract; malt sirup, dried malt sirup; honey; maple sugar; or any of the sweeteners listed in 21 CFR 168 except table sirup.

You're viewing an archived copy from the New Jersey State Library.

(e) Other optional ingredients.

1. Concentrated skim milk, nonfat dry milk, buttermilk, whey, lactose, lactalbumins, lactoglobulins, or whey modified by partial or complete removal of lactose and/or minerals, to increase the nonfat solids content of the food: Provided, that the ratio of protein to total nonfat solids of the food, and the protein efficiency ratio of all protein present shall not be decreased as a result of adding such ingredients.

2. Salt.

3. Flavoring ingredients.

4. Color additives that do not impart a color simulating that of egg yolk, milkfat or butterfat.

5. Stabilizers.

(f) Methods of analysis. Referenced methods in paragraph (f) (1) and (2) of this standard are from "Official Methods of Analysis of the Association of Official Analytical Chemists," current addition.

1. Milkfat content—"Fat—Official Final Action."

2. Milk solids not fat content—Calculated by subtracting the milkfat content from the total solids contents as determined by "Total Solids, Method I—Official Final Action."

(g) Nomenclature. The name of the food is "eggnog." The name of the food shall be accompanied by a declaration indicating the presence of any characterizating flavoring as specified in 21 CFR 101.22. If the food is ultra-pasteurized, the phrase "ultra-pasteurized" shall accompany the name of the food wherever it appears on the label in letters not less than one-half of the height of the letters used in the name. The following terms may accompany the name of the food on the label:

1. The word "pasteurized" if the food has been pasteurized.

2. The word "homogenized" if the food has been homogenized.

(h) Label declaration. Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of 21 CFR 101.

"Goat milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of healthy goats. The word "milk" shall be interpreted to include goat milk.

"Grade A dry milk products" means milk and whey products which have been produced for use in Grade A pasteurized fluid milk products and which have been manufactured under the provisions of the Grade A Condsensed and Dry Milk Products and Condensed and Dry Whey 1978 Recommended Sanitation Ordinance for Condensed and Dry Milk Products and Condensed and Dry Whey Used in Grade A Pasteurized Milk Products.

"Half-and-Half"

(a) Description. Half-and-Half is the food consisting of a mixture of milk and cream which contains not less than 10.5 percent but less than 18 percent milkfat. It is pasteurized or ultra-pasteurized, and may be homogenized.

(b) Optional ingredients. The following safe and suitable optional ingredients may be used.

1. Emulsifiers.

2. Stabilizers.

3. Nutritive sweeteners.

4. Characterizing flavoring ingredients (with or without coloring) as follows:

i. Fruit and fruit juice (including concentrated fruit and fruit juice.)

ii. Natural and artificial food flavoring.

(c) Methods of analysis. The milkfat content is determined by the method prescribed in "Official methods of Analysis of the Association of Official Analytical Chemists," current edition under "Fat—Official Final Action."

(d) Nomenclature. The name of the food is "half-and-half." The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in 21 CFR 101.22.

1. The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name:

i. The word "ultra-pasteurized" if the food has been ultra-pasteurized.

ii. The word "sweetened" if no characterizing flavor ingredients are used, but nutritive sweetener is added.

2. The following terms may appear on the label:

i. The word "pasteurized" if the food has been pasteurized.

ii. The word "homogenized" if the food has been homogenized.

(e) Label declaration. When used in the food, each of the ingredients specified in paragraph (b) of this section shall be declared on the label as required by the applicable sections of 21 CFR 101.

"Health Authority" means the duly authorized agent of the State Department of Health to act in the enforcement of the sanitary laws of the State.

"Heavy Cream"

(a) Description. Heavy cream is cream which contains not less than 36 percent milkfat. It is pasteurized or ultra-pasteurized, and may be homogenized.

(b) Optional ingredients. The following safe and suitable optional ingredients may be used:

1. Emulsifiers.

2. Stabilizers.

3. Nutritive sweeteners.

4. Characterizing flavoring ingredients (with or without coloring) as follows:

i. Fruit and fruit juice (including concentrated fruit and fruit juice).

ii. Natural and artificial food flavoring.

(c) Methods of analysis. The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," current edition, under "Fat—Official Final Action."

(d) Nomenclature.

1. The name of the food is "heavy cream" or alternatively "heavy whipping cream." The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in 21 CFR 101.22. The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name:

i. The word "ultra-pasteurized" if the food has been ultra-pasteurized.

ii. The word "sweetened" if no characterizing flavoring ingredients are used, but nutritive sweetener is added.

2. The following terms may appear on the label:

i. The word "pasteurized" if the food has been pasteurized.

ii. The word "homogenized" if the food has been homogenized.

(e) Label declaration. When used in the food, each of the ingredients specified in paragraph (b) of this section shall be declared on the label as required by the applicable sections of 21 CFR 101.

You're viewing an archived copy from the New Jersey State Library.

"Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and thereby maintain the commercial sterility of its contents after processing.

"Homogenized milk" means milk which has been treated to insure breakup of the fat globules to such an extent that, after 48 hours of quiescent storage at 45°F. (7°C), no visible cream separation occurs on the milk, and the fat percentage of the top 100 milliters of milk in a quart, or of proportionate volumes in containers of other sizes, does not differ by more than 10 percent from the fat percentage of the remaining milk as determined after thorough mixing.

"Ice cream mix" means the unfrozen fluid mixture from which ice cream is made by freezing and shall contain not less than ten percent by weight of milkfat except when fruit, nuts, cocoa, chocolate cakes or confections are added for the purpose of flavoring when it shall contain not less than ten percent by weight of milkfat except for such reduction of milkfat as is due to the addition of such flavoring, but in no case shall it contain less thn eight percent by weight of milkfat. Chocolate and cocoa flavored ice cream mix shall in no event contain less than ten percent by weight of total fat.

"Ice milk mix" means the unfrozen fluid mixture from which ice milk is made by freezing and shall contain not less than three percent by weight of milkfat and not less than 14 percent by weight of total milk solids.

"Item" as listed in N.J.A.C. 8:21-10.6(d) and (e) means the Grade "A" Pasteurized Milk Ordinance (1983 Revision) (PHS/FDA Publication No. 229). The letter "r" refers to raw milk; the letter "p" refers to pasteurized milk.

"Lactose-Reduced Milk or Lactose-Reduced Lowfat Milk or Lactose-Reduced Skim Milk" means the product resulting from the treatment of milk, lowfat milk or skim milk by the addition of safe and suitable enzymes to convert sufficient amounts of the lactose to glucose and/or galactose so that the remaining lactose is less than 30 percent of the lactose in milk, lowfat milk or skim milk.

"Light Cream"

(a) Description. Light cream is cream which contains not less than 18 percent but less than 30 percent milkfat. It is pasteurized or ultra-pasteurized, and may be homogenized.

(b) Optional ingredients. The following safe and suitable ingredients may be used:

1. Stabilizers.
2. Emulsifiers.
3. Nutritive sweeteners.
4. Characterizing flavoring ingredients (with or without coloring) as follows:

i. Fruit and fruit juice (including concentrated fruit and fruit juice).

ii. Natural and artificial food flavoring.

(c) Methods of analysis. The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," current edition, under "Fat-Official Final Action."

(d) Nomenclature. The name of the food is "Light cream," or alternatively "Coffee cream" or "Table cream." The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in 21 CFR 101.22.

1. The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name:

i. The word "ultra-pasteurized" if the food has been ultra-pasteurized.

ii. The word "sweetened" if no characterizing flavoring ingredients are used, but nutritive sweetener is added.

2. The following terms may appear on the label:

i. The word "pasteurized" if the food has been pasteurized.

ii. The word "homogenized" if the food has been homogenized.

(e) Label declaration. When used in the food, each of the ingredients specified in paragraph (b) of this standard shall be declared on the label as required by the applicable sections of 21 CFR 101.

"Light Whipping Cream"

(a) Description. Light whipping cream is cream which contains not less than 30 percent but less than 36 percent milkfat. It is pasteurized or ultra-pasteurized, and may be homogenized.

(b) Optional ingredients. The following safe and suitable optional ingredients may be used:

1. Emulsifiers.
2. Stabilizers.
3. Nutritive sweeteners.
4. Characterizing flavoring ingredients (with or without coloring) as follows:

i. Fruit and fruit juices (including concentrated fruit and fruit juice).

ii. Natural and artificial food flavoring.

(c) Methods of analysis. The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," current edition, under "Fat—Official Final Action."

(d) Nomenclature. The name of the food is "Light whipping cream" or alternatively "Whipping cream." The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in 21 CFR 101.22.

1. The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name:

i. The word "ultra-pasteurized" if the food has been ultra-pasteurized.

ii. The word "sweetened" if no characterizing flavoring ingredients are used, but nutritive sweetener is added.

2. The following terms may appear on the label:

i. The word "pasteurized" if the food has been pasteurized.

ii. The word "homogenized" if the food has been homogenized.

(e) Label declaration. When used in the food, each of the ingredients specified in paragraph (b) of this standard shall be declared on the label as required by the applicable sections of 21 CFR 101.

"Lowfat Milk"

(a) Description. Lowfat milk is milk from which sufficient milkfat has been removed to produce a food having, within limits of good manufacturing practice one of the following milkfat contents: 1/2, 1, 1-1/2, or 2 percent. Lowfat milk is pasteurized or ultra-pasteurized, contains added vitamin A as prescribed by paragraph (b) of this standard and contains not less than 8-1/4 percent milk solids not fat. Lowfat milk may be homogenized.

(b) Vitamin addition

1. Vitamin A shall be present in such quantity that each 946 milliliters (quart) of food contains not less than 2,000

You're viewing an archived copy from the New Jersey State Library.

International Units (400 ug of retinol equivalence), within limits of good manufacturing practice.

2. Addition of vitamin D is optional. If added, Vitamin D shall be present in such quantity that each 946 milliliters (quart) of food contains 400 International Units (10 ug), within limits of good manufacturing practice.

(c) Optional ingredients. The following safe and suitable ingredients may be used:

1. Carriers for Vitamins A and D.

2. Concentrated skim milk, nonfat dry milk, or other milk derived ingredients to increase the nonfat solids content of the food: Provided, that the ratio of protein to total nonfat solids of the food, and the protein efficiency ratio of all protein present, shall not be decreased as a result of adding such ingredients.

3. When one or more of the optional milk derived ingredients in paragraph (c)(2) of this standard are used, emulsifiers, stabilizers, or both, in an amount not more than 2 percent by weight of the solids in such ingredients.

4. Characterizing flavoring ingredients (with or without coloring, nutritive sweetener, emulsifiers, and stabilizers as follows:

i. Fruit and fruit juice (including concentrated fruit and fruit juice).

ii. Natural and artifical food flavorings.

(d) Methods of analysis. Referenced methods are from "Official methods of Analysis of the Association of Official Analytical Chemists," current edition.

1. Milkfat content—"Fat—Official Final Action."

2. Milk solids not fat content (or total nonfat solids content)—Calculated by subtracting the milkfat content from the total solids content as determined by the method "Total Solids, Method I—Official Final Action."

3. Vitamin D content—"Vitamin D—Official Final Action."

(e) Nomenclature. The name of the food is "Lowfat milk." The name of the food shall appear on the label in type of uniform size, style, and color. The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in 21 CFR 101.22.

1. The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half of the height of the letters used in such name:

i. The phrase ". . .% milkfat," the blank to be filled with in the fraction 1/2, or multiple thereof, to indicate the actual fat content of the food.

ii. The phrase "vitamin A" or "vitamin A added," or, if vitamin D is added, the phrase "vitamin A and D added." The word "vitamin" may be abbreviated "vit."

iii. The word "ultra-pasteurized" if the food has been ultra-pasteurized.

iv. The phrase "with added milk solids not fat" if the food contains not less than 10 percent milk derived nonfat solids.

2. The following terms may appear on the label:

i. The word "pasteurized" if the food has been pasteurized.

ii. The word "homogenized" if the food has been homogenized.

(f) Label declaration. When ingredients are used in the food as specified in paragraphs (b)(2) and (c)(2), (3) and (4) of this section, such ingredients shall be declared on the label as required by the applicable sections of 21 CFR 101 except that concentrated skim milk and nonfat dry milk may be declared as "nonfat milk solids."

"Lowfat yogurt" means the product defined in 21 CFR 131.203.

"Milk"

(a) Description. Milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. Milk that is in final package form for beverage use shall have been pasteurized or ultrapasteurized, and shall contain not less than 8-1/4 percent milk solids not fat and not less than 3-1/4 percent milkfat. Milk may have been adjusted by separating part of the milkfat therefrom, or by adding thereto cream, concentrated milk, dry whole milk, skim milk, concentrated skim milk, or nonfat dry milk. Milk may be homogenized.

(b) Vitamin addition (Optional).

1. If added, vitamin A shall be present in such quantity that each 946 milliliters (quart) of the food contains not less than 2000 International Units (400 ug of retinol equivalence) thereof within limits of good manufacturing practice.

2. If added, vitamin D shall be present in such quantity that each 946 milliliters (quart) of the food contains 400 International Units (10 ug) thereof within limits of good manufacturing practice.

(c) Optional ingredients. The following safe and suitable ingredients may be used:

1. Carriers for vitamins A and D.

2. Characterizing flavoring ingredients (with or without coloring, nutritive sweetener, emulsifiers, and stabilizers) as follows:

i. Fruit and fruit juice (including concentrated fruit and fruit juice).

ii. Natural and artificial food flavorings.

(d) Methods of analysis. Referenced methods in paragraphs (d)(1), (2) and (3) of this standard are from "Official Methods of Analysis of the Association of Official Analytical Chemists," current edition.

1. Milkfat content—"Fat—Official Final Action."

2. Milk solids not fat content—Calculated by subtracting the milkfat content from the total solids content as determined by the method "Total Solids, Method I—Official Final Action."

3. Vitamin D content—"Vitamin D—Official Final Action."

(e) Nomenclature. The name of the food is "milk." The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in section 21 CFR 101.22.

1. The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name:

i. If vitamins are added, the phrase "vitamin A" or "vitamin A added," or "vitamin D" or "vitamin D added," or "vitamin A and D" or 'vitamins A and D added," as appropriate. The word "vitamin" may be abbreviated "vit."

ii. The word "ultra-pasteurized" if the food has been ultra-pasteurized.

2. The following terms may appear on the label:

i. The word "pasteurized" if the food has been pasteurized.

ii. The word "homogenized" if the food has been homogenized.

(f) Label declaration. When used in the food, each of the ingredients specified in paragraphs (b) and (c)(2) of this standard shall be declared on the label as required by the applicable sections of 21 CFR 101.

You're viewing an archived copy from the New Jersey State Library.

"Milk Hauler" means any person who collects or transports raw milk and/or raw milk products to or from a milk plant, receiving or transfer station.

"Milk shake mix or milk shake base" means a fluid milk product prepared from a combination of optional ingredients as prescribed in the definition for ice cream. It shall contain not less than 3-1/4 percent milkfat and not less than 14 percent total milk solids.

"Milk Transport Tank"—A milk transport tank is a vehicle including the truck and tank used by a milk hauler to transport bulk shipments of milk from a transfer station, receiving station or milk plant to another transfer station, receiving station or milk plant.

"Nonfat Yogurt" means the product defined in 21 CFR 131.206.

"Official laboratory" means a biological, chemical, or physical laboratory which is under the direct supervision or approval of the State.

"Officially designated laboratory" means a commercial laboratory authorized to do official work by the supervising agency, or a milk industry laboratory officially designated by the supervising agency for the examination of producer samples of Grade A raw milk for pasteurization.

"Optional ingredients" shall mean and include Grade A dry milk products, concentrated milk, concentrated fluid milk products, flavors, sweeteners, stabilizers, emulsifiers, acidifiers, vitamins, and minerals. Similar ingredients may be added to fluid milk products when approved by the Department under the Administrative Procedures Act.

"Pasteurization," "pasteurized," and similar terms shall mean the process of heating every particle of milk or milk product in properly designed and operated equipment, to one of the temperatures given in the following table and held continuously at or above that temperature for at least the corresponding specified time:

Temperature	Time
†145°F (63°C)	30 minutes
†161°F (72°C)	15 seconds
191°F (89°C)	1 second
194°F (90°C)	0.5 second
201°F (94°C)	0.1 second
204°F (96°C)	0.5 second
212°F (100°C)	0.01 second

†If the fate content of the milk product is 10 percent or more, or if it contains added sweeteners, the specified temperature shall be increased by 5°F (3°C). Provided, that eggnog shall be heated to at least the following temperature and time specifications:

Temperature	Time
155°F (69°C)	30 minutes
175°F (80°C)	25 seconds
180°F (83°C)	15 seconds

Provided further, that nothing in this definition shall be construed as barring any other pasteurization process which has been recognized by the Food and Drug Administration to be equally efficient and which is approved by the State Health Department.

"Reconstituted or recombined milk and/or fluid milk products" shall mean milk and fluid milk products as defined which result from the recombining of milk constituents with potable water.

"Sanitization" means the application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the milk or milk product or the health of consumers, and shall be acceptable to the health authority.

"Skim Milk"

(a) Description. Skim milk is milk from which sufficient milkfat has been removed to reduce its milkfat content to less than 0.5 percent. Skim milk that is in final package form for beverage use shall have been pasteurized or ultra-pasteurized, shall contain added vitamin A as prescribed by paragraph (b) of this standard and shall contain not less than 8-1/4 percent milk solids not fat. Skim milk may be homogenized.

(b) Vitamin addition.

1. Vitamin A shall be present in such quantity that each 946 milliliters (quart) of food contains not less than 2,000 International Units (400 ug of retinol equivalence), within limits of good manufacturing practice.

2. Addition of vitamin D is optional. If added, Vitamin D shall be present in such quantity that each 946 milliliters (quart) of food contains 400 International Units (10 ug), within limits of good manufacturing practice.

(c) Optional ingredients.

The following safe and suitable optional ingredients may be used:

1. Carriers for vitamin A and D.

2. Concentrated skim milk, nonfat dry milk, or other milk derived ingredients to increase the nonfat solids content of the food: Provided, that the ratio of protein to total nonfat solids of the food, and protein efficiency ratio of all protein present, shall not be decreased as a result of adding such ingredients.

3. When one or more of the optional milk derived ingredients in paragraph (c)(2) of this standard are used, emulsifiers, stabilizers or a combination of both may be added in an amount not to exceed 2 percent by weight of the solids in such ingredients.

4. Characterizing flavoring ingredients (with or without coloring, nutritive sweetener, emulsifiers, and stabilizers) as follows:

i. Fruit and fruit juices (including concentrated fruit and fruit juice).

ii. Natural and artificial food flavorings.

(d) Methods of Analysis. Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," current edition.

1. Milkfat content—"Fat—Official Final Action."

2. Milk solids not fat content (or total nonfat solids content)—Calculated by subtracting the milkfat content from the total solids content as determined by the method "Total Solids, Method I—Official Final Action."

3. Vitamin D content—"Vitamin D—Official Final Action."

(e) Nomenclature. The name of the food is "Skim milk" or alternatively "Nonfat milk." The name of the food shall appear on the label in type of uniform size, style, and color. The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in section 21 CFR 101.22.

1. The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name:

i. The phrase "vitamin A" or "vitamin A added," or, if vitamin D is added, the phrase "vitamin A and D" or "vit-

You're viewing an archived copy from the New Jersey State Library.

amins A and D added." The word "vitamin" may be abbreviated "vit."

ii. The word "ultra-pasteurized" if the food has been ultra-pasteurized.

iii. The phrase "with added milk solids not fat" if the food contains not less than 10 percent milk derived nonfat solids.

2. The following terms may appear on the label:

i. The word "pasteurized" if the food has been pasteurized.

ii. The word "homogenized" if the food has been homogenized.

(f) Label declaration. When used in the food, each of the ingredients specified in paragraphs (b)(2) and (c)(2), (3), and (4) of this section shall be declared on the label as required by the applicable sections of 21 CFR 101.

"Sour Cream"

(a) Description. Sour cream results from the souring, by lactic acid producing bacteria, of pasteurized cream. Sour cream contains not less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of the milkfat is not less than 18 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 14.4 percent milkfat. Sour cream has a titratable acidity of not less than 0.5 percent, calculated as lactic acid.

(b) Optional ingredients.

1. Safe and suitable ingredients that improve texture, prevent syneresis, or extend the shelf life of the product.

2. Sodium citrate in an amount not more than 0.1 percent may be added prior to culturing as a flavor precursor.

3. Rennet.

4. Safe and suitable nutritive sweeteners.

5. Salt.

6. Flavoring ingredients, with or without safe and suitable coloring, as follows:

i. Fruit and fruit juice (including concentrated fruit and fruit juice).

ii. Safe and suitable natural and artificial food flavoring.

(c) Method of analysis. Referenced methods in paragraphs (c)(1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," current edition.

1. Milkfat content—"Fat—Official Final Action."

2. Titratable acidity—"Acidity[2]—Official Final Action."

(d) Nomenclature. The name of the food is "Sour cream" or alternatively "Cultured sour cream." the full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in 21 CFR 101.22. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened."

(e) Label declaration. Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of 21 CFR 101, except that bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream."

"Sour Half-and-Half"

(a) Description. Sour half-and-half results from the souring, by lactic acid producing bacteria, of pasteurized half-and-half. Sour half-and-half contains not less than 10.5 percent but less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of milkfat is not less than 10.5 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 8.4 percent milkfat. Sour half-and-half has a titratable acidity of not less than 0.5 percent, calculated as lactic acid.

(b) Optional ingredients.

1. Safe and suitable ingredients that improve texture, prevent syneresis, or extend the shelf life of the product.

2. Sodium citrate in an amount not more than 0.1 percent may be added prior to culturing as a flavor precursor.

3. Rennet.

4. Safe and suitable nutritive sweeteners.

5. Salt.

6. Flavoring ingredients, with or without safe and suitable coloring, as follows:

i. Fruit and fruit juice (including concentrated fruit and fruit juice).

ii. Safe and suitable natural and artificial food flavoring.

(c) Methods of analysis. Referenced methods in paragraph (c)(1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," current edition.

1. Milkfat content—"Fat—Official Final Action."

2. Titratable acidity—"Acidity[2]—Official Final Action."

(d) Nomenclature. The name of the food is "Sour half-and-half" or alternatively "Cultured sour half-and-half." The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in 21 CFR 101.22. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened."

(e) Label declaration. Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of 21 CFR 101, except that bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream."

"Sterilized" means the condition achieved by application of heat, chemical sterilant(s) or other appropriate treatment that renders the piping, equipment and containers used for milk and milk products free of viable microorganisms.

"Ultra-pasteurized"—The term "ultra-pasteurized," when used to describe a dairy product, means that such product shall have been thermally processed at or above 280°F (138°C) for at least 2 seconds, either before or after packaging, so as to produce a product which has an extended shelf life under refrigerated conditions.

"Whipped cream" means the product defined in 21 CFR 131.150 or 131.157 into which air or gas has been incorporated. If nitrous oxide is used as the propellant in whipped cream, a permit is required from the State Department of Health, Drug Control Program pursuant to N.J.S.A. 24:6B.

"Whipping cream" means cream which contains not less than 30 percent milkfat.

"Yogurt" means the product defined in 21 CFR 131.200.

8:21-10.2 Labelling

(a) All bottles, containers and packages enclosing milk or milk products defined in N.J.A.C. 8:21-10.1 shall be labeled in accordance with the applicable requirements of the Federal Food Drug and Cosmetic Act (21 U.S.C. 301) as amended,

You're viewing an archived copy from the New Jersey State Library.

the Fair Packaging and Labeling Act (15 U.S.C. 1451), the labeling provisions established under N.J.A.C. 8:21-10.1 and in addition, shall comply with the applicable requirements of this section as follows:

1. The words "Grade A" for milk and milk products handled, processed and packaged under the terms of the National Conference of Interstate Milk Shipments (IMS);

2. The identity of the plant where pasteurized;

3. The word "reconstituted" or "recombined" if the product is made by reconstitution or recombination;

4. The volume or proportion of water to be added for recombining in the case of concentrated milk or fluid milk products;

5. The words "keep refrigerated after opening" in the case of aseptically processed milk and milk products;

6. In the case of aseptically processed and packaged milk and milk products, "UHT;"

7. The words "ultra-pasteurized" if the milk or milk product has been ultra-pasteurized;

8. The word "Goat" shall precede the name of the milk or milk product when the product is or is made from goat milk.

(b) All vehicles and transport tanks containing milk or fluid milk products shall be legibly marked with the name and address of the milk plant or hauler in possession of the contents.

(c) Tanks transporting raw milk and fluid milk products to a milk plant from sources of supply not under the routine supervision of the health authority are required to be marked with the name and address of the milk plant or hauler and shall be sealed. For each such shipment, a shipping statement shall be prepared containing at least the following information:

1. Shipper's name, address, and permit number;

2. Permit identification of hauler, if not employee of shipper;

3. Point of origin of shipment;

4. Tanker identity number;

5. Name of product;

6. Weight of product;

7. Grade of product;

8. Temperature of product;

9. Date of shipment;

10. Name of supervising health authority at the point of origin;

11. Whether the contents are raw, pasteurized, or in the case of cream, lowfat or skim milk whether it has been heat-treated.

(d) The shipping statement required in (c) above shall be prepared in triplicate and shall be kept on file by the shipper, the consignee, and the carrier for a period of six months for the information of the health authority.

(e) The labeling information which is required on all bottles, containers or packages of milk or fluid milk products shall be in letters of an acceptable size, style, and color satisfactory to the Department and shall contain no marks or words which are misleading.

(f) The use of super grade designations such as "Grade AA Pasteurized," "Selected or Special Grade A Pasteurized," etc. shall not be permitted.

8:21-10.3 Inspection of dairy farms and milk plants

(a) Each dairy farm, milk plant, receiving station, and transfer station whose milk and fluid milk products are intended for consumption with New Jersey or its police jurisdiction and each milk hauler who collects samples of raw milk for pasteurization, for bacterial, chemical or temperature standards and hauls milk from a dairy farm to a milk plant, transfer station or receiving station and his bulk milk pickup tanker and its appurtenances shall have an approved inspection prior to the issuance of a permit.

1. Following the issuance of a permit, each bulk milk pickup tanker and its appurtenances shall be inspected at least once every 12 months; each milk hauler who collects milk samples shall be evaluated at least once every 24 months; each milk plant and receiving station shall be inspected at least once every three months; and each dairy farm supplying milk and each transfer station shall be inspected at least once every six months.

2. Should the violation of any requirement set forth in N.J.A.C. 8:21-10.6, or in the case of a milk hauler also N.J.A.C. 8:21-10.4, be found to exist on an inspection, a second inspection shall be required after the time deemed necessary to remedy the violation, but not before three days; this second inspection shall be used to determine compliance with the requirements of N.J.A.C. 8:21-10.6, or in the case of milk hauler also N.J.A.C. 8:21-10.4.

3. In the case of dairy plants producing aseptically processed milk and milk products, when an inspection of the dairy plant and its records reveal that the process used has been less than the required scheduled process, it shall be considered an imminent hazard to public health and the health authority shall immediately take enforcement action to abate the hazard.

(b) One copy of the inspection report shall be handed to the operator, or other responsible person, or be posted in a conspicuous place on an inside wall of the establishment. Said inspection report shall not be defaced and shall be made available to the health authority upon request. An identical copy of the inspection report shall be filed with the records of the health authority.

(c) Every milk producer, hauler, distributor, or plant operator shall, upon request of the health authority, permit access of officially designated persons to all parts of his establishment or facilities to determine compliance with the provisions of these regulations. A distributor or plant operator shall furnish the health authority, upon request, for official use only, a true statement of the actual quantities of milk and fluid milk products of each grade purchased and sold, and a list of all sources of such milk and fluid milk products, records of inspections, tests, and pasteurization time and temperature records.

(d) It shall be unlawful for any person who, in an official capacity, obtains any information under the provisions of these regulations which is entitled to protection as a trade secret (including information as to quantity, quality, source or disposition of milk or fluid milk products, or results of inspections or tests thereof) to use such information to his own advantage or to reveal it to any unauthorized person.

8:21-10.4 Examination of milk and fluid milk products

(a) It shall be the responsibility of the milk hauler to collect a representative sample of milk from each farm bulk tank prior to transferring milk from a farm bulk tank, truck, or other container. All samples shall be collected and delivered to a milk plant, receiving station, transfer station, or other location approved by the health agency.

(b) During any consecutive six months, at least four samples of raw milk for pasteurization shall be taken from each producer and four samples of raw milk for pasteurization, ultra-pasteurization or aseptic processing shall be taken from each milk plant after receipt of the milk by the milk plant and prior to pasteurization, ultra-pasteurization or aseptic pro-

You're viewing an archived copy from the New Jersey State Library.

cessing. In addition, during any consecutive six months, at least four samples of pasteurized milk and at least four samples of defined fluid milk product ecept aseptically processed, shall be taken from every milk plant. Samples of milk and fluid milk products shall be taken while in possession of the producer or distributor at any time prior to delivery to the store or consumer. Samples of milk and fluid milk products from dairy retail stores, food service establishments, grocery stores, and other places where milk and fluid milk products are sold shall be examined periodically as determined by the health authority; and the results of such examination shall be used to determine compliance with standards, labeling and cooling requirements. Proprietors of such establishments shall furnish the health authority, upon request, with the names of all distributors from whom milk or fluid milk products are obtained.

(c) Required bacterial counts, somatic cell counts, and cooling temperature checks shall be performed on raw milk for pasteurization. In addition, antibiotic tests on each producer's milk or on commingled raw milk shall be conducted at least four times during any consecutive six months. When commingled milk is tested, all producers shall be represented in the sample. All individual sources of milk shall be tested when test results on the commingled milk are positive. Required bacterial counts, antibiotic tests, coliform determinations, phosphatase, and cooling temperature checks shall be performed on pasteurized milk and fluid milk products.

(d) Whenever two of the last four consecutive bacteria counts (except those for aseptically processed milk and milk products), somatic cell counts, coliform determinations, or cooling temperatures, taken on separate days, exceed the limit of the standard for the milk and/or milk products, the health authority or a representative so designated shall send a written notice thereof to the person concerned. This notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standard. An additional samples shall be taken within 21 days of the sending of such notice, but not before the lapse of three days. Immediate suspension of permit and/or court action shall be instituted whenever the standard is violated by three of the last five bacteria counts, coliform determinations, cooling temperatures, or somatic cell counts. Prior to taking any such action, the Department shall offer to the person concerned a hearing pursuant to N.J.S.A. 24:10-57.8.

(e) Whenever a phosphatase test is positive, the cause shall be determined. Where the cause is improper pasteurization, it shall be corrected and any milk or fluid milk product involved shall not be offered for sale.

(f) Whenever an antibiotic or pesticide residue test is positive, an investigation shall be made to determine the cause, and the cause shall be corrected. An additional sample shall be taken and tested for antibiotic or pesticide residues and no milk shall be offered for sale until it is shown by a subsequent sample to be free of antibiotic or pesticide residues or below the actionable levels established for such residues.

(g) Whenever a test indicates that milk from a producer is unsafe due to an antibiotic, the permit holder or Department shall immediately notify and suspend the producer for two days. Prior to taking any such action, the Department shall offer to the producer concerned a hearing pursuant to N.J.S.A. 24:10-57.8. A test shall be made of the subsequent milking after suspensin, and it must be free of antibiotic before offering that milk for sale.

(h) Whenever a container or containers of aseptically processed milk or milk products is found to be unsterile due to underprocessing, the Department shall consider this to be an imminent hazard to public health and shall take immediate enforcement action, pursuant to N.J.S.A. 24:10-57.8 to abate the hazard. No aseptically processed milk and milk product shall be sold until it can be shown that the processes, equipment and procedures used are suitable for consistent production of a sterile product. All product from the lot that was found to contain one or more unsterile units shall be recalled and disposed of as directed by the Department.

(i) Samples shall be analyzed at an official or appropriate officially designated laboratory. All sampling procedures and required laboratory examinations shall be in substantial compliance with the current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association, and the current Edition of Official Methods of Analysis of the Association of Official Analytical Chemists. Such procedures, including the certification of sample collectors, and examinations shall be evaluated in accordance with the current edition of Evaluation of Milk Laboratories, Recommendations of the United States Public Health Service/Food and Drug Administration. Examinations and tests to detect adulterants, including pesticides, shall be conducted as the health authority requires. Assays of milk and fluid milk products to which vitamin(s) A and/or D have been added, shall be made at least annually in a laboratory acceptable to the health authority.

8:21-10.5 Animal health

(a) All milk for pasteurization shall be from herds which are located in modified accredited tuberculosis areas as determined by the U.S. Department of Agriculture (U.S.D.A.), provided, that herds located in an area that fails to maintain such accredited status shall have been accredited by the U.S.D.A. as tuberculosis free, or shall have passed an annual tuberculosis test.

(b) All milk for pasteurization shall be from herds under a brucellosis eradication program which meets one of the following conditions:

1. Located in a certified brucellosis-free area as defined by the U.S.D.A. and enrolled in the testing program for such areas; or

2. Located in a modified certified brucellosis area as defined by the U.S.D.A. and enrolled in the testing program for such areas; or

3. Meet U.S.D.A. requirements for an individually certified herd; or

4. Participating in a milk ring test program which is conducted on a continuing basis at intervals of not less than every three months or more than every six months, with individual blood tests on all animals in herds showing suspicious reactions to the milk ring test; or

5. Having an individual blood agglutination test annually with an allowable maximum grace period not exceeding two months.

(c) For diseases other than brucellosis and tuberculosis, the health authority shall require such physical, chemical, or bacteriological tests as they deem necessary. The diagnosis of other diseases in dairy cattle shall be based upon the findings of a licensed veterinarian or a veterinarian in the employ of an official agency. Any diseased animal disclosed by such test(s) shall be disposed of as the health authority directs.

8:21-10.6 Standards for milk and fluid milk products

(a) All raw milk for pasteurization, ultra pasteurization or aseptic processing, and all pasteurized, ultra-pasteurized or aseptically processed, milk and fluid milk products shall be

You're viewing an archived copy from the New Jersey State Library.

produced, processed and pasteurized, ultra-pasteurized or aseptically processed to conform with the chemical, bacteriological, and temperature standards in (c) below and the sanitation requirements in (d) and (e) below.

(b) No process or manipulation other than pasteurization, ultra pasteurization or aseptic processing methods integral therewith, and appropriate refrigeration shall be applied to milk and fluid milk products for the purpose of removing or deactivating microorganisms: Provided, that in the bulk shipment of raw cream, skim milk, or lowfat milk, the heating of the raw milk to temperatures no greater than 125 degrees Farenheit (52 degrees Celcius) for separation purposes is permitted when the resulting bulk shipments of cream, skim, milk, and lowfat milk are labeled heat-treated.

(c) The chemical, bacteriological, and temperature standards for milk and fluid milk products are as follows:

Raw milk for pasteurization, ultra-pasteurization or aseptic processing Temperature—Cooled to 45 degrees Farenheit (7 degrees Celcius) or less within two hours after milking, provided that the blend temperature after the first and subsequent milkings does not exceed 50 degrees Farenheit (10 degrees Celcius).

Bacterial limits—Individual producer milk not to exceed 100,000 per ml. prior to commingling with other producer milk.

Not exceeding 300,000 per ml. as commingled milk prior to pasteurization.

Antibiotics—No zone equal to or greater than 16 mm with *Bacillus Stearothermophilus* disc assay method.

Somatic Cell Count—Individual producer milk not to exceed 1,000,000 per ml. (Effective July 1, 1986).

Pasteurized milk and fluid milk products.

Temperature—Cooled to 45 degrees Farenheit (7 degrees Celcius) or less and maintained thereat at the plant. A maximum of 50 degrees Farenheit (10 degrees Celcius) will be allowed on delivery vehicles.

Bacterial limits†—Milk and fluid milk products—20,000 per ml.—At processor level prior to delivery.

Coliform limits—Not exceeding 10 per ml. prior to delivery; provided, that in the case of bulk milk transport tank shipments, shall not exceed 100 per ml.

Phosphatase—Less than 1 ug phenol per ml. by Scharer Rapid Method (or equivalent by other means).

Antibiotics—No zone equal to or greater than 16 mm with the *Bacillus Stearothermophilus* disc assay method.

Aseptically Processed milk and fluid milk products

Temperature—None

Bacterial limits—No growth by test specified in N.J.A.C. 8:21-10.4.

Antibiotics—No zone equal to or greater than 16 mm with the *Bacillus Stearothermophilus* disc assay method.

Pasteurized mixes for frozen desserts.

Temperature—Same as pasteurized milk and fluid milk products above.

Bacterial limits—50,000 bacteria per gm.

Coliform limits—Not exceeding 10 per gm.

Phosphatase—Less than 1 ug phenol per ml. by Scharer Rapid Method (or equivalent by other means).

†Not applicable to cultured products.

(d) Sanitation requirements for raw milk for pasteurization, ultra pasteurization or aseptic processing are as follows:

1. Item 1r. Abnormal Milk: Cows which show evidence of the secretion of abnormal milk in one or more quarters based upon bacteriological, chemical, or physical examination, shall be milked last or with separate equipment, and the milk shall be discarded. Cows treated with, or cows which have consumed chemical, medicinal or radioactive agents which are capable of being secreted in the milk and which, in the judgment of the health authority, may be deleterious to human health, shall be milked last or with separate equipment, and the milk disposed of as the health authority may direct.

i. A strip cup shall be used to examine the first stream of milk from each teat of each milking animal at each milking for the purpose of detecting abnormalities and all such fore-milk shall be discarded. When any abnormal fore-milk is detected from any quarter of the udder, the producer shall immediately exclude all the milk from such animal from the supply and such milk shall not be sold, offered for sale or delivered for consumption as milk.

ii. Whenver a herd milk sample exceeds any of the following screening test results, a confirmatory count, using a Direct Microscopic, Electronic or Optical Somatic Cell counting technique, shall be made on that sample and thre rest of this count shall be the official result:

(1) California mastitis test—1;

(2) Modified Whiteside test 1+;

(3) Wisconsin mastitis test—20 mm;

(4) Single trip reticle method—1,100,000;

iii. Whenever the confirmatory count indicates the presence of greater than 1,000,000 somatic cells per ml., the following procedure shall be followed:

(1) A notice shall be given to the producer warning him of the excessive somatic cell count. The notice should also list the more likely causes of high somatic cell count.

(2) Whenever two of the last four consecutive somatic cell counts exceed 1,000,000 cells per ml., written notice thereof shall be sent to the person concerned. This notice shall be in effect so long as two of the last four consecutive samples exceed 1,000,000 somatic cells per ml. In addition to the written notice, an inspection should be made by certified personnel. This inspection should be made at milking time to be most effective.

(3) An additional sample shall be taken within 21 days of the written notice and inspection required above, but not before the lapse of three days. If three of the last five samples within any consecutive six months indicate a confirmatory count greater than 1,000,000 somatic cells per ml., the receipt of milk from the producer shall be discontinued for a period of at least two days or until such time as additional samples show correction of the condition.

2. Item 2r.—Milking Barn, Stable, or Parlor Construction: A milking barn, stable, or parlor shall be provided on all dairy farms in which the cows being milked shall be housed during milking operations. The areas used for milking purposes shall:

i. Have floors constructed of concrete or equally impervious material;

ii. Have walls, and ceiling which are smooth, painted or finished in an approved manner, in good repair, ceilings dust tight;

iii. Have separate stalls or pens for horses, calves, and bulls;

iv. Be provided with natural and/or artificial light, well distributed for day and/or night milking;

v. Provide sufficient air space and air circulation to prevent condensation and excessive odors;

vi. Not be overcrowded; and,

vii. Have dust tight covered boxes or bins, or separate storage facilities for ground, chopped or concentrated feed.

3. Item 3r.—Milking Barn, Stable, or Parlor Cleanliness: The interior shall be kept clean. Floors, walls, windows, pipelines, and equipment shall be free of filth and/or litter and

You're viewing an archived copy from the New Jersey State Library.

shall be clean. Swine and fowl shall be kept out of the milking barn.

4. Item 4r.—Cow Yard: The cow yard shall be graded and drained and shall have no standing pools of water or accumulations of organic wastes: Provided, that in loafing or cattle-housing areas, cow droppings and soiled bedding shall be removed, or clean bedding added, at sufficiently frequent intervals to prevent the soiling of the cow's udder and flanks. Waste feed shall not be allowed to accumulate. Manure packs shall be properly drained and shall provide a reasonably firm footing. Swine shall be kept out of the cow yard.

5. Item 5r.—Milkhouse or Room Construction and Facilities: A milkhouse or room of sufficient size shall be provided, in which the cooling, handling, and storing of milk containers and utensils shall be conducted, except as provided for in Item 12r. below.

i. The milkhouse shall be provided with a smooth floor constructed of concrete or equally impervious material graded to drain and maintained in good repair. Liquid waste shall be disposed of in a sanitary manner; all floor drains shall be accessible and shall be trapped if connected to a sanitary sewer system.

ii. The walls and ceilings shall be constructed of smooth material, in good repair, well painted, or finished in an equally suitable manner.

iii. The milkhouse shall have adequate natural and/or artificial light and be well ventilated.

iv. The milkhouse shall be used for no other purpose than milkhouse operations. There shall be no direct opening to any barn, stable, or into a room used for domestic purposes; Provided, that a direct opening between the milkhouse and milking barn, stable or parlor is permitted when a tight-fitting self-closing solid door(s) hinged to be single or double acting is provided.

v. Water under pressure shall be piped into the milkhouse.

vi. The milkhouse shall be equipped with a two-compartment wash vat and adequate hot water heating facilities.

vii. When a transportation tank is used for the cooling and storage of milk on the dairy farm, such tank shall be provided with a suitable shelter for the receipt of milk. Such shelter shall be adjacent to, but not a part of, the milkroom and shall comply with the requirements of the milkroom with respect to construction, light, drainage, insect and rodent control, and general maintenance.

6. Item 6r.—Milkhouse or Room-Cleanliness: The floors, walls, ceilings, windows, tables, shelves, cabinets, wash vats, non-product contact surfaces of milk containers, utensils, and equipment, and other milkroom equipment shall be maintained in a clean condition. Only articles directly related to milkroom activities shall be permitted in the milkroom. The milkroom shall be free of trash, animals, and fowl.

7. Item 7r.—Toilet: Every dairy farm shall be provided with one or more toilets, conveniently located and properly constructed, operated, and maintained in a sanitary manner. The waste shall be inaccessible to flies and shall not pollute the soil surface nor contaminate any water supply.

8. Item 8r.—Water Supply: Water for milkhouse and milking operations shall be from a supply properly located, protected, and operated, and shall be easily accessible, adequate, and of a safe, sanitary quality.

9. Item 9r.—Utensils and Equipment Construction: All multiuse containers, equipment, and utensils used in the handling, storage or transportation of milk shall be made of smooth, nonabsorbent, corrosion-resistant, nontoxic materials, and shall be so constructed as to be easily cleaned. All containers, utensils, and equipment shall be in good repair. All milk pails used for hand milking and stripping shall be seamless and of the hooded type. Multiple-use woven material shall not be used for straining milk. All single-service articles shall have been manufactured, packaged, transported, stored, and handled in a sanitary manner and shall comply with the applicable requirements of (e)13 item 11p below. Articles intended for single-service use shall not be reused.

i. Farm holding/cooling tanks, welded sanitary piping, and transportation tanks shall comply with the applicable requirements of (e)13 items 10p and 11p below.

10. Item 10r.—Utensils and Equipment Cleaning: The product-contact surfaces of all multiuse containers, equipment, and utensils used in the handling, storage, or transportation of milk shall be cleaned after each usage.

11. Item 11r.—Utensils and Equipment Sanitization: The product-contact surfaces of all multiuse containers, equipment, and utensils used in the handling, storage, or transportation of milk shall be sanitized before each usage.

12. Item 12r.—Utensils and Equipment Storage: All containers, utensils, and equipment used in the handling, storage, or transportation of milk, unless stored in sanitizing solutions, shall be stored to assure complete drainage, and shall be protected from contamination prior to use; Provided, that milk pipelines and pipeline milking equipment such as milker claws, inflations, weigh jars, meters, milk hoses, milk receivers and milk pumps and tubular coolers which are designed for mechanical cleaning may be stored in the milking barn or parlor provided this equipment is designed, installed and operated to protect the product and solution contact surfaces form contamination at all times.

13. Item 13r.—Utensils and Equipment Handling: After sanitization, all containers, utensils, and equipment shall be handled in such manner as to prevent contamination of any product-contact surface.

14. Item 14r.—Milking, Flanks, Udders, and Teats: Milking shall be done in the milking barn, stable, or parlor. The flanks, udders, bellies, and tails of all milking cows shall be free from visible dirt and clipped as necessary. All brushing shall be completed prior to milking. The udders and teats of all milking cows shall be cleaned and treated with a sanitizing solution just prior to the time of milking, and shall be relatively dry before milking. Wet hand milking is prohibited.

15. Item 15r.—Milking: Surcingles, milk stools, and anti-kickers shall be kept clean and stored above the floor.

16. Item 16r.—Protection from Contamination: Milking and milkhouse operations, equipment, and facilities shall be located and conducted to prevent any contamination of milk, equipment, containers, and utensils. No milk shall be strained, poured, transferred, or stored unless it is properly protected from contamination.

17. Item 17r.—Personnel Handwashing Facilities: Adequate handwashing facilities shall be provided, including a lavatory fixture with running water, soap or detergent, and individual sanitary towels, convenient to the milkhouse, milking barn, stable, parlor, and flush toilet.

18. Item 18r.—Personnel Cleanliness: Hands shall be washed clean and dried with an individual sanitary towel immediately before milking, before performing any milkhouse function, and immediately after the interruption of any of these activities. Milkers and milk haulers shall wear clean outer garments while milking or handling milk, milk containers, utensils, or equipment.

19. Item 19r.—Cooling: Raw milk for pasteurization shall be cooled to 45 degrees Farenheit (7 degrees Celcius) or less

You're viewing an archived copy from the New Jersey State Library.

within two hours after milking: Provided, that the blend temperature after the first milking and subsequent milkings does not exceed 50 degrees Farenheit (10 degrees Celcius).

20. Item 20r.—Vehicles: Vehicles used to transport milk from the dairy farm to the milk plant or receiving station shall be constructed and operated to protect their contents from sun, freezing, and contamination. Such vehicles shall be kept clean, inside and out; and no substance capable of contaminating milk shall be transported with milk.

21. Item 21r.—Insect and Rodent Control: Effective measure shall be taken to prevent the contamination of milk, containers, equipment, and utensils by insects and rodents, and by chemicals used to control such vermin. Milkrooms shall be free of insects and rodents. Surroundings shall be kept neat, clean, and free of conditions which might harbor or be conducive to the breeding of insects and rodents.

(e) Sanitation requirements for pasteurized, ultra-pasteurized and aseptically processed milk and fluid milk products

1. A receiving station shall comply with Items 1p to 15p, inclusive, and 17p, 20p, and 22p below, except that the partitioning requirement of Item 5p shall not apply.

2. A transfer station shall comply with Items 1p, 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, and 22p below; and as climatic and operating conditions require, the applicable provisions of Items 2p and 3p: Provided, that in every case, overhead protection shall be provided. Facilities for the cleaning and sanitizing of bulk transport tanks shall comply with Items 1p, 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, and 22p below; and as climatic and operating conditions require, the applicable provisions of Items 2p and 3p: Provided, that in every case, overhead protection shall be provided. Facilities for the cleaning and sanitizing of milk tank trucks shall comply with Items 1p, 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, and 22p below; and as climatic and operating conditions require, the applicable provisions of Items 2p and 3p: Provided, that in every case, overhead protection shall be provided.

3. Item 1p.—Floor Construction: The floors of all rooms in which milk or fluid milk products are processed, handled, or stored, or in which milk containers, equipment, and utensils are washed, shall be constructed of concrete or other equally impervious and easily cleaned material; and shall be smooth, properly sloped, provided with trapped drains, kept in good repair; Provided, that cold-storage rooms used for storing milk and fluid milk products need not be provided with floor drains when the floors are sloped to drain to one or more exits; Provided further, that storage rooms for storing dry ingredients and/or packaging materials need not be provided with drains; and the floors may be constructed of tightly joined wood.

4. Item 2p.—Walls and Ceilings—Construction: Walls and ceilings of rooms in which milk or fluid milk products are handled, processed, or stored, or in which milk containers, utensils, and equipment are washed, shall have a smooth, washable, light-colored surface, in good repair.

5. Item 3p.—Doors and Windows: Effective means shall be provided to prevent the access of flies and rodents. All openings to the outside shall have solid doors or glazed windows which shall be closed during dusty weather.

6. Item 4p.—Lighting and Ventilation: All rooms in which milk and fluid milk products are handled, processed, or stored and/or in which milk containers, equipment, and utensils are washed shall be well lighted and well ventilated.

7. Item 5p.—Separate Rooms: There shall be separate rooms for:

i. Pasteurizing, processing, cooling and packaging of milk and fluid milk products;

ii. Cleaning of milk cans, bottles and cases; and

iii. Cleaning and sanitizing facilities for milk tank trucks;

iv. Provided that, in a receiving station cooling may be done in the room where milk tank trucks are unloaded and/or cleaned and sanitized.

v. Rooms in which milk or fluid milk products are handled, processed, or stored, or in which milk containers, utensils, and equipment are washed or stored, shall not open directly into any stable or any room used for domestic purposes. All rooms shall be of sufficient size for their intended purposes.

8. Item 6p.—Toilet/Sewage Disposal Facilities: Every milk plant shall be provided with toilet facilities which comply with the requirements of the health authority and the Uniform Construction Code, N.J.A.C. 5:23-1.1 et seq.

i. Toilet rooms shall not open directly into any room in which milk and/or fluid milk products are processed. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing doors. Dressing rooms, toilet rooms, and fixtures shall be kept in a clean condition, in good repair, and shall be well ventilated and well lighted. Sewage and other liquid wastes shall be disposed of in a sanitary manner.

9. Item 7p.—Water Supply: Water for milk plant purposes shall be from a supply properly located, protected, and operated, and shall be easily accessible, adequate, and of a safe, sanitary quality.

10. Item 8p.—Handwashing Facilities: Convenient handwashing facilities shall be provided, including hot and cold and/or warm (90 degrees Farenheit to 105 degrees Farenheit) running water, soap, and individual sanitary towels or other approved hand-drying devices. Handwashing facilities shall be kept in a clean condition and in good repair.

11. Item 9p.—Milk Plant Cleanliness: All rooms in which milk and fluid milk products are handled, processed, or stored, and/or in which containers, utensils, or equipment are washed, or stored, shall be kept clean, neat, and free of evidence of insects and rodents. Pesticides shll be safely used. Only equipment directly related to processing operations or to the handling of containers, utensils, and equipment, shall be permitted in the pasteurizing, processing, cooling, packaging, and bulk milk storage rooms.

12. Item 10p.—Sanitary Piping: All sanitary piping, fittings, and connections which are exposed to milk and fluid milk products, or from which liquids may drip, drain, or be drawn into milk or fluid milk products, shall consist of smooth, impervious, corrosion-resistant, nontoxic, easily cleanable material. All piping shall be maintained in good repair and identified as to whether it is carrying raw or pasteurized milk or milk products. Identification of all piping shall be in a manner acceptable to the Department. Recommended colors are: red—raw milk, blue—pasteurized milk, green—clean-in-place system and yellow—non potable water system. Pasteurized milk and fluid milk products shall be conducted from one piece of equipment to another only through sanitary piping.

13. Item 11p.—Construction and Repair of Containers and Equipment: All multiuse containers and equipment with which milk or fluid milk products come into contact shall be of smooth, impervious, corrosion-resistant, nontoxic material; shall be constructed for ease of cleaning; and shall be kept in good repair. All single-service containers, closures, gaskets, and other articles with which milk or fluid milk products come in contact shall be nontoxic, and shall have been manufac-

You're viewing an archived copy from the New Jersey State Library

tured, packaged, transported, an handled in a sanitary manner. Articles intended for single-service use shall not be reused.

14. Item 12p.—Cleaning and Sanitizing of Containers and Equipment: The product-contact surfaces of all multiuse containers, utensils and equipment used inthe transportation, processing, handling, and storage of milk and fluid milk products shall be effectively cleaned and shall be sanitized before each use. Provided, that piping, equipment and containers used to process, conduct or package aseptically processed milk or milk products beyond the final heat treatment process shall be sterilized before any aseptically processed milk or milk product is packaged and shall be resterilized whenever any unsterile product has contaminated it.

15. Item 13p.—Storage of Cleaned Containers and Equipment: After cleaning, all multiuse milk or fluid milk product containers, utensils, and equipment shall be transported and stored to assure complete drainage, and shall be protected from contamination before use.

16. Item 14p.—Storage of Single-Service Containers, Utensils, and Materials: Single-service caps, cap stock, parchment paper, containers, gaskets, and other single-service articles for use in contact with milk and fluid milk products shall be purchased and stored in sanitary tubes, wrappings, or cartons; shall be kept therein in a clean, dry place until used; and shall be handled in a sanitary manner.

17. Item 15p.—Protection from Contamination: Milk plant operations, equipment, and facilities shall be located and conducted to prevent any contamination of milk or fluid milk products, ingredients, equipment, containers, and utensils. All milk or fluid milk products or ingredients which have been spilled, overflowed, or leaked shall be discarded. The processing or handling of products other than milk and fluid milk products in the pasteurization plant shall be performed to preclude the contamination of such milk and fluid milk products. The storage, handling, and use of poisonous or toxic materials shall be performed to preclude the contamination of milk and fluid milk products or ingredients of such milk and fluid milk products or the product-contact surfaces of all equipment, containers or utensils.

18. Item 16p.—Pasteurization and Aseptic Processing: Pasteurization shall be performed as required in N.J.A.C. 8:21-10.1. Aseptic processing shall be accomplished in accordance with the provisions of 21 CFR 113 and 108.

19. Item 17p.—Cooling of Milk: All raw milk and fluid milk products shall be maintained at 45 degrees Farenheit (7 degrees Celcius) or less until processed. All pasteurized milk and fluid milk products, except those to be cultured, shall be cooled to a temperature of 45 degrees Farenheit (7 degrees Celcius) or less immediately in approved equipment prior to filling and packaging. All pasteurized milk and fluid milk products shall be stored at a temperature of 45 degrees Farenheit (7 degrees Celcius) or less. On delivery vehicles, the temperature of milk and fluid milk products shall not exceed 50 degrees Farenheit (10 degrees Celcius). Every room or tank in which milk or fluid milk products are stored shall be equipped with an accurate thermometer. Provided that, aseptically processed milk and milk products to be package in hermetically sealed containers shall be exempt from the cooling requirements of this item.

20. Item 18p.—Bottling and Packaging: Bottling and packaging of milk and fluid milk products shall be done at the place of pasteurization in approved mechanical equipment.

21. Item 19p.—Capping: Capping or closing of milk and fluid milk product containers shall be done in a sanitary manner by approved mechanical capping and/or closing equipment. The cap or closure shall be designed and applied in such a manner that the pouring lip is protected to at least its largest diameter and, with respect to fluid product containers, removal cannot be made without detection.

22. Item 20p.—Personnel Cleanliness: Hands shall be thoroughly washed before commencing plant functions and as often as may be required to remove soil and contamination. No employee shall resume work after visiting the toilet room without thoroughly washing his hands. All persons engaged in the processing, pasteurization, handling, storage, or transportation of milk and fluid milk products, containers, equipment and utensils shall wear clean outer garments. The use of tobacco by any person while engaged in the processing of milk or fluid milk products is prohibited. Adequate hair coverings shall be worn by persons engaged in the processing of milk and fluid milk products.

23. Item 21p.—Vehicles: All vehicles used for transportation of pasteurized milk and fluid milk products shall be constructed and operated so that the milk and fluid milk products can be maintained at 45 degrees Farenheit (7 degrees Celcius) or less, and are protected from sun, from freezing, and from contamination; provided, however, that the provisions of item 17p above are adhered to.

24. Item 22p.—Surroundings: Milk plant surroundings shall be kept neat, clean, and free from conditions which might attract or harbor flies, other insects and rodents, or which otherwise constitute a health nuisance.

8:21-10.7 Transferring; delivery containers; cooling

(a) Except as permitted in these regulations, no milk producer, milk hauler or distributor shall transfer milk or fluid milk products from one container or milk tank truck to another on the street, in any vehicle, store, or in any place except a milk plant, receiving station, transfer station, or milkhouse especially used for that purpose. The dipping or ladling of milk or fluid milk products is prohibited.

(b) It shall be unlawful to sell or serve any milk or fluid milk product except in the individual, original container received from the distributor, or from an approved bulk dispenser; Provided that, this requirement shall not apply to milk for mixed drinks requiring less than one-half pint of milk, or to cream, whipped cream or half-and-half which is consumed on the premises and which may be served from the original container of not more than one-half gallon capacity, or from a bulk dispenser approved for such service by the health authority.

(c) It shall be unlawful to sell or serve any pasteurized milk or fluid milk product which has not been maintained at a temperature of 45 degrees Farenheit (7 degrees Celcius) or less, except as allowed in Item 17p above. If containers of pasteurized milk or fluid milk products are stored on ice, the storage container shall be properly drained.

8:21-18.8 Milk and milk products from points beyond the limits of routine inspections

Milk and fluid milk products from points beyond the limits of routine inspection of the Department may be sold in New Jersey; Provided that they are produced and pasteurized, ultra-pasteurized, or aseptically processed under regulations which are substantially equivalent to these regulations and have been awarded an acceptable milk sanitation compliance and enforcement rating made by a State Milk Sanitation Rating Officer certified by the U.S. Food and Drug Administration; Provided further, that said unit of government accepts New Jersey milk and fluid milk products certified by a certified New Jersey milk sanitation rating officer.

You're viewing an archived copy from the New Jersey State Library.

8:21-10.9 Personnel health

No person affected with any disease in a communicable form, or while a carrier of such disease, shall work at any dairy farm or milk plant in any capacity which brings him into contact with the production, handling, storage, or transportation of milk, fluid milk products, containers, equipment and utensils; and no dairy farm or milk plant operator shall employ in any such capacity any such person, or any person suspected of having any disease in a communicable form, or of being a carrier of such disease. Any producer or distributor of milk or fluid milk products, upon whose dairy farm, or in whose milk plant any communicable disease occurs, or who suspects that any employee has contracted any disease in a communicable form, or has become carrier of such disease, shall notify the health authority immediately.

8:21-10.10 Procedure when infection is suspected

(a) When reasonable cause exists to suspect the possibility of transmission of infection from any person concerned with the handling of milk and/or fluid milk products, the health authority is authorized to require any or all of the following measures:

1. The immediate exclusion of that person from milk handling;

2. The immediate exclusion of the milk supply concerned from distribution and use; and,

3. Adequate medical and bacteriological examination of the person, or his associates, and of his and their body discharges.

8:21-10.11 Future dairy farms and milk plants

(a) Properly prepared plans for all milk houses, milking barns, stables and parlors which are hereinafter constructed, reconstructed or extensively altered shall be submitted to the certified industry inspector or Department for review before work is begun.

(b) Properly prepared plans for all transfer stations, receiving stations and milk plants which are hereinafter constructed, reconstructed or extensively altered shall be submitted to the Department for review before work is begun.

(c) The certified industry inspector or Department shall review these plans and respond accordingly within 30 days of the date of submission.

(d) No milk house, milking barn, stable, parlor, transfer station, receiving station or milk plant shall be constructed, reconstructed or extensively altered except in accordance with plans previously submitted to the appropriate certified industry inspector, health and construction authorities.

8:21-10.12 Dating of milk and fluid milk products

(a) All packages or containers of:

1. White whole milk, certified milk, Vitamin D milk, homogenized milk, lowfat milk, protein fortified lowfat milk, skim milk, protein fortified skim milk, nonfat milk, protein fortified nonfat milk and flavored milks shall be legibly marked with a "shelf-life expiration date" which shall be no later than nine days following the date of pasteurization; except, when the above products are ultra-pasteurized the dating shall comply with 2. below.

2. Fluid milk products as defined in N.J.S.A. 24:10-57.1 other than those enumerated in (a)1 above and all types and varieties of cottage and soft cheeses designated by the Department, intended for direct sale to consumers, shall be legibly marked with a "shelf-life expiration date." This date shall be determined and applied on the final consumer package or container by the initial processor or manufacturer. Prior to determining this date, each processor or manufacturer shall notify the Department of the intended date selected by him for each fluid milk product. All data and material used by the processor or manufacturer in his determination of this date shall be made available to the Commissioner upon request. If the data and material submitted does not, in the opinion of the Commissioner, justify the "shelf-life expiration date," the Commissioner shall prohibit the sale of the product until such time as satisfactory data is supplied or until a new "shelf-life expiration date" consistent with the data is applied to the product.

(b) The packages or containers shall be marked with the legend "not to be sold after," or "sell by," or any other clearly understandable legend approved by the Department, followed by the "shelf-life expiration date." The designation of the month and date of the month after which the product shall not be sold may be numerical, such as "9-15" or "0915" for September 15 or with the use of an abbreviation for the month such as "Sep 15" or "Se 15."

(c) The "shelf-life expiration date" shall appear in a clear and legible manner and shall be placed on the part of the package or container most likely to be displayed, presented, or shown or examined under customary conditions of display for retail sale, and shall not interfere with the legibility of other mandatory labeling requirements of the product. However, cup containers that are labeled with the date on the bottom of the container shall have displayed on the cap or other conspicuous position information indicating the location of the date. The same provision applies for dates molded into plastic containers. Individual portion-pak containers not intended for direct resale to consumers shall be exempted, provided the bulk container in which they are distributed is properly dated. Containers and packages of frozen cream and frozen desserts mixes not intended for resale to consumers shall also be exempted from the provisions of this regulation.

(d) No milk product referred to in this regulation shall be sold or offered for sale after 11:59 P.M. of the date appearing on the package or container. Products delivered prior to the "shelf-life expiration date" may be consumed on the premises beyond the date appearing thereon.

DIVISION OF HEALTH FACILITIES EVALUATION

For proposals numbered PRN 1985-704 and 705, submit comments by February 6, 1986 to:

John J. Haney
Executive Secretary
Nursing Home Administrator's
Licensing Board
New Jersey Department of Health
CN 367
Trenton, NJ 08625

(a)

Health Care Facilities Licensure
Licensing Nursing Home Administrators

Proposed Amendment: N.J.A.C. 8:34-1.8

Authorized By: J. Richard Goldstein, M.D., Commissioner of Health (with approval of the Nursing Home Administrator's Licensing Board).

You're viewing an archived copy from the New Jersey State Library.

Authority: N.J.S.A. 26:2H-1 et seq. specifically 26:2H-27, 26:2H-28 and 26:2H-51.
Proposal Number: PRN 1985-705.

The agency proposal follows:

Summary

One of the duties of the Nursing Home Administrator's Licensing Board is to ensure that an administrator shall not be responsible for more than two facilities which total more than 240 long-term care beds.

The Board believes that because its regulations are becoming more numerous and complex, the number of beds for which an administrator may be responsible in two institutions should be reduced in order to assure that the patients in both facilities are provided safe and adequate care. The Board believes that the number of patients in two facilities for which any one administrator should be responsible should be reduced.

The Nursing Home Administrator's Licensing Board therefore proposes to reduce the number of beds for which a licensed nursing home administrator may be responsible for in two long-term care facilities from 240 beds to 120 beds.

If the facility for which a licensed administrator is responsible has more than 120 beds, the proposed amendment would prohibit that administrator from being the administrator of any other long-term care facility.

Social Impact

By reducing the number of beds for which an administrator can be responsible, the Department is confident the facilities will receive more administrative supervision. The increased supervision will provide more extensive and improved care for the patients in these facilities.

Economic Impact

The proposed amendment will have no economic impact on the State. The impact in the industry would be minimal since long-term care owners would still have to remunerate licensed administrators whether they are responsible for one or two long-term care facilities.

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

8:34-1.8 Suspension regulations for Nursing Home Administrators

(a) Pursuant to the authority in N.J.S.A. 30:11-1 et seq., and in accordance with applicable provisions of the Administrative Procedure Act of 1968, these regulations shall be applicable to all licensed nursing or convalescent home administrators and all existing and new facilities licensed or approved as nursing or convalescent facilities under provisions of N.J.S.A. 30:11-1 et seq.

1. (No change.)

[2. An administrator shall not be responsible for more than two institutions, within a 20-mile radius, totaling not more than 240 beds.]

2. The following limitations shall apply to licensed administrators:

i. A licensed administrator shall only be responsible for one facility, except that an administrator may be responsible for two facilities, if such facilities are within a 20-mile radius, and if the total number of beds for which both facilities are licensed is no more than 120.

3.-6. (No change.)

(a)

Health Care Facilities Licensure
Licensing Nursing Home Administrators

Proposed Amendment: N.J.A.C. 8:34-1.9

Authorized By: J. Richard Goldstein, M.D., Commissioner of Health (with approval of the Nursing Home Administrator's Licensing Board)
Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-27, 26:2H-28 and 26:2H-52.
Proposal Number: PRN 1985-704

The agency proposal follows:

Summary

The Nursing Home Administrator's Licensing Board came into being as a result of Section 1908 of the 1967 Social Security Amendments. The regulation stipulated that a State plan of medical assistance under Title XIX of the Social Security Act must include a State program for the licensure of administrators of nursing homes and such program must include a Nursing Home Administrator's Licensing Board.

Consequently, P.L. 1968, c.356 was enacted as N.J.S.A. 30:11-1 et seq. establishing the regulation of nursing homes and hospitals. Subsequently pursuant to N.J.S.A. 26:2H-27 and 26:2H-28 the Nursing Home Administrator's Licensing Board was transferred to the Department of Health.

The public policy of the State is to provide for the development, establishment and enforcement of basic standards for the training, experience and education of individuals who want to become administrators of long term care facilities. At the same time, the State wants to ensure safe and adequate treatment of patients in such long term care facilities.

The Board is responsible for the licensing and registration of nursing home administrators, following their passing of an examination prepared by the Board.

There has been a history of some candidates taking the Nursing Home Administrator's License examination as many as 5 to 17 times with some candidates eventually passing. These marginal candidates, through successful guesswork, could ultimately pass an examination. The Nursing Home Administrator's Licensing Board feels that this results in licensed long term care administrators being marginally qualified. The Board believes this is not in the best interests of patients of long term care facilities, the nursing care industry, as well as the citizens of New Jersey.

Currently, there is no requirement that failing candidates are required to take additional seminars in weak areas before retaking the administrator examinations. The Nursing Home Administrator's Licensing Board is proposing to require candidates who fail the second and third examination to take 50 hours of courses or seminars on long term care education. The Board also proposes to limit the number of reexaminations to no more than four.

This proposal supersedes the proposal on the same subject as published in the New Jersey Register at 17 N.J.R. 2212.

Social Impact

Some licensed nursing home administrators eventually receive their licensure after repeated examination failures. Some candidates barely secure a passing score.

You're viewing an archived copy from the New Jersey State Library.

The Nursing Home Administrator's Licensing Board is concerned with such marginal performances and would prefer that only candidates demonstrating substantial knowledge of long term care administration be licensed.

The people of New Jersey and long term care patients would be better served if candidates for licensure take mandatory remedial education in deficient areas after failing the second or third examinations.

The Nursing Home Administrator's Licensing Board does not wish a candidate to take more than four examinations feeling if the candidate cannot demonstrate proficiency in the area of long term care administration in four attempts, the candidate is not suitable to be considered for licensure.

The proposal should result in a more qualified licensed administrator, who provides better long term care to patients and hopefully reduce the number of deficiencies currently experienced in long term care facilities.

Economic Impact

The economic impact of this proposal would be minimal to the State, other than that of the Executive Secretary of the Nursing Home Administrator's Licensing Board who must expend time to maintain files on candidates who fail, counsel those candidates and ensure that the candidates have documented the required remedial courses or seminars.

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

8:34-1.9 Conditional admission to examination; disqualification; reexamination

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

(e) A candidate who is qualified to take the Nursing Home Administrator's Licensing Board Examination will be allowed to take no more than a total of four examinations.

1. Following a second examination failure, a candidate must take 50 hours of courses or seminars approved by the Nursing Home Administrator's Licensing Board.

2. Following a third examination failure, a candidate must take 50 hours of courses or seminars approved by the Nursing Home Administrator's Licensing Board.

3. Before a candidate will be able to take a third or fourth examination, documentation of successful completion of the courses and seminars, as required in 1. and 2. above, in the form of a notice from the course instructor must be submitted to the Executive Secretary, N.H.A.L. Board, New Jersey State Department of Health, CN 367, Trenton, N.J. 08625.

You're viewing an archived copy from the New Jersey State Library.

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF DAIRY INDUSTRY

Milk Dealers
Mile Coupon Restrictions

Readoption: N.J.A.C. 2:48-5.1 and 5.2
Adopted New Rules: N.J.A.C. 2:48-5.3 and 5.4

Proposed: October 21, 1985 at 17 N.J.R. 2486(a).
Adopted: November 20, 1985 by Woodson W. Moffett, Jr., Director, Divison of Dairy Industry.
Filed: November 27, 1985 as R.1985 d.649, **without change.**

Authority: N.J.S.A. 4:12A-1 et seq., specifically 4:12A-20.

Effective Date for Readoption: November 27, 1985.
Effective Date for New Rules: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66 (1978): November 27, 1990.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 2:48-5.1 and 5.2.

Full text of the adopted new rules follows.

2:48-5.3 Unlimited use of coupons by National Dairy Promotion Board permitted

(a) It shall be lawful for the National Dairy Promotion Board of any state dairy promotion council to offer "cents off" or "refund" coupons on milk containers or any other medium for the promotion of dairy products including fluid milk, if the following conditions are met:

1. The cost of the coupon and the redemption thereof is borne entirely by the promotional organizations; and

2. The coupons are offered without limitations on all milk sold in the State of New Jersey.

2:48-5.4 Unlimited use of coupons in restaurant promotions permitted

It shall be lawful for any promotional organization or milk processing dealer to enter into promotional arrangements with restaurant owners where coupons are used for promoting the sale of fluid milk or fluid milk products for consumption on the premises.

BANKING

(b)

DIVISION OF CONSUMER COMPLAINTS LEGAL & ECONOMIC RESEARCH

Multiple-Party Deposit Accounts

Adopted New Rules: N.J.A.C. 3:1-12

Proposed: October 21, 1985 at 17 N.J.R. 2488(a).
Adopted: December 2, 1985 by Mary Little Parell, Commissioner Department of Banking.
Filed: December 6, 1985 as R.1985 d.660, **without change.**

Authority: N.J.S.A. 17:16I-1 et seq., specifically 17:16I-16.

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): January 6, 1991.

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

Full text of the adopted new rules appears in the New Jersey Administrative Code at N.J.A.C. 3:1-12.

CIVIL SERVICE

(c)

CIVIL SERVICE COMMISSION

Certification and Appointment

Appeals: Psychological Unfitness to Perform the Duties of the Title
Appeals: Physical Unfitness to Perform the Duties of the Title
Adopted New Rules: N.J.A.C. 4:1-8.26 and 8.27
Adopted Amendment: N.J.A.C. 4:1-5.1
Adopted Repeal: N.J.A.C. 4:2-12.1 and 12.2; 4:3-12.1 and 12.2

Proposed: August 19, 1985 at 17 N.J.R. 1957(b).
Adopted: November 7, 1985 by the Civil Service Commission, Eugene J. McCaffrey, Sr., President.
Filed: December 6, 1985 as R.1985 d.661, **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. 11:1-7a, 11:5-1a, 11:9-7, 11:23-2, 11:23-6.

 You're viewing an archived copy from the New Jersey State Library.

Effective: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): September 28, 1988 for N.J.A.C. 4:1-8; September 15, 1988 for N.J.A.C. 4:1-5.

Summary of Public Comments and Agency Responses:

The Department of Civil Service held a public hearing concerning this proposal on September 11, 1985. One commenter appeared at the hearing, representing the Department of Civil Service.

The oral testimony endorsed the Department's proposal as a sound and tested mechanism providing due process and fundamental fairness for rejected candidates by enabling them to submit their appeals to an independent review board which makes findings and recommendations to the Civil Service Commission.

The commenter indicated that as part of the Department of Civil Service's recodification project, N.J.A.C. 4:2-12.1 and 4:3-12.1 (New Jersey Civil Service Medical Review Board) and N.J.A.C. 4:2-12.2 and 4:3-12.2 (New Jersey Medical Examiners Board: Removal from an Eligible List) were recodified in their place. These rules are procedural in nature and delineate the process when a candidate is rejected because of medical, psychiatric or psychological reasons. Except for a change where all parties in these matters would have 20 days instead of the present 10 days to submit all material to support their positions, there were no other substantive or procedural changes. Accordingly, the commenter petitioned the Commission to adopt the new format for these rules.

The following written comments were submitted:

One writer suggested that the appointing authority send the entire medical or psychological report to the Department of Civil Service. She maintained that by sending excerpts of such reports, the reader often could misunderstand the reports. Thus, a negative comment could be neutralized when considered in the entire context of the report. Further, she solicited the Department to distribute a pamphlet of the N.J. Division of Vocational Rehabilitation Services which pamphlet provides information regarding medical evaluations for the purpose of securing employment.

Another recommended that, rather than sending raw data alone, the appointing authority should send an accompanying psychiatric evaluation because the quantity of raw data alone may give the illusion of scientific validity.

Another commented that there was no correlation between the amount of time a candidate was interviewed by a psychiatrist or a psychologist and the validity of the doctor's report.

One stated that, in conformity with New Jersey's Law Against Discrimination, any employee with a disability should have an opportunity to fully participate in any investigation of his or her ability to perform the duties of basic job tasks.

Another wanted an assurance that any employee in general has an opportunity to participate in any investigation of his or her ability to perform the basic duties of a job title. With particular reference to proposed N.J.A.C. 4:1-8.26, she desired less pejorative nomenclature than "psychologically unfit." She claimed a violation of due process requirements in the provision for failure to disclose material to a rejected candidate under certain conditions. Further, she claimed unfairness that a candidate be removed from an eligible list without conclusive evidence on the part of the appointing authority and that, to contest such removal, the removed candidate has to bear the expense. Moreover, in proposed N.J.A.C. 4:1-8.26(d)3, she objected to the word "diagnosis," claiming that a diagnosis, alone, is no accurate measure of a person's ability to function in a particular job. In addition, she maintained that accommodation of the handicapped should be available, which would enable the candidate to perform the job. Finally, she alleged that the function of the Medical Review Board is unclear. If it were adjudicative, then certain due process requirements were necessary and if it were an independent expert of the Civil Service Commission, then an appearance by the candidate would be necessary.

The Division of Vocational Rehabilitation Services recommended distribution of its pamphlet to rejected candidates. There are many public and private providers of information and service of this kind and, if the Department distributes a pamphlet form only one organization, it may be misinterpreted as an exclusive endorsement. Accordingly, while the services provided by Vocational Rehabilitation Services have a great deal of merit, it would be inappropriate to utilize them exclusively to provide information and services within the confines of a Civil Service appeals process.

Proposed N.J.A.C. 4:1-8.26 and 4:1-8.27 provide that in the initial stages, the appointing authority shall submit excerpted reports to the Department because the Department merely seeks evidence that the appointing authority has, in fact, conducted such medical or psychiatric/psychological reports. Thereafter, proposed N.J.A.C. 4:1-8.26 and 4:1-8.27 provide that an employee does have the right to participate in a full investigation where his or her interests are at issue and at that point raw data from tests, the type of tests and the amount of time a candidate was interviewed, among other things, must be submitted.

The Department of Public Advocate raised issued concerning procedural due process safeguards accorded the affected candidate. Both N.J.A.C. 4:1-8.27 and 8.27 provide reasonable notice to an adversely affected party (see N.J.A.C. 4:1-8.26(b) and 8.27(b)), and an opportunity to be heard (see N.J.A.C. 4:1-8.26(e) and 8.27(e)), including an opportunity to personally appear before the review board. Further, the burden of proof is placed on the appointing authority, as are time limitations for the submission of support materials. Thereafter, the respective Boards make a report and recommendation to the Commission and the parties have an opportunity to file exceptions and cross-exceptions. Finally, the parties may appeal the Commission decision to the Appellate Division of the Superior Court.

The Department of Public Advocate also questioned the failure to disclose reasons for list removal due to psychological unfitness in certain circumstances. This practice is only permitted when the examining psychologist or psychiatrist clearly states that such information would be injurious to the candidate's health. See N.J.A.C. 4:1-8.26(a) and 8.27(a).

The Department of Public Advocate also objected to the use of a diagnosis only to eliminate a candidate's name from the list. However, the burden is on the appointing authority to provide, among other things, "a diagnosis or specific, detailed statement showing a behavior pattern that clearly indicates that the appellant is unable to effectively perform the duties of the title . . ." See N.J.A.C. 4:1-8.26(d)3 and 8.27(d)3. Thus, such diagnosis has to be clearly related to the duties of the job and must also be accompanied by the supporting materials. See N.J.A.C. 4:1-8.26(d)1, 2, 3 and 4 and 4:1-8.27(d)1, 2, 3 and 4.

Regarding reasonable accommodation for disabled or handicapped persons, N.J.A.C. 4:1-8.16 provides for such accommodations in testing situations when requested. Never-

You're viewing an archived copy from the New Jersey State Library.

theless, if a job requires certain physical and psychological standards of fitness, the Department of Civil Service, as a public agency, has a responsibility to the public to adhere to such standards.

The Commission changed "cancelled" to "nullified" in N.J.A.C. 4:1-8.26(d) and 4:1-8.27(d) because "cancelled" is a term of art dealing with the termination of an eligible list. Further, it changed "employee" to "candidate" because list removal occurs before actual employment. See N.J.A.C. 4:1-8.26(d) and 4:1-8.27(d). Moreover, it changed the "Board of Medical Examiners" to "Medical Examiners Board" to avoid confusion with the regulatory body which licenses physicians. See N.J.A.C. 4:1-8.27(e). In addition, in order to promote efficiency, the Commission ruled that an appeal may be reviewed on the written record, if the parties do not object. See N.J.A.C. 4:1-8.26(e) and 8.27(e).

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

4:1-8.26 Appeals: Removal from an eligible list for psychological unfitness

(a) When an appointing authority requests a candidate's name be removed from the eligible list because he or she is psychologically unfit to effectively perform the duties of the title, the appointing authority shall send a copy of the certification and excerpts from the psychologist's or psychiatrist's report to the Department of Civil Service. See N.J.A.C. 4:1-8.14. The appointing authority must serve the candidate with a copy of all material submitted to the Department unless the examining psychiatrist or psychologist clearly states in writing that disclosure would be injurious to the candidate's health. In this case, the appointing authority shall not inform the candidate of the request for removal until disposition of the certification. However, when an appeal is initiated, the appointing authority must, upon request from the appellant's doctor or attorney, provide the appellant with all of the documentation submitted to the Department of Civil Service.

(b) Upon receipt of satisfactory documentation or disposition of the certification, whichever is appropriate as in (a) above, the Department of Civil Service shall inform the candidate of the requested removal, that he or she has appeal rights to the Civil Service Commission, and that his or her name will be removed from the eligible list if the Department does not receive an appeal within 20 days of notification of the request for removal.

(c) Upon receipt of the appeal, the Department of Civil Service shall inform the appellant that it is advisable to submit a report from a psychologist or psychiatrist of his or her choice. The Department shall withhold appellant's name from certification until a determination is made on the matter.

(d) Within 20 days of receipt of notification of a candidate's appeal, the appointing authority must submit to the Department of Civil Service all background information, including any background investigation report, and the complete psychological and/or psychiatric reports that were the basis for the requested removal of the candidate as mentally unfit. Excerpts of psychological or psychiatric reports are not acceptable. If the appointing authority fails to file the required materials within 20 days of receipt of notification of appeal, the appointing authority's request shall be *[cancelled]* ***nullified*** and the *[employee's]* ***candidate's*** name shall be retained on the eligible list. Such 20 day period may be extended by the Department of Civil Service only upon a showing of good cause. All reports shall include the following:

1. Signature and date;
2. A clear statement of the amount of time a candidate was personally interviewed;
3. A diagnosis or specific, detailed statement showing a behavioral pattern that clearly indicates that the appellant is unable to effectively perform the duties of the title or specific reasons for the requested removal on a psychiatric or psychological basis; and
4. The tests that have been administered (for example, M.M.P.I., Rorschack, T.A.T.) and all raw data, protocols, computer printouts and profiles from these psychological tests.

(e) The Department of Civil Service shall present all appeal documentation to the New Jersey Civil Service Medical Review Board (Board) which is composed of a psychiatrist and a psychologist. The appellant and the appointing authority shall be given an opportunity to present information in person before the Board*.* *[although]* *[p]***P***ersonal appearances are not required*[.]* ***and, if the parties do not object, the appeal may be reviewed on the written record.*** The burden of proof shall be on the appointing authority to show that a candidate is mentally unfit to effectively perform the duties of the title.

1. The Board shall prepare a report and recommendation for the Civil Service Commission. The report shall be sent to the appellant and appointing authority with the provision that both parties may submit written reasons as to why they disagree with the report (exceptions) within 10 days of receipt.
2. The report and recommendation and any exceptions shall be submitted to the Civil Service Commission for final determination.

4:1-8.27 Appeals: Removal from an eligible list for physical unfitness

(a) When an appointing authority requests a candidate's name be removed from the eligible list because he or she is physically unfit to effectively perform the duties of the title, the appointing authority shall send a copy of the certification and all appropriate data to the Department of Civil Service. See N.J.A.C. 4:1-8.14. The appointing authority must serve the candidate with a copy of all material submitted to the Department unless the examining physician clearly states in writing that disclosure would be injurious to the candidate's health. In this case, the appointing authority shall not inform the candidate of the request for removal until disposition of the certification. However, when an appeal is initiated, the appointing authority must, upon request from the appellant's doctor or attorney, provide the appellant with all the documentation submitted to the Department of Civil Service.

(b) Upon receipt of satisfactory documentation or disposition of the certification, whichever is appropriate as in (a) above, the Department of Civil Service shall inform the candidate of the requested removal, that he or she has appeal rights to the Civil Service Commission, and that his or her name will be removed from the eligible list if the Department does not receive an appeal within 20 days of notification of the request for removal.

(c) Upon receipt of the appeal, the Department of Civil Service shall inform the appellant that it is advisable to submit a report from a physician of his or her choice. The Department shall withhold appellant's name from certification until a determination is made on the matter.

You're viewing an archived copy from the New Jersey State Library.

(d) Within 20 days of receipt of notification of a candidate's appeal, the appointing authority must submit to the Department of Civil Service the complete medical reports that were the basis for the requested removal of the candidate as physically unfit. Excerpts of medical reports are not acceptable. If the appointing authority fails to file the required materials within 20 days of receipt of notification of appeal, the appointing authority's request shall be *[cancelled]* ***nullified*** and the *[employee's]* ***candidate's*** name shall be retained on the eligible list. Such 20 day period may be extended by the Department of Civil Service only upon a showing of good cause. All reports shall include the following:

1. Signature and date;
2. A clear statement of the type of examination conducted;
3. A diagnosis or specific detailed statement showing a physical illness or medical problem that clearly indicates that the appellant is unable to effectively perform the duties of the title; and
4. The tests that have been administered (for example, EKG, EEK, X-ray) and all raw data from all medical tests.

(e) The Department of Civil Service shall present all appeal documentation to the New Jersey Civil Service *[Board of]* Medical Examiners ***Board*** (Board), which is composed of a physician who chairs the Board and a physician who specializes in the medical area addressed in the appeal. The physician-specialist may in addition to participating in the appeal review, examine the appellant and conduct any necessary additional medical tests. The appellant and the appointing authority shall be given an opportunity to present information in person before the Board*.* *[although]* *[p]***P***ersonal appearances are not required*[.]* ***and, if the parties do not object, the appeal may be reviewed on the written record.*** The burden of proof shall be on the appointing authority to show that a candidate is physically unfit to effectively perform the duties of the title.

1. The Board shall prepare a report and recommendation for the Civil Service Commission. The report shall be sent to the appellant and appointing authority with the provision that both parties may submit written reasons as to why they disagree with the report (exceptions) within 10 days of receipt.
2. The report and recommendation and any exceptions shall be submitted to the Civil Service Commission for final determination.

SUBCHAPTER 5. COMMISSION REVIEW AND APPEALS

4:1-5.1 Time limitations

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

(c) See also N.J.A.C. 4:1-8.21, 4:1-8.22 and 4:1-8.23 for examination appeals; N.J.A.C. 4:1-8.26 for psychological unfitness; and N.J.A.C. 4:1-8.27 for physical unfitness.

SUBCHAPTER 12. CERTIFICATION AND APPOINTMENT

4:2-12.1 (Reserved)

The text of the repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:2-12.1.

4:2-12.2 (Reserved)

The text of the repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:2-12.2.

SUBCHAPTER 12. CERTIFICATION AND APPOINTMENT

4:3-12.1 (Reserved)

The text of the repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:3-12.1.

4:3-12.2 (Reserved)

The text of the repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:3-12.2.

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code Licensing Requirements

Adopted Amendments: N.J.A.C. 5:23-5.4 and 5.5

Proposed: August 5, 1985 at 17 N.J.R. 1821(a).
Adopted: November 4, 1985 by John P. Renna, Commissioner, Department of Community Affairs.
Filed: November 6, 1985 as R.1985 d.612, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5.).

Authority: N.J.S.A. 52:27D-124.

Effective Date: January 6, 1985.
Expiration Date pursuant to Executive Order No.66 (1978): April 1, 1988.

Summary of Public Comments and Agency Response:

A comment was received from the New Jersey Builders Association supporting the proposal because it will help alleviate current inspector shortages and allow more qualified people to serve as inspectors. The Department concurs.

The proposal has been revised to extend the exemption from experience requirements for persons who are already licensed to fire protection inspectors who have at least the years of experience required for other licenses.

Holders of associate degrees in code enforcement will be required to have three (rather than two) years of experience for H.H.S. licensure and two (rather than one) year for I.C.S. licensure. This does not constitute a new burden because, at present, these degrees cannot be used at all as a licensing credential.

Experience requirements for licensed engineers and architects are eliminated. A person seeking licensure on the basis of a bachelor's or associate's degree can receive experience credit for inspection work in a relevant field of construction.

Otherwise, the changes that have been made are not substantive and are mostly the result of the redistribution of the provisions of 5:23-5.5(b) among new sections 5:23-5.6 through -5.12. This redistribution is being done so that each license category will have a separate section heading and the

You're viewing an archived copy from the New Jersey State Library.

licensing subchapter will therefore be more readily usable by interested persons. A table showing the redistribution of portions of the rule is printed below.

RECODIFICATION TABLE

Old Designation	New Designation
5.5 (b) 1.	5.6
5.5 (b) 2.	5.7
5.5 (b) 3. i.	5.8
5.5 (b) 3. ii.	5.9
5.5 (b) 3. iii.	5.10
5.5 (b) 3. iv.	included in 5.8, 5.9 and 5.10
5.5 (b) 4. i.	5.11
5.5 (b) 4. ii.	5.12
5.5 (b) 4. iii.	included in 5.11 and 5.12
5.5 (b) 5. i.	5.13
5.5 (b) 5. ii.	5.14
5.5 (b) 5. iii.	5.15
5.5 (b) 5. iv.	included in 5.13, 5.14 and 5.15
5.5 (b) 6. i.	5.16
5.5 (b) 6. ii.	5.17
5.5 (b) 6. iii.	included in 5.16 and 5.17
5.5 (b) 7.	5.18
5.5 (b) 8.	5.19
5.5 (b) 9.	5.20
5.5 (b) 10. (proposed)	5.5 (d) 5.
5.5 (c)-(e)	5.5 (b)-(d)
5.6	5.21
5.7	5.22
5.8 (reserved)	deleted
5.9	5.24
5.10	5.25
5.11	5.26
5.12	5.23

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

5:23-5.4 Licenses required

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

(d) Rules concerning trainee personnel are:

1.-2. (No change.)

3. Persons meeting the following experience requirements shall be eligible to be employed as trainees:

i. Fire protection inspector trainee—a minimum of one year of experience in the fire service.

ii. Building inspector trainee—a minimum of one year of experience in building construction as a journeyman, inspector, contractor, or designer draftsperson relative to the building subcode.

iii. Plumbing inspector trainee—a minimum of one year of experience as a journeyman plumber, or as a contractor, or designer draftsperson relative to the plumbing subcode.

iv. Electrical inspector trainee—a minimum of one year of experience as a journeyman electrician or as a contractor or designer draftsperson relative to the electrical subcode.

v. Persons *[having a college]* ***who have graduated from an accredited institution of higher education with a bachelor's*** degree in architecture or engineering or in architectural or engineering technology, ***or an associate's degree in code enforcement,*** or ***having*** a current New Jersey license to practice as an architect or engineer at the time of application shall be exempt from the experience requirement for trainee employment.

5:23-5.5 *[Requirements for a license]* ***General license requirements***

(a) (No change.)

(b) (Deleted in its entirety and renumbered as new sections 5.6 through 5.20 below.)

(c)-(d) Redesignated (b)-(c).

[(e)] ***(d)*** Special provisions:

1.-4. (No change.)

5. An applicant who satisfies the experience requirements for licensure as a building inspector, electrical inspector, *, **fire protection inspector** *or plumbing inspector shall be eligible for licensure as an inspector at the same level or lower in any other subcode upon satisfactory completion of the approved educational program, if applicable, and the examination for that other subcode license*, **provided that the applicant has at least the number of years of experience required for that other subcode license*.**

Existing 5:23-5.6 and 5.7 renumbered as 5:21 and 5:22.

Existing 5:23-5.9 through 5.11 renumbered as 5.24 through 5.26.

Existing 5:23-5.12 renumbered as 5.23.

Renumbered new sections 5.6 through 5.20 from (b) above follow:

5:23-5.6 Construction official requirements

(a) A candidate for a license as construction official shall meet the following qualifications:

1. Possession of the qualifications established herein for at least one of the four subcode official licenses in the specialty for which the construction official license is sought; provided, however, that any person qualified as a fire protection subcode official must also have experience for the applicable period of time specified by N.J.S.A. 52:27D-126b; and

2. Successful completion of an approved construction official educational program *[in]* ***as required by*** N.J.A.C. *[5:23-5.6]* ***5:23-5.21*** prior to application *[;]* *.*

3. A provisional license shall be issued to any person provided that such person is licensed as a subcode official. Such person shall have successfully completed the educational program required herein within 24 months of issuance of the provisional license.

5:23-5.7 Subcode official requirement

(a) A candidate for a license as a building, electrical, fire protection or plumbing subcode official shall meet the following qualifications:

1. Possession of the qualifications established herein for a technical inspector license in at least the same specialty as the subcode official license being applied for; and

2. Successful completion of an approved subcode official educational program established in N.J.A.C. *[5:23-5.6]* ***5:23-5.21*** *[proper]* ***prior*** to application; and

3. Completion of such additional experience in the subcode of qualification as may be required, beyond that needed for licensure as a technical inspector, to provide at least the following total experience:

i. Ten years in construction, design or supervision as a journeyman in a skilled construction trade currently regulated by the Uniform Construction Code; or ten years as a technical

You're viewing an archived copy from the New Jersey State Library.

inspector; or ten years as a construction contractor in a field of construction currently regulated by the construction code; or

ii. Five years of experience in construction, design or supervision as an architect or engineer engaged in building construction work, provided that such person possess at least a bachelor's degree in architecture or engineering from an accredited institution of higher education; or

iii. Three years of experience in construction, design or supervision as a licensed engineer or registered architect, provided that such person possess a license as an engineer or architect issued by the State of New Jersey at the time of application.

4. Exception: A candidate for a license as a fire protection subcode official must possess at least the following experience:

i. Three years of experience as a fire prevention official; or

ii. Three years of experience as a fire protection official.

5. A provisional license shall be issued to any person who processes the required experience listed above provided that such person is licensed as a technical inspector. Such person shall have successfully completed the educational program required herein within 24 months of issuance of the provisional license.

6. A person who is already licensed as a building, plumbing or electrical subcode official shall be deemed to have satisfied the experience requirement for any other subcode official license.

5:23-5.8 Building inspector H.H.S. requirements

(a) A candidate for a license as a building inspector H.H.S. shall meet the following ***educational and/or experience*** requirements:

1. Seven years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building subcode; or

2. Seven years of experience as a building inspector; or

3. Seven years of experience as a construction contractor in a field of construction currently regulated by the building subcode; or

4. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology ***and two years of experience in construction, design, inspection or supervision in a field of construction currently regulated by the building subcode;*** or

5. ***Possession of*** an associate's degree in code enforcement ***from an accredited institution of higher education*** and *[two]* ***three*** years of experience in the construction, design, ***inspection*** or supervision of construction work regulated by the building subcode; or

6. ***Possession of*** a current New Jersey license to practice as an architect or engineer *[and one year of experience in construction work currently regulated by the building subcode]* ***at the time of application.*** *[; and]*

(b) ***A candidate for a license as a building inspector H.H.S. shall also meet the following requirements:***

1. Successful completion of an approved education program meeting the requirements established in N.J.A.C. *[5:23-5.6]* ***5:23-5.21*** for building inspector H.H.S. and an examination as required by N.J.A.C. *[5:23-5.9*] **5:23-5.4** prior to application*; **provided, however, that persons have a college degree in architecture or engineering directly related to the building subcode shall be exempted from the educational program requirements for building inspector H.H.S.***

2. Possession of, or eligibility for, the building inspector I.C.S. ***license.***

5:23-5.9 Building inspector I.C.S. requirements

(a) A candidate for a license as a building inspector I.C.S. shall meet the following ***educational and/or experience*** requirements:

1. Five years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building subcode; or

2. Five years of experience as a building inspector; or

3. Five years of experience as a construction contractor in a field of construction currently regulated by the building subcode; or

4. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology ***and one year of experience in construction, design, inspection or supervision in a field of construction currently regulated by the building subcode;*** or

5. ***Possession of*** an associate degree in code enforcement ***from an accredited institution of higher education*** and *[one]* ***two*** years of experience in the construction, design, ***inspection*** or supervision of construction work regulated by the building subcode; or

6. ***Possession of*** a current New Jersey license to practice as an architect or engineer *[and one year of experience in construction work currently regulated by the building subcode]* ***at the time of application.*** *[; and]*

(b) ***A candidate for a license as a building inspector I.C.S. shall also meet the following requirements:***

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. *[5:23-5.6]* ***5:23-5.21*** for building inspector I.C.S. and an examination as required by N.J.A.C. *[5:23-5.9]* ***5:23-5.24*** prior to application ***; provided, however, that persons having a college degree in architecture or engineering directly related to the building subcode shall be exempted from the educational program requirements for building inspector I.C.S.***

2. Possession of, or eligibility for, the building inspector R.C.S. license.

5:23-5.10 Building inspector R.C.S. requirements

(a) A candidate for a license as a building inspector R.C.S. shall meet the following ***educational and/or experience*** requirements:

1. Three years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building subcode; or

2. Three years of experience as a building inspector; or

3. Three years of experience as a construction contractor in a field of construction currently regulated by the building subcode; or

4. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology ***;*** or

5. ***Possession of*** an associate's degree in code enforcement ***from an accredited institution of higher education*** and one year of experience in the construction, design, ***inspection*** or supervision of construction work regulated by the building subcode; or

6. Possession of a current New Jersey license to practice as an architect or engineer *[; and]* ***.***

(b) ***A candidate for a license as a building inspector R.C.S. shall also meet the following requirements prior to application:***

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. *[5:23-5.6]* ***5:23-5.21*** for building inspector R.C.S. *[and

You're viewing an archived copy from the New Jersey State Library.

an examination as required by N.J.A.C. 5:23-5.9 prior to application]*; ***provided, however, that persons having a college degree in architecture or engineering directly related to the building subcode shall be exempted from the educational program requirements for building inspector R.C.S.; and***

2. ***Successful completion of an examination as required by N.J.A.C. 5:23-5.24.*** *[iv. Persons having a college degree in engineering or architecture directly related to the building subcode shall be exempted from the educational program requirements for building inspector R.C.S., building inspector I.C.S., and building inspector H.H.S.]*

5:23-5.11 Electrical inspector H.H.S. requirements

(a) A candidate for a license as an electrical inspector H.H.S. shall meet the following ***educational and/or experience*** requirements:

1. Seven years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the electrical subcode; or

2. Seven years of experience as a *[plumbing]* ***an electrical*** inspector; or

3. Seven years of experience as a construction contractor in a field of construction currently regulated by the electrical subcode; or

4. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology ***and two years of experience in construction, design, inspection or supervision in a field of construction currently regulated by the electrical subcode;*** or

5. ***Possession of*** an associate's degree in code enforcement ***from an accredited institution of higher education*** and *[two]* ***three*** years of experience in the construction, deisgn, ***inspection*** or supervision of construction work regulated by the electrical subcode; or

6. ***Possession of*** a current New Jersey license to practice as an architect or engineer *[and one year of experience in construction work currently regulated by the electrical subcode]* ***at the time of application.*** *[; and]*

(b) ***A candidate for a license as an electrical inspector H.H.S. shall also meet the following requirements prior to application:***

1. Successful completion of an approved educational program meeting the requirements established in *[5:23-5.6]* ***5:23-5.21*** for electrical inspector H.H.S. *[and an examination as required by N.J.A.C. 5:23-5.9 perior to application]*; ***provided, however, that persons having a college degree in engineering directly related to the electrical subcode shall be exempted from the educational program requirements for electrical inspector H.H.S.; and***

2. ***Successful completion of an examination as required by N.J.A.C. 5:23-5.21.***

5:23-5.12 Electrical inspector I.C.S. requirements.

(a) A candidate for a license as an electrical inspector I.C.S. shall meet the following ***educational and/or experience*** requirements:

1. Five years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the electrical subcode; or

2. Five years of experience as an electrical inspector; or

3. Five years of experience as a construction contractor in a field of construction currently regulated by the electrical subcode; or

4. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology ***and one year of experience in construction, design, inspection or supervision in a field of construction currently regulated by the electrical subcode;*** or

5. ***Possession of*** an associate degree in code enforcement ***from an accredited institution of higher education*** and *[one]* ***two*** years of experience in the construction, design, ***inspection*** or supervision of construction work regulated by the electrical subcode; or

6. ***Possession of*** a current New Jersey license to practice as an architect or engineer *[and one year of experience in construction work currently regulated by the electrical subcode]* ***at the time of application.*** *[; and]*

1. Successful completion of an approved educational program meeting the requirements established in *[5:23-5.6]* ***5:23-5.21*** for electrical inspector I.C.S. *[and an examination as required by N.J.A.C. 5:23-5.9 prior to application]*; ***provided, however, that persons having a college degree in engineering directly related to the electrical subcode shall be exempted from the education program requirements for electrical inspector I.C.S.; and***

2. ***Successful completion of an examination as required by N.J.A.C. 5:23-5.24.***

[iii. Persons having a college degree in engineering directly related to the electrical subcode shall be exempted from the educational program requirements for the electrical inspector H.H.S. and I.C.S. licenses.]

5:23-5.13 Fire protection inspector H.H.S. requirements

(a) A candidate for a license as a fire protection inspector H.H.S. shall meet the following ***experience*** requirements:

1. Seven years of experience in the fire service as an officer, inspector or firefighter (other than as an apprentice or trainee), with responsibility for fire prevention, fire protection or firefighting activities; or

2. Five years of experience as a journeyman in a skilled trade regulated by the fire protection subcode and two years of active service in the fire service *.* *[; and]*

(b) ***A candidate for a license as a fire protection inspector H.H.S. shall also meet the following requirements:***

1. Successful completion of an approved educational program meeting the requirements established in *[5:23-5.6]* ***5:23-5.21*** for fire protection inspector H.H.S. and an examination as required by *[5:23-5.9]* ***5:23-5.24*** prior to application ***; provided, however, that persons having a college degree in fire science, architecture or engineering directly related to the fire protection subcode shall be exempted frm the educational program requirements for fire protection inspector H.H.S.***

2. Possession of, or eligibility for, the fire protection inspector I.C.S. license.

5:23-5.14 Fire protection inspector I.C.S. requirements

(a) A candidate for a license as a fire protection inspector I.C.S. shall meet the following ***experience*** requirements:

1. Five years of experience in the fire service as an officer, inspector or firefighter (other than an apprentice or trainee) with responsibility for fire prevention, fire protection or firefighting activities; or

2. Three years of experience as a journeyman in a skilled trade regulated by the fire protection subcode and two years of active experience in the fire service *.* *[; and]*

(b) ***A candidate for a license as a fire protection inspector I.C.S. shall also meet the following requirments:***

1. Successful completion of an approved educational program meeting the requirements established in *[5:23-5.6]* ***5:23-5.21*** for fire protection inspector I.C.S. and an examin-

You're viewing an archived copy from the New Jersey State Library.

ation as required by *[5:23-5.8 or N.J.A.C. 5:23-5.9]* ***5:23-5.24*** prior to application ***; provided, however, that persons having a college degree in fire science or in architecture or engineering directly related to the fire protection subcode shall be exempted from the educational program requirements for fire protection inspector I.C.S.***

2. Possession of, or eligibility for, the fire protection inspector R.C.S. license

5:23-5.15 Fire protection inspector R.C.S. requirements

(a) A candidate for a license as a fire protection inspector R.C.S. shall *[meet the following requirements:]* ***have had*** three years of active experience in the fire service *.* *[; and]*

(b) ***A candidate for a license as a fire protection inspector R.C.S. shall also meet the following requirements prior to application:***

1. Successful completion of an approved educational program meeting the requirements established in *[5:23-5.6]* ***5:23-5.21*** for fire protection inspector R.C.S. *[and an examination as required by N.J.A.C. 5:23-5.9 prior to application]*; ***provided, however, that persons having a college degree in fire science or in architecture or engineering directly related to the fire protection subcode shall be exempted from the educational program requirements for fire protection inspector R.C.S.; and***

2. ***Successful completion of an examination as required by 5:23-5.24.***

(c) A provisional license shall be issued to any person who has been appointed to the position of fire protection inspector R.C.S. in a local enforcing agency, provided that such person possesses the required experience and further provided that such person shall have successfully completed the educational program established in N.J.A.C. *[5:23-5.6]* ***5:23-5.21*** for fire protection inspector R.C.S. within 12 months of the appointment.

[iv. Persons having a college degree in fire science or in engineering or architecture directly related to the fire subcode shall be exempted from the educational program requirements for fire protection inspector R.C.S., fire protection inspector I.C.S., and fire protection inspector H.H.S.]

5:23-5.16 Plumbing inspector H.H.S. requirements

(a) A candidate for a license as a plumbing inspector H.H.S. shall meet the following ***educational and/or experience*** requirements:

1. Seven years of experience in construction, design or supervision as a journeyman in skilled trade currently regulated by the plumbing subcode; or

2. Seven years of experience as a plumbing inspector; or

3. Seven years of experience as a construction contractor in a field of construction currently regulated by the plumbing subcode; or

4. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology ***and two years of experience in construction, design, inspection or supervision in a field of construction currently regulated by the plumbing subcode;*** or

5. ***Possession of*** an associate's degree in code enforcement ***from an accredited institution of higher education*** and *[two]* ***three*** years of experience in the construction, design, ***inspection*** or supervision of construction work regulated by the plumbing subcode; or

6. ***Possession of*** a current New Jersey license to practice as an architect or engineer *[and one year of experience in construction work currently regulated by the plumbing subcode]* ***at the time of application.*** *[; and]*

(b) ***A candidate for a license as a plumbing inspector H.H.S. shall also meet the following requirements:***

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. *[5:23-5.6]* ***5:23-5.21*** for plumbing inspector H.H.S. and an examination as required by N.J.A.C. *[5:23-5.9]* ***5:23-5.24*** prior to application ***; provided, however, that persons havng a college degree in engineering directly related to the plumbing subcode shall be exempted from the educational program requirements for plumbing inspector H.H.S.***

2. Possession of, or eligibility for, the plumbing inspector I.C.S. license.

5:23-5.17 Plumbing inspector I.C.S. requirements

(a) A candidate for a license as a plumbing inspector I.C.S. shall meet the following ***educational and/or experience*** requirements:

1. Five years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the plumbing subcode; or

2. Five years of experience as a plumbing inspector; or

3. Five years of experience as a construction contractor in a field of construction currently regulated by the plumbing subcode; or

4. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology ***and one year of experience in construction, design, inspection or supervision in a field of construction generally regulated by the plumbing subcode;*** or

5. ***Possession of*** an associate degree in code enforcement ***from an accredited institution of higher education*** and *[one]* ***two*** years of experience in the construction, design, ***inspection*** or supervision of construction work regulated by the plumbing subcode; or

6. ***Possession of*** a current New Jersey license to practice as an architect or engineer *[and one year of experience in construction work currently regulated by the plumbing subcode]* ***at the time of application*** *[; and]*

(b) ***A candidate for a license as a plumbing inspector I.C.S. shall also meet the following requirements prior to application:***

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. *[5:23-5.6]* ***5:23-5.21*** for plumbing inspector I.C.S. *[and an examination as required by N.J.A.C. *[5:23-5.9 prior to application]* ***5:23-5.24*** prior to application ***; provided, however, that persons havng a college degree in engineering directly related to the plumbing subcode shall be exempted from the educational program requirements for plumbing inspector I.C.S.***

2. ***Successful completion of an examination as required by N.J.A.C. 5:23-5.24.***

[iii. Persons having a college degree in engineering directly related to the plumbing subcode shall be exempted from the educational program requirements for the plumbing inspector I.C.S. and plumbing inspector H.H.S. licenses.]

5:23-5.18 Inplant inspector requirements

(a) A candidate for a license as an inplant inspector shall meet the following ***educational and/or experience*** requirements:

1. Five years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building, electrical, fire protection or plumbing subcode, or a combination thereof; or

You're viewing an archived copy from the New Jersey State Library.

2. Five years of experience as a construction contractor currently regulated by any of the four above enumerated subcodes, or a combination thereof; or

3. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering and three years of experience in any one or more of the fields regulated by the above enumerated subcodes; or

4. Possession of a current New Jersey license or registration to practice engineering or architecture at the time of application *.* *[; and]*

(b) ***A candidate for a license as an inplant inspector shall have successfully completed*** *[Successful completion of]* examinations as required by N.J.A.C. *[5:2305-9]* ***5:23-5.24*** prior to application.

5:23-5.19 Special technical license requirements

(a) Elevator inspector: Requirements reserved pending adoption of special regulations governing elevator inspections.

(b) Mechanical inspector: Requirements reserved *[pending adoption of a mechanical subcode]*.

5:23-5.20 Facility fire protection supervisor requirements

(a) A candidate for a license as a facility fire protection supervisor shall meet the following ***experience*** requirements:

1. Five years of experience as an officer responsible for fire prevention or fire protection activities; or

2. Three years of experience as a journeyman in a skilled trade regulated by the fire protection subcode; or

3. Three years of experience as a fire prevention inspector; or one year of experience as a fire protection inspector *.* *[; and]*

(b) ***A candidate for a technical license as a facility fire protection supervisor shall also meet the following requirements prior to application:***

1. Successful completion of ***an*** approved educational program meeting the requirements established in N.J.A.C. *[5:23-5.6]* ***5:23-5.21*** for fire protection inspector I.C.S.*; **provided, however, that persons having a college degree in fire science or New Jersey professional license in engineering or architecture shall be exempted from the educational program requirement;*** and

2. ***Successful completion of*** an examination as required for fire protection inspector I.C.S. by *[5:23-5.9]* ***5:23-5.24*** *[prior to application.]* Persons having a college degree in fire science or a New Jersey professional license in engineering or architecture shall be exempted from the educational program requirement.

EDUCATION

(a)

STATE BOARD OF EDUCATION

Basic Certification Requirements

Readoption: N.J.A.C. 6:11-3.1 through 6:11-3.25

Adopted Repeal: N.J.A.C. 6:11-3.13

Adopted Amendments: N.J.A.C. 6:11-3.3, 3.6 and 3.23

Proposed: September 16, 1985 at 17 N.J.R. 2181(a).

Adopted: December 12, 1985 by State Board of Education, Saul Cooperman, Secretary.

Filed: December 12, 1985 as R.1985 d.665, **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. 18A:1-1, 18A:4-15, 18A:6-7, 18A:6-34, 18A:6-38 and 18A:26-10.

Effective Date for Readoption: December 12, 1985.

Effective Date for Amendments and Repeal: January 6, 1986.

Expiration Date pursuant to Executive Order No. 66(1978): December 12, 1990.

Summary of Public Comments and Agency Responses:

The Department received one written comment and two individuals testified at a State Board Hearing. The following specific suggestions were made:

1. A clarification to include suspension as a power of the State Board of Examiners.

2. Fees for certificates should not be increased.

3. The State Board of Examiners should be able to waive the certification test requirement for applicants who produce evidence of alternative education and/or experience.

4. Discussions rendered by county superintendents regarding certificates which must be possessed by occupants of positions with unrecognized titles ought not to be binding for purposes of seniority.

The Department responsed in the following manner:

1. The change was made to include suspension in the rule:

2. It was misunderstood in believing that the rule changes increased certificate fees. Under the old rule of "not less than $20" the fee was raised to $30. The new rule simply indicates the established fee of $30. This change was made in recommendation of the attorney general.

3. The term is required **in addition** to education study and/or experience. Therefore, that same education and experience cannot be substituted for a passing test score.

4. Rules regarding county superintendents' certification decisions will be published at a further date.

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

6:11-3.3 State Board of Education responsible for rules; fees required

(a) The State Board of Education may make and enforce rules and regulations for the granting of appropriate certificates or licenses to teach or to administer, direct, or supervise, the teaching, instruction or education guidance of pupils in public schools operated by district boards of education. For each certificate, a fee of $30.00 shall be charged.

(b) Rules for certification fees include the following:

1. A request for evaluation of credentials for the purpose of determining eligibility to take a particular State licensing examination or for obtaining information concerning qualification for issuance of any particular certificate shall be accompanied by a fee of $10.00 for each certificate or test to be considered.

You're viewing an archived copy from the New Jersey State Library.

2. Fees and refunds for obtaining a "qualifying academic certificate" as defined in N.J.S.A. 18A:6-40 are provided in N.J.S.A. 18A:6-41 (L. 1980, c. 80, 1 eff. July 13, 1984).

(c) The State Board may establish from time to time a fee schedule for services related to the issuance of certificates, including but not limited to fees charged by local districts to provisional teachers to pay for their training, fees for a duplicate certificate and for renewal of a substandard certificate; said fee schedule shall be in addition to any tuition and fees charged by institutions of higher education for courses and credits offered in connection with State-approved training programs.

6:11-3.4 Teaching staff member defined

"Teaching staff member" means a member of the professional staff of any district or regional board of education, or any board of education of a county vocational school, holding office, position or employment of such character that the qualifications, for such office, position or employment, required him ***or her*** to hold a valid and effective standard or provisional or emergency certificate, appropriate to his office, position or employment, issued by the State Board of Examiners and includes a school nurse.

6:11-3.6 Assignment of titles

(a) District boards of education shall assign position titles to teaching staff members which are recognized in these rules.

(b) If a district board of education determines that the use of an unrecognized position title is desirable, or if a previously established unrecognized title exists, such district board of education shall submit a written request for permission to use the proposed title to the county superintendent of schools, prior to making such appointment. Such request shall include a detailed job description. The county superintendent shall exercise his or her discretion regarding approval of such request, and make a determination of the appropriate certification and title for the position. The county superintendent of schools shall review annually all previously approved unrecognized position titles, and determine whether such titles shall be continued for the next school year. Decisions rendered by county superintendents regarding titles and certificates for unrecognized positions shall be binding upon future seniority determinations on a case-by-case basis.

6:11-3.7 Revocation ***and suspension*** of certification

(a) Any certificate that has been issued, or that may hereafter be issued under the rules of the State Board of Education, may be revoked ***or suspended*** by the State Board of Examiners for inefficiency, incapacity, conduct unbecoming a teacher, or other just cause, provided that no certificate shall be revoked ***or suspended*** unless the holder thereof shall have been given opportunity to be heard.

(b) Certification revocation ***or suspension*** procedures are as follows:

1. The State Board of Examiners is empowered by N.J.S.A. 18A:6-38 to revoke ***or suspend*** any certificate issued by that board. Cases which merit revocation ***or suspension*** consideration may be brought before the State Board of Examiners for review from any of the following sources:

i. Upon the decision of the Commissioner of Education, cases contested before the Commissioner of Education, resulting in loss of tenure or dismissal of a teacher or teaching staff member for inefficiency, incapacity, conduct unbecoming a teacher, or other just cause, shall be forwarded to the State Board of Examiners for determination of possible revocation ***or suspension*.** The State Board of Examiners, after review of the record, shall determine by public vote whether or not the offense as proven is of such a nature as to warrant revocation ***or suspension*** consideration, or dismissal of the case. In such cases where the decision of the State Board of Examiners is to move for revocation ***or suspension*** of certification, the Secretary of the State Board of Examiners shall issue an order to show cause and shall issue a statement of charges upon which revocation ***or suspension*** will be considered, which shall not preclude the subsequent inclusion of new findings, and shall notify the certificate holder that an answer must be filed with the State Board of Examiners no later than 20 days from the receipt of that notice. After an answer has been filed on behalf of the certificate holder, the board shall refer the case to the Office of Administrative Law for a hearing in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.).

ii. Upon knowledge of any criminal conviction, the county superintendent of schools or the Chief School Administrator shall notify the Commissioner of Education directly of such a criminal conviction involving a certificate holder, as described in N.J.S.A. 2C:51-2.a. The Secretary of the State Board of Examiners, upon being notified in writing by the Commissioner of Education of such a criminal conviction or guilty plea involving a certificate holder, whether such knowledge comes as a result of a notification by the county superintendent of schools or chief school administrator or otherwise, shall communicate with the court to obtain the judgment of conviction, copy of testimony and other evidence for presentation of the case before the State Board of Examiners. The Secretary of the State Board of Examiners shall issue an order to show cause and shall issue a statement of charges upon which revocation ***or suspension*** will be considered, which shall not preclude the subsequent inclusion of new findings, and shall notify the certificate holder that an answer must be filed with the State Board of Examiners no later than 20 days from the receipt of that notice. After an answer has been filed on behalf of the certificate holder, the State Board of Examiners shall refer the case to the Office of Administrative Law for a hearing, in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.).

iii. Upon the filing of a petition by any person for revocation ***or suspension*** of a certificate with the State Board of Examiners against a certificate holder pursuant to (a) above:

(1) A petitioner must furnish to the Secretary of the State Board of Examiners evidence of proof of service of petition to the other party or parties involved.

(2) The Secretary of the State Board of Examiners shall notify the certificate holder that an answer must be filed with the State Board of Examiners no later than 20 days from the receipt of that notice. Upon timely filing of an answer, the board shall determine whether a matter is a contested case. Each contested case shall be referred to the Office of Administrative Law for a hearing in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.).

2. After the State Board of Examiners has acted upon the initial decision of the administrative law judge in accordance with N.J.S.A. 18A:6-38, where the decision of the board has resulted in revocation ***or suspension*** of a certificate, the Secretary of the State Board of Examiners shall notify the following:

i. The 50 states and other such agencies which are part of the Interstate Certification Project;

ii. All New Jersey county offices of education;

You're viewing an archived copy from the New Jersey State Library.

iii. Appropriate governmental pension and annuity funds, or retirement services.

3. Decisions pertaining to revocation ***or suspension*** made by the State Board of Examiners shall be appealable to the State Board of Education, in accordance with the provisions of N.J.S.A. 18A:6-28.

Recodify 6:11-3.14 through 6:11-3.23 as 6:11-3.13 through 6:11-3.22 (No change in text.)

6:11-3.23 Substitution of alternative educational background and/or experience

(a) Notice of certification deficiency rules are:

1. The Secretary of the State Board of Examiners shall notify all unsuccessful applicants for certification of the certification requirements lacking and of the procedures set forth in (b) below for submitting evidence of alternative education and/or experience.

(b) Offer of alternative education and/or experience rules are:

1. Any applicant lacking required preparation may supply the State Board of Examiners with evidence of alternative education and/or experience except that such education and/or experience may not be substituted for a passing score on the State certification test nor may the ***State*** Board of Examiners in any circumstances waive the test requirement.

2.-3. (No change.)

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

6:11-3.24 Interstate contracts

(No change in text.)

HEALTH

(a)

NARCOTIC AND DRUG ABUSE CONTROL

Controlled Dangerous Substances Temporary Placement of 3, 4-Methylenedioxymethamphetamine into Schedule I

Adopted Amendment: N.J.A.C. 8:65-10.1

Proposed: September 16, 1985 at 17 N.J.R. 2214(a).
Adopted: December 3, 1985 by J. Richard Goldstein, M.D., Commissioner, Department of Health.
Filed: December 13, 1985 as R.1985 d.669, **without change.**

Effective Date: January 6, 1986.
Expiration Date: Exempt from the provisions of Executive Order No. 66(1978) pursuant to N.J.S.A. 24:21-3.
Summary of Public Comments and Agency Responses: **No comments received.**

Full text of the adoption follows.

8:65-10.1 Controlled dangerous substances; Schedule I

(a) (No change.)

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

1.-6. (No change.)

7. Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

i. (No change.)

ii. 3, 4-Methylenedioxymethamphetamine: its optical positional and geometric isomers, salts and salts of isomers 7405

HUMAN SERVICES

(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Home Care Services Manual; Independent Clinic Services Manual

Personal Care Assistant Services: Increase in Hours per Week and Rate of Reimbursement; Procedure Codes

Adopted Amendments: N.J.A.C. 10:60-1.1, 1.2, 2.2, 2.3, 3.1; 10:66-1.6, 3.3

Proposed: October 7, 1985 at 17 N.J.R. 2327(a) and 17 N.J.R. 2330(a).
Adopted: December 5, 1985 by Geoffrey S. Perselay, Acting Commissioner, Department of Human Services
Filed: December 5, 1985 as R.1985 d.656, **without change.**

Authority: N.J.S.A. 30:4D-6b(2)(3)(16), 7, 7a, 7b; 42 CFR 440;170(f).

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): N.J.A.C. 10:60-1, 2, 3—August 27, 1990; N.J.A.C. 10:66-1—May 8, 1986; N.J.A.C. 10:66-3—July 10, 1986.

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

NOTE: In the October 7, 1985 issue of the New Jersey Register, N.J.A.C. 10:60-2.2, 3.1 and 10:66-3.3 were proposed for amendment and filed as proposal number PRN 1985-453. In the same Register a subsequent proposal with further amendments to those sections was filed and published as PRN 1985-538. Now, upon adoption, the two proposals are merged and the printed text that follows reflects the current text with both sets of amendments considered.

Full text of the adoption follows.

You're viewing an archived copy from the New Jersey State Library.

10:60-1.1 Scope

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

1. (No change.)

i. (No change.)

ii. The Personal Care Assistant Service Program may be provided simultaneously with the Home Health Program, as long as the services of a home health aide and personal care assistant worker are not provided at the same time to the same patient.

2.-3. (No change.)

(c) Homemaker (Proprietary and voluntary non-profit) agencies will be approved to provide Personal Care Assistant Service, the Initial Nursing Assessment Visit and the Personal Care Assistant Nursing Reassessment Visit only as outlined in N.J.A.C. 10:60-2.2.

10:60-1.2 Definitions

. . .

"Homemaker agency" means a proprietary or voluntary non-profit agency approved by the Department of Human Services, Division of Medical Assistance and Health Services to provide Personal Care Assistant Service, the Initial Nursing Assessment Visit and the Personal Care Assistant Nursing Reassessment Visit only. The following conditions must be met:

1.-3. (No change.)

. . .

"Occupational therapist" means a person who is registered by the American Occupational Therapy Association, or a graduate of a program in occupational therapy approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association.

. . .

"Physical therapist" means a person who is a graduate of a program of physical therapy approved by both the Council on Medical Education of the American Medical Association and the American Physical Therapy Association or its equivalent; and

i.-iii. (No change.)

10:60-2.2 Personal care assistant service

(a) Personal Care Assistant Service may be provided by a certified, licensed home health agency or by a proprietary or voluntary non-profit homemaker agency. The Personal Care Assistant Service Program may be provided simultaneously with the Home Health Program, as long as the services of a home health aide and personal care assistant worker are not provided at the same time to the same patient.

(b) (No change.)

1.-2. (No change.)

3. Medicaid reimbursement will not be made for personal care assistant service provided to Medicaid eligible recipients in:

i.-iv. (No change.)

v. Intermediate care facility; and

vi. (No change.)

(c) (No change.)

(d) Duties of the registered professional nurse:

1.-2. (No change.)

3. A personal care assistant nursing reassessment visit may be provided at least once every six months, or more frequently if the recipient's condition warrants, to reevaluate the recipient's need for continued care.

(e) (No change.)

(f) Reimbursement:

1. The following are all inclusive maximum rates for personal care assistant services, the initial nursing assessment visit and the personal care assistant nursing reassessment visit. No direct or indirect cost over and above these established rates will be considered for reimbursement. A provider may not charge the New Jersey Medicaid Program in excess of present charges for other payors.

i. Personal care assistant services are limited to a maximum of 25 hours per week at a reimbursement rate up to $8.30 per hour for individual patient Code No. Z1600; and

ii. Up to $4.15 per half-hour for individual patient; Code No. Z1611; and

iii. Up to $6.24 per hour for a group rate (two or more patients, with a maximum of eight patients in the same residential setting at the same time). Code No. Z1605; and

iv. Up to $3.12 per half-hour for a group rate (two or more patients, with a maximum of eight patients in the same residential setting at the same time) Code No. Z1612; and

v. Up to $25.00 may be billed for an initial nursing assessment visit. Code No. Z1610; and

vi. Up to $20.00 may be billed for a nursing reassessment visit. Code No. Z1613.

10:60-2.3 Requirements for authorization of covered services

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

(d) Prior authorization for home health care services and personal care assistant services:

1. (No change.)

i. An initial visit to evaluate the need for home health services or personal care assistant services does not require prior authorization. Following the initial visit, prior authorization is required for all services provided to the Medicaid eligible person not covered under Medicare. This icludes a personal care assistant nursing reassessment visit which may be provided at least once every six months, or more frequently if the recipient's condition warrants, to reevaluate the need for continued care.

ii. (No change.)

2.-9. (No change.)

(e) Service Limitations: When the cost of home health care is equal to or in excess of the cost of institutional care over a period of six months, the Medical Consultant may opt to limit or deny future requests for home health services. Personal Care Assistant services are limited to a maximum of 25 hours per week.

10:60-3.1 Home care services billing procedures

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

(f) Procedure Codes for personal care assistant services:

Code	Description
1. Z1610	Initial Nursing Assessment Visit
2. Z1600	Personal Care Assistant Service (Individual)—per hour.
3. Z1605	Personal Care Assistant Service (Group)—per hour; care provided involves two or more patients, with a maximum of eight patients in the same residential setting at the same time.
4. Z1611	Personal Care Assistant Service (Individual)—one-half hour.
5. Z1612	Personal Care Assistant Service (Group)—one-half hour, per patient; care provided involves two or more patients, with a maximum of eight patients in the same residential setting at the same time.
6. Z1613	Nursing Reassessment Visit.

You're viewing an archived copy from the New Jersey State Library.

(g) (No change.)

10:66-1.6 Scope of services
(a)-(m) (No change.)
(n) Other services rules are as follows:
1.-4. (No change.)
5. (No change.)
6. (No change.)
i. (No change.)
ii. An initial visit to evaluate the need for personal care assistant service does not require prior authorization. Following the initial visit, prior authorization is required for all services provided to the Medicaid eligible person not covered under Medicare. This includes a nursing reassessment visit which may be provided at least once every six months, or more frequently if the recipient's condition warrants, to reevaluate the recipient's need for continued care. (See N.J.A.C. 10:66-3.3(n).

10:66-3.3 Procedure code listing
(a)-(m) (No change.)
(n) Personal care assistant services: The following are all inclusive rates for personal care assistant services (group and individual), initial nursing assessment visit and nursing reassessment visit. No direct or indirect cost over and above these established rates will be considered for reimbursement.
. . .
Code Z1600 individual rate—personal care assistant service—up to $7.70 per hour/maximum 25 hours per week.
Code Z1611—individual rate—personal care assistant service—up to $3.85 per half-hour/maximum 25 hours per week.
Code Z1605 group rate personal care assistant service—care provided involves two or more patients, with a maximum of eight patients in the same residential setting at the same time—up to $6.24 per hour/per patient/maximum 25 hours per week.
Code Z1612—group rate personal care assistant service—care provided involves two or more patients, with a maximum of eight patients in the same residential setting at the same time—up to $3.12 per half-hour/per patient/maximum 25 hours per week.
. . .
Code Z1610—up to $25.00 may be billed for an Initial Nursing Assessment Visit.
Code Z1613—up to $20.00 may be filled for a nursing reassessment visit.

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Automobile Insurance
Personal Injury Protection Coverage; Reduced PIP Premium Charge for Additional Autos in One-Driver Households

Adopted New Rule: N.J.A.C. 11:3-21

Proposed: December 3, 1984 at 16 N.J.R. 3286(a).
Adopted: December 3, 1985 by Hazel Frank Gluck, Commissioner, Department of Insurance.

Filed: December 3, 1985 as R.1985 d.654, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), P. L. 1983, c. 212 and 39:6A-4.1

Effective Date: January 6, 1986.
Operative Date: May 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): January 6, 1991.

Summary of Public Comments and Agency Responses:
The Department of Insurance received five public comments on proposed new rule N.J.A.C. 11:3-21 concerning a reduced personal injury protection premium charge for additional autos in one-driver households. Four of the comments were received from the insurance industry, and one comment was received from the Rate Counsel Division of the Department of the Public Advocate.

COMMENT: By using the language "the reduced premium shall only apply to an individually owned private passenger auto," N.J.A.C. 11:3-21.3(a) excludes a private passenger auto owned jointly by husband and wife. The commenter felt that this language was inconsistent with that found later in the same paragraph: "a motor vehicle owned by an individual or by a husband and wife who are residents of the same household." This inconsistency makes it difficult to determine which vehicles will be eligible for the discount. By changing the language to conform with the definition of "named insured" found in N.J.S.A. 39:6(a)-2, this inconsistency could be eliminated.

RESPONSE: The Department agrees with the commenter, and the language has been changed to that suggested by the commenter.

COMMENT: N.J.A.C. 11:3-21.3(a)1. should be supplemented by adding the language "exclusive of expense fees and policy constants or residual market equalization charges" to qualify the minimum amount below which the reduced premium would not apply.

RESPONSE: The Department agrees with this comment, and the language has been changed to reflect the commenter's suggestion.

COMMENT: N.J.A.C. 11:3-21.3(b) would make the discount operative as to policies in force on the effective date. Three commenters stated that they do not maintain information on the identity or number of drivers in computerized form. They say that they would have to manually check thousands of multiple vehicle policies to determine which ones would be subject to the rule. This procedure would be expensive and time-consuming and the cost would necessarily be reflected in increased charges to insureds. It was suggested by the commenters that insurers solicit information for the credit at the time of application or when renewing policies.

RESPONSE: The Department has amended the rule to allow companies to issue a refund check or apply a credit to an insured's renewal policy. This will eliminate the problem of having to manually check multiple vehicle policies to determine when to apply the discount.

COMMENT: One commenter pointed out that the ownership language in N.J.A.C. 11:3-21.2 was inconsistent with that found in the enabling legislation, and suggested that it be changed to be consistent.

You're viewing an archived copy from the New Jersey State Library.

RESPONSE: The Department agrees and has incorporated the suggested language change.

COMMENT: A retrospective application of credit is contrary to the approved rating structure, which applies changes in rate on a prospective basis, and thus the rule is inconsistent with contract law.

RESPONSE: This rule is not intended to affect the rating structure, but rather is being adopted to reflect the legislation which had been passed concerning this issue.

COMMENT: N.J.A.C. 11:3-21.4(d) requires every insurer to report statistics to the Department. It was suggested that the individual company statistics be subject to examination by the Commissioner and that the actual reports made by filers, rating and statistical organizations be made annually or with each PIP filing. If statistics need to be periodically reviewed, the special call mechanism could be used.

RESPONSE: The Department feels that this provision is necessary, since it may be difficult to use the special call mechanism to review statistics if these statistics have not been previously separated.

COMMENT: One commenter states that limited available data supports a discount of between 5 percent and 19 percent for the premium of the second car. Additionally, the same commenter suggested that companies would prefer to have flexibility in their approach of applying the discount, that is, flexibility to assign the discount to nonspecified cars.

RESPONSE: The law states that the Commissioner is to derive the percentage of the discount (N.J.S.A. 39:6A-4.1), and the discount derived is to be used for all cars. The Department feels that the percentage selected is reasonable until experience indicates otherwise. Furthermore, the example provided by the commenter was not relevant, as the data was based on too small a class, and not on the population in general.

COMMENT: Rate Counsel requests that all filings required in N.J.A.C. 11:3-21.4 be submitted to both the Department and to Rate Counsel.

RESPONSE: The Department agrees, and has inserted language that reads "All filings required in this subsection must be submitted simultaneously to the Department and to the Department of the Public Advocate, Division of Rate Counsel, pursuant to N.J.A.C. 11:1-2.5."

COMMENT: Rate Counsel suggests language changes in two subsections. The change in N.J.A.C. 11:3-21.4(b)1. describes how the payment of PIP benefits would be handled in a situation where the named insured's car is the one involved in the accident.

The language change in N.J.A.C. 11:3-21-4(b)2. would address the situation in which the named insured or a member of his household is injured as an occupant or as a pedestrian in or by a car covered by another insured's policy.

RESPONSE: N.J.S.A. 39:6A-4.2, Primacy of coverages, addresses these two issues. This statute provides "the personal injury protection of the named insured shall be the primary coverage for the named insured and any resident relative in the named insured's household who is not a named insured under an automobile policy of his own. No person shall recover personal injury protection benefits under more than one automobile insurance policy for injuries sustained in any one accident."

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

SUBCHAPTER 21. PERSONAL INJURY PROTECTION COVERAGE: REDUCED PIP PREMIUM CHARGE FOR ADDITIONAL AUTOS IN ONE-DRIVER HOUSEHOLDS.

11:3-21.1 Purpose

The purpose of this rule is to implement N.J.S.A. 39:6A-4.1, which provides for reduced personal injury protection premiums for additional automobiles in one-driver households.

11:3-21.2 Reduction of PIP premium

(a) In any instance where *[there is one licensed operator in the household and more than one automobile, all of which are customarily operated by the sole operator and insured by the same insurer on one or more policies, the full basic PIP rate shall be charged on one automobile, and a percentage discount shall be given on the PIP premium charged on each additional automobile]* ***a named insured is the owner, the only designated operator of two or more automobiles insured by the same insurer under one or more policies, and the only licensed driver residing in the household, the full basic PIP rate shall be charged on one automobile, and a percentage discount shall be given on the PIP premium charge on each additional auto.*** For the three-year period commencing with the operative date of this rule, the premium reduction shall be at least 50 percent of the approved charge for the applicable territory of garaging for the additional automobile(s), exclusive of expense fees and policy constants or residual market equalization charges.

11:3-21.3 Automobiles eligible for premium reduction

(a) Except as provided in paragraph 1 below, the reduced premiums shall only apply to *[an individually owned]* ***a*** private passenger automobile of a private passenger or station wagon type that is owned or hired ***by an individual or by husband and wife who are residents of the same household*** and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pick-up body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

1. The reduced premium shall not apply to automobiles for which the basic PIP premium charge is less than $25.00***, exclusive of expense fees and policy constants or residual market equalization charges,*** and which are of the following types:

i. Automobiles 10 years or older and maintained primarily for use in exhibitions, parades and club activities, or

ii. A self-propelled vehicle with a living area that is an integral part of the chassis or a pick-up with a permanently attached camper body.

(b) A reduced premium charge for PIP coverage as specified in (a) above shall apply to all policies which are *[issued or in force]* ***in force, issued or renewed*** on or after the operative date of this rule.

You're viewing an archived copy from the New Jersey State Library.

***1. With respect to in force policies, the insurer shall calculate the reduced premium charge in (a) above, and shall issue a refund check in this amount to the insured or apply a credit in this amount to the insured's renewal policy.**

i. In the event a policy is nonrenewed or otherwise terminated prior to renewal, the insurer shall calculate a return premium in accordance with the operative date of this rule and the effective termination date of the policy. The insurer shall issue a refund check in this amount to the insured.*

11:3-21.4 Filing and statistical requirements

(a) Each automobile filer shall, within 60 days of the effective date of this rule, submit to the Commissioner for approval filings of rates and manual rules for implementing the reduced PIP premium charges for additional automobiles required by this rule.

1. Each statistical organization shall, within 60 days of the effective date of this rule, submit to the Commissioner for approval amendments to its statistical plan designed to effectuate the purposes of N.J.S.A. 39:6A-4.1 and this subchapter.

2. All filings required in this subsection must be submitted simultaneously to the Department and to the Department of the Public Advocate, Division of Rate Counsel pursuant to N.J.A.C. 11:1-2.5.

(b) Every insurer, rating organization and statistical organization shall segregate and maintain the exposure, premium, loss and expense statistics with respect to the payment of PIP benefits that are attributable to additional automobiles in one-driver households.

1. Any loss or loss adjustment expense for a PIP claim shall be charged to the automobile for which the full premium was paid unless the injury was sustained while in the automobile with the reduced PIP premium.

(c) Every insurer, rating organization and statistical organization shall amend their statistical plans to segregate and maintain the exposure, premium, loss and expense statistics with respect to the payment of PIP benefits that are attributable to households in which the number of automobiles insured by the same insurer exceeds the number of licensed drivers customarily operating such automobiles.

(d) The statistics required in (b) and (c) above shall be subject to examination by the Commissioner or his or her designee and shall be reported annually to the Department.

(e) Three years after the operative date of this rule, each automobile filer shall submit to the Commissioner for approval filings of rates or manual rules reflecting the actual loss experience of the filer with respect to the payment of PIP benefits which are attributable to additional automobiles described in 11:3-21.3.

(f) All filings submitted pursuant to this subchapter, and all changes and amendments thereto, shall be prepared in accordance with insurance laws and regulations, including the applicable provisions of N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2 and the Department's filing procedures.

LABOR

(a)

DIVISION OF UNEMPLOYMENT AND TEMPORARY DISABILITY INSURANCE

Determination and Demand for Refund of Unemployment Benefits

Adopted New Rules: N.J.A.C. 12:17-10

Proposed: October 21, 1985 at 17 N.J.R. 2525(b).
Adopted: December 12, 1985 by Charles Serraino, Commissioner, Department of Labor.
Filed: December 12, 1985 as R.1985 d.657, **with a substantive change** not requiring additional public notice and comments (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 43:21-1 et seq., specifically 43:21-16.

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): January 6, 1991.

Summary of Public Comments and Agency Responses:
No comments received. However, the Department has made a minor substantive amendment to N.J.A.C. 12:17-10.2(a)2 to clarify the language concerning proof of permanent disability.

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

SUBCHAPTER 10. DETERMINATION AND DEMAND FOR REFUND OF UNEMPLOYMENT BENEFITS

12:17-10.1 Issuance of demand for refund

A demand for refund of unemployment benefits will be issued in each case when a determination of overpayment is made.

12:17-10.2 Full waiver of recovery of overpayment

(a) Upon application by the claimant or the executor (or administrator) of the claimant's estate full waiver of recovery of overpayments will be granted by the director if it can be demonstrated to the satisfaction of the director that the following conditions have been met.

1. The claimant did not misrepresent or withhold any material fact in obtaining benefits; and

2. The claimant is deceased or permanently disabled and no longer able to work. A claimant's current receipt of social security disability benefits will be deemed conclusive proof of current permanent disability. In the absence of such proof the director may accept *[as proof] ***a diagnosis*** of permanent disability *[as diagnosed by]* ***from*** the claimant's physician. At the discretion of the director, the claimant shall submit to an impartial physical examination by a legally-licensed physician at the expense of the state.

You're viewing an archived copy from the New Jersey State Library.

(b) The demand for refund will advise the claimant of the right to waiver of recovery in the situations described above.

12:17-10.3 Repayment of unemployment benefits

All overpayments for which waiver or recovery are not granted pursuant to N.J.A.C. 12:17-10.2 must be repaid in full. The Division may use any means of collection provided by law to satisfy the debt including, but not limited to, offsets permitted under P.L. 1981, Chapter 239, N.J.S.A. 54A:9-8.1 and 8.2. Any individual with an outstanding overpayment who subsequently becomes entitled to benefits shall have such benefits offset by the debt until the debt is repaid in its entirety. However, for any claimant whose overpayment is determined to be the result of Agency error, the offset amount shall be limited to 50 percent of the claimant's weekly benefit rate for each week of benefits subsequently claimed.

LAW AND PUBLIC SAFETY

(a)

BOARD OF PHARMACY

Written Examination

Adopted Repeal and New Rule: 13:39-3.10

Proposed: October 21, 1985 at 17 N.J.R. 2528(a).
Adopted: December 5, 1985 by Leonard Scara, R.P., President of the Board of Pharmacy.
Filed: December 13, 1985 as R.1985 d.670, **with substantive changes** not requiring additional public notice and comments (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 45:14-1 et seq.

Effective Date: January 6, 1986.
Operative Date: June 1, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): January 6, 1991.

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

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

13:39-3.10 Written examinations; grades

(a) The written examination shall be that of the National Association of Boards of Pharmacy (NABPLEX). An applicant shall attain a grade of not less than 75 in order to pass. If an applicant fails to meet the above requirements, he or she will be required to repeat the examination in its entirety.

(b) The applicant for registration shall also pass a written test on the laws governing the practice of pharmacy in this State. A grade of not less than 75 shall be attained in order to pass. If an applicant fails to meet the above requirements, he or she will be required to repeat the examination.

(c) If the applicant should fail the NABPLEX and/or the law examination three times, the applicant will be required to take review courses as *[prescribed]* ***approved*** by the Board prior to retaking the above examination(s).

(b)

NEW JERSEY RACING COMMISSION

Thoroughbred Rules: Workout Program

Adopted New Rule: N.J.A.C. 13:70-6.57

Proposed: October 21, 1985 at 17 N.J.R. 2529(a).
Adopted: December 5, 1985 by New Jersey Racing Commission, Harold G. Handel, Executive Director.
Filed: December 11, 1985 as R.1985 d.663, **without change.**

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

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): May 18, 1989.

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

Full text of the adopted new rule follows.

13:70-6.57 Workout program

(a) Each track association shall establish and maintain a workout program meeting the following requirements, as well as such other requirements and conditions as established from time to time by the Commission.

1. Training and workout hours for the main track and/or training track shall be designated by the racing association.

2. No horse shall be permitted onto either track for training or a workout except during the designated hours unless with the express permission of the Racing Secretary and Board of Stewards.

3. Access to the training track and/or main track during such hours shall be limited to such gaps as directed by the Board of Stewards where the association shall have at least one workout coordinator per gap.

4. The workout coordinator shall obtain the identity of all horses to workout at the time the horse enters through the appropriate gap. The workout coordinator shall also obtain from the trainer, custodian or rider of any such horse, the distance which the horse will workout and at what point on the track the workout is intended to begin. All such information shall then be promptly transmitted to the clockers who are responsible for timing and reporting all workouts.

5. The racing association shall maintain a communication system between the workout coordinators and clockers.

6. The trainer shall be responsible for insuring that horses in his care and custody comply with all provisions of this workout program.

7. The Board of Stewards shall have overall jurisdiction of this program, any may fine and/or suspend any persons who violate or attempt to violate the workout program requirements. The stewards may also fine and/or suspend any person who reports or submits inaccurate or false information concerning the identity of any horse and the particulars of any workout.

You're viewing an archived copy from the New Jersey State Library.

TREASURY-GENERAL

DIVISION OF PENSIONS

(a)

Alternate Benefit Program Contribution

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

Proposed: November 4, 1985 at 17 N.J.R. 2603(a).
Adopted: December 6, 1985 by Douglas R. Forrester, Director, Division of Pensions.
Filed: December 12, 1985 as R.1985 d.664, **without change.**

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

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): June 6, 1988.

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

Full text of the adoption follows.

17:1-2.18 Contributions
(a) A participant may elect to allocate salary deductions, salary reductions and employer contributions as prescribed under the guidelines of the Teachers' Insurance and Annuity Association and the College Retirement Equities Fund then in effect.
(b) A participant may increase or decrease the percentage of optional annuity deductions or reductions no more than once a taxable year. For purposes of these rules, a taxable year is deemed to be the calendar year commencing on January 1 and ending on December 31.
(c) (No change.)

(b)

Administration Claims and Credit Purchases; Employee Pay-All

Adopted Amendment: N.J.A.C. 17:1-4.11

Proposed: October 21, 1985 at 17 N.J.R. 2529(b).
Adopted: December 5, 1985 by Douglas Forrester, Director, Division of Pensions.
Filed: December 6, 1985 as R.1985 d.659, **without change.**

Authority: N.J.S.A. 52:18A-95 et seq.

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): June 6, 1988.

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

Full text of the adoption follows.

17:1-4.11 Purchase terms; computation; employee pay-all
(a)-(d) (No change.)
(e) Pursuant to the provisions of Chapter 223, Laws of 1984, the following shall apply:
1. (No change.)
2. Upon application by the member for retirement, the actual cost of the service purchased will be calculated. The difference between this actual cost and any monies accumulated based upon the estimated cost will have to be paid in a lump sum if the member wishes to receive full credit for the total amount of service involved in the purchase.
3. If a required final payment is not made by the member at the time of retirement, such member will receive a pro rata credit for the service purchased under the provisions of Chapter 223, Laws of 1984, prior to the date of retirement.

(c)

Teachers' Pension and Annuity Fund Eligible Enrollment; Positions

Adopted Amendment: N.J.A.C. 17:3-2.1

Proposed: September 16, 1985 at 17 N.J.R. 2238(b).
Adopted: November 14, 1985 by the Board of Trustees, Teachers' Pension and Annuity Fund, Anthony P. Ferrazza, Secretary.
Filed: December 5, 1985 as R.1985 d.658, **without change.**

Authority: N.J.S.A. 18A-66-56.

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): June 6, 1988.

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

Full text of the adoption follows.

17:3-2.1 Eligible positions
(a)-(b) (No change.)
(c) If a person, who is employed under the Federal Elementary and Secondary Education Act of 1965, meets all three of the following prerequisites, he shall be eligible for enrollment in the fund:
1. He is a regular full-time employee of the board of education;
2. He is appointed to a position which comes within the classification of "teacher;"
3. He has a valid certificate of the State Board of Education for the position that he holds under the Federal Act.

You're viewing an archived copy from the New Jersey State Library.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Sales and Use Tax
Data Processing Record Retention

Adopted Amendment: N.J.A.C. 18:24-2.3

Proposed: September 16, 1985 at 17 N.J.R. 2240(a).
Adopted: November 27, 1985 by John R. Baldwin, Director, Division of Taxation.
Filed: November 27, 1985 as R.1985 d.652, **without change.**

Authority: N.J.S.A. 54:32B-24 and 54:32B-16.

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66 (1978): August 12, 1988.

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

Full text of the adoption follows.

18:24-2.3 General requirements
(a)-(c) (No change.)
(d) An automatic data processing tax accounting system must have built into its program a method of producing visible and legible records which will provide the necessary information for verification of the taxpayer's liability.
1. Machine-sensible data media, such as punched cards, magnetic tape and disks are deemed to be records within the meaning of N.J.S.A. 54:32B-16 and must be retained in accordance with said statute.
Renumber existing 1.-5. as 2.-6. (No change in text.)

(b)

Sales and Use Tax
Gasoline Service Station Equipment

Adopted Amendment: N.J.A.C. 18:24-24.2

Proposed: October 7, 1985 at 17 N.J.R. 2387(a).
Adopted: November 27, 1985 by John R. Baldwin, Director, Division of Taxation.
Filed: November 27, 1985 as R.1985 d.651, **without change.**

Authority: N.J.S.A. 54:32B-1.1 et seq., specifically 54:32B-24.

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66 (1978): August 12, 1988.

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

Full text of the adoption follows.

18:24-24.2 Items subject to sales tax
(a) The following items are deemed to be personal property for the purposes of the Sales Tax Act:
1. (No change.)
2. Underground tanks;
3.-14. (No change.)
(b) The following charges are also deemed to be connected with the installation of tangible personal property, and taxable as such:
1. Concrete poured for the purpose of preventing underground tanks from floating;
2.-3. (No change.)

(c)

Luxury Tax

Adopted New Rule: N.J.A.C. 18:25

Proposed: September 16, 1985 at 17 N.J.R. 2241(a).
Adopted: November 27, 1985 by John R. Baldwin, Director, Division of Taxation.
Filed: November 27, 1985 as R.1985 d.653, **without change.**

Authority: N.J.S.A. 54:32B-1 et seq., specifically 54:32B-24.

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66 (1978): January 6, 1991.

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

Full text of the adopted new rules appears in the New Jersey Administrative Code at N.J.A.C. 18:25.

(d)

Transfer Inheritance Tax
Affidavit of Waiver; Surviving Spouse

Adopted Amendment: N.J.A.C. 18:26-11.1

Proposed: September 16, 1985 at 17 N.J.R. 2241(b).
Adopted: November 27, 1985 by John R. Baldwin, Director, Division of Taxation.
Filed: November 27, 1985 as R.1985 d.650, **without change.**

Authority: N.J.S.A. 54:50-1 and P.L. 1985, c.57.

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66 (1978): August 12, 1988.

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

You're viewing an archived copy from the New Jersey State Library.

Full text of the adoption follows.

18:26-11.1 Consent to transfer; generally

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

(c) No waivers are required to be issued by the Director in the case of certain transfers to the surviving spouse of a New Jersey domiciled decedent who died on or after January 1, 1985. In order to satisfy a corporation (its transfer agent) including any banking institution, trust company organized under the laws of New Jersey, national bank operating in this State, building and loan or savings and loan association in New Jersey, or credit union chartered by the United States operating in this State that intangible assets may be released to the surviving spouse, an affidavit of waiver can be executed by the surviving spouse or the personal representative of the decedent's estate.

1. Letters testamentary or of administration must be attached and made a part of the affidavit when executed by an executor or administrator; or, in any case where intangible assets are transferred to the spouse under a will or the law of intestate distribution. If two or more executors or administrators qualify, the affidavit may be executed by one of them.

2. The decedent's surviving spouse can execute an affidavit in all cases where under the terms of the account or instrument and applicable State law the spouse has the right of survivorship or is the named beneficiary. Letters testamentary or of administration are not required to be attached as part of the affidavit when executed by the surviving spouse, except as provided in (c)3 below.

3. Where the surviving spouse has qualified as executor or administrator of the decedent's estate, intangible assets which pass to the spouse under a will or the law of intestate distribution can be released by the affidavit together with other assets described in (c)2 above, provided that the spouse's letters testamentary or of administration are attached and made a part of the affidavit as provided in (c)1 above. Where the spouse has not qualified as an executor or administrator of the decedent's estate, only intangible assets may be released by the affidavit in accordance with (c)2 above.

4. A separate affidavit is required for each institution, organization or corporation relasing assets to a surviving spouse.

5. The affidavit or waiver by the surviving spouse can not be used for real property and tangible personal property transfers from a decedent to a surviving spouse.

(d) (No change in text.)

OTHER AGENCIES

(a)

ELECTION LAW ENFORCEMENT COMMISSION

Political Committee Definition

Adopted Amendment: N.J.A.C. 19:25-1.7

Proposed: October 21, 1985 at 17 N.J.R. 2531(a).
Adopted: December 11, 1985 by the Election Law Enforcement Commission, Frederick M. Herrmann, Executive Director.
Filed: December 11, 1985 as R.1985 d.662, **without change.**

Authority: N.J.S.A. 19:44A-6.

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): July 15, 1990.

Summary of Public Comments and Agency Responses:
No written comments were received. One commenter telephoned to inquire if there was any time limit involved in determining if a contribution was made for a particular election. The commenter was told there is no time limit, the test is whether a contribution is made to aid or promote a candidate, or for a political committee. The proposed amendment is intended to relax reporting requirements of entities that only make contributions.

Full text of the adoption follows.

19:25-1.7 Definitions

The following words and terms, when used in this chapter and in the interpretation of the act, shall have the following meanings unless a different meaning clearly appears from the context.

"Political committee" means any group of two or more persons acting jointly, or any corporation, partnership or any other incorporated or unincorporated association which is organized to or does aid or promote the nomination, election or defeat of any candidate or candidates for public office, or which is organized to, or does aid or promote the passage or defeat of a public question in any election. A club organized to promote the candidacy of one or more candidates or aid or defeat the passage of a public question, without a term of existence substantially longer than the campaign, is a political committee. Political committee does not include:

1. (No change.)

2. A contributor not involved in fund raising or other election-related activity does not become a political committee solely by virtue of having made a contribution with respect to a candidate or public question, unless the aggregate amount of contributions in any election exceeds $10,000.00.

3.-5. (No change.)

You're viewing an archived copy from the New Jersey State Library.

(a)

CASINO CONTROL COMMISSION

Casino Licensure
Property Disposition

Adopted New Rule: N.J.A.C. 19:41-7.2A

Proposed: October 21, 1985 at 17 N.J.R. 2532(a).
Adopted: December 13, 1985 by the Casino Control Commission, Walter N. Read, Chairman.
Filed: December 13, 1985 as R.1985 d.668, **without change.**

Authority: N.J.S.A. 5:12-1(b)(4), 1(b)(10), 63(c), 69(a), 75, 80(d) and 84(e).

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): May 17, 1988.

Summary of Public Comments and Agency Responses:

Comments were received from the Division of Gaming Enforcement which are in all respects supportive of the published rule. The Division stated that the proposed rule "will serve to provide the Commission with certain information which will better enable it to fulfill its obligations pursuant to N.J.S.A. 5;12-84(e) (and 5:12-1(b)(10) and (13))."

Comments were also received from the Department of the Public Advocate and the Atlantic City Casino Association (ACCA). These comments and the Commission's responses are summarized below.

COMMENTS OF THE PUBLIC ADVOCATE:

1. The Public Advocate asserts that the proposed rules should be amended to specifically provide for their retroactive application "in light of the overwhelming evidence that casino speculative activities over the past few years have had an adverse impact . . . ." The Commission rejects this comment. The purpose of the rule is to obtain information on any future transactions in time to assess their potential impact and, if appropriate, take preventive action. There is no need for retroactive filing requirements since the Commission can and has, from time to time, directed individual casinos to supply information as to their real estate holdings and activities. Since a "rule" is characterized by, among other things, its continuing effect or prospective application, it would not be necessary to adopt a regulation before demanding past real estate transaction information.

2. The Public Advocate seeks to amend the rule to require casino licensees to disclose real estate transactions respecting vacant land as well as properties with a residential, commercial or industrial structure which are presently covered by the proposed rules. The purpose of this would apparently be to address charges of land hoarding and speculation by casino licensees. The Commission rejects this comment. While such activities may raise concerns within the purview of the Casino Control Act, the proposed regulation is intended to provide notice of proposed changes in the use of real property where those changes would have profound effects on the well-being of the City's residents and on its physical structure. Such speculation and the acquisition of vacant property should be dealt with separately and should not be merely tacked on to the instant proposal. The Commission can always ask a casino to provide an inventory of its land holdings when necessary.

3. The Public Advocate seeks to amend the rules to require the timely disclosure of the date and purpose of the purchase of real property and the plans for utilizing and developing the property. The Advocate argues that "mere notice to the Commission of a change of use of property, five days before the change is to occur, . . ." is inadequate to enable the Commission to properly assess the impact of the transaction on Atlantic City. The Commission rejects this comment. The notice to be filed under the proposed rules will alert the Commission to potential adverse impacts and will allow it to secure additional information from the particular casino. It is not necessary to set forth in the rules all of the types of data which the Commission may ultimately request.

4. The Public Advocate requests an amendment to the rules which would require casino licensees to file information with the Commission substantially before the minimum five day notice period presently provided. The Advocate recommends a minimum 60 day notice period. The Commission rejects this comment. The rule as written obliges the licensee to file the notice virtually contemporaneously with the execution of a demolition contract, the application for a demolition permit or the decision to change the use of the property. In no event, may the notice be less than five days before the contemplated action. It is believed that this provision effectuates a fair balance between the Commission's need to know in time to respond and the licensee's need to conduct its business with minimal, unnecessary intrusions.

5. The Public Advocate requests that the Commission specify in the rules that the property information subject to disclosure is not confidential information pursuant to N.J.S.A. 5:12-74 and N.J.A.C. 19:40-3.2, and is thus fully accessible to the public. The Commission rejects this comment. The Commission's rules concerning confidential information provide the appropriate mechanism for such determinations, which must be made on a case by case basis. Indeed, contrary to the Advocate's view, such information as would affect real estate prices, for example, the amount of money spent or received for the acquisition or sale of property, may be confidential under section 74d. of the Act.

6. The Public Advocate comments that the rule fails to provide a uniform procedure and a standard to evaluate the information which is disclosed to the Commission, and that therefore the rule is a "hollow and mechanical formality." The Commission rejects this comment. Although particularized procedures and standards ultimately may be desirable in this area, the instant rule is designed to produce notice and information which may implicate concerns under the Act. It is not intended to define the limits of Section 84(e) which the Commission has applied in numerous casino license applications and renewals without the need for an interpretive regulation.

7. In conjunction with paragraph 6 above, the Public Advocate requests that the rules be amended to contain a provision concerning the specific actions or sanctions which might be taken or imposed by the Commission if it is determined that a casino licensee's or applicant's land transactions impede redevelopment. The Commission rejects this comment. The Act affords the Commission the necessary power and authority to respond to property transactions which violate the requirements of section 84(e).

You're viewing an archived copy from the New Jersey State Library.

COMMENTS OF THE ATLANTIC CITY CASINO ASSOCIATION:

1. The ACCA comments that these rules are unnecessary and intrusive because the area to be regulated is traditionally a matter of concern for local government pursuant to N.J.S.A. 40:55D-1 et seq. While the Commission agrees that local government has legitimate concerns and responsibilities in this area, they do not preclude the Commission's legitimate interests under sections 1(b)(4), (10), -63(c), -69(a), -75, -80(d) and -(84)(e) of the Act. See N.J.S.A. 5:12-133(b) (which invalidates any local ordinance or resolution in conflict with the Act or any policy expressed therein). The Commission cannot anticipate or expect that its particular concern will be resolved or even addressed by local government. Thus, for example, the ACCA contends that the local municipality monitors the area by the requirement of demolition permits and building permits. However, the peculiar concerns of the Act and the legislatively expressed objectives for casino gaming in Atlantic City cannot be delegated to the local authorities. In any event, the instant rule merely demands the submission of certain information. The Commission can and will respond to such information in the manner least upsetting to local concerns.

2. The ACCA comments that the rules do not accomplish their objective because requiring reporting only by the industry does not yield a balanced picture of overall development within Atlantic City. The ACCA suggests that "overall impact" cannot be assessed without data from all developers and real estate professionals. The Commission rejects this comment. Although the ACCA may be correct in asserting that the Commission receives only a limited view of overall development within Atlantic City, it is nonetheless the Legislature's clear mandate that the Commission monitor the impact of the casino industry on the overall development of Atlantic City. Indeed, within its limited sphere of operation the Commission is performing a vital function, albeit only a part of the total function performed by all regulatory bodies.

3. The ACCA argues that the rules are ultra vires in that they are not supported by or grounded in any provision of the Casino Control Act. The Commission rejects this comment. There is ample statutory support for the promulgation of these rules. Indeed, Section 84(e) requires "each applicant to produce *such information, documentation* and *assurances to estabish to the satisfaction of the commission* the suitability of the casino and related facilities and its proposed location, and that the proposal will not adversely affect casino operations or *overall environmental conditions.*" (Emphasis added.) Given the broad language of this provision and the extensive, even pervasive, authority granted to the Commission under the Casino Control Act, it is difficult to see how the Commission lacks the power to demand the limited disclosures required by the rule.

4. The ACCA questions the economic impact statement of the Commission wherein it is stated that the new rules will have only a minor economic impact on the industry. The ACCA contends that the rules will "dramatically affect real estate prices due to disclosure." The Commission rejects this comment. Most, if not all, information provided by the casino licensees or applicants concerning their real estate activities would likely be considered confidential information pursuant to Section 74d. To the extent that Section 74 permits disclosure under certain circumstances, the industry's concern for public revelation of this information should be no greater than it is with respect to any of the other sensitive information gathered by the Commission.

5. The ACCA proposes alternative language to amend the proposed rule should its comment that the rule not be adopted be rejected by the Commission. A summary of the suggested changes and the Commission's responses follows:

a. That the published rules requiring the reporting of all transactions be amended to limit the reporting of real estate activities to "substantial" transactions. Such transactions would include the lease of more than 10,000 square feet for at least five years duration, the purchase of more than one acre, or the option to lease more than 10,000 square feet for more than five years, or the purchase of more than one acre on which there is a residential, commercial or industrial structure. The Commission rejects this proposed amendment because, given the population density of Atlantic City, real estate transactions concerning relatively small amounts of real estate undoubtedly affect a significant part of the city's population. Such a limitation as is proposed would defeat the purpose of the rule.

b. That the published rules change the requirements in (a)1 and (a)2, requiring submission to the Commission of all agreements regarding lease or purchase of property, or the option to lease or purchase property, or the demolition of any structure, within two days of the execution of the agreement, to within 20 days of the execution of the agreement. The Commission rejects this proposed amendment because it may sanction untimely receipt by the Commission of the required information. The Commission will need ample time to review such agreements or contracts. As noted above, the Commission has fully and carefully considered the convenience of the industry in setting the filing deadlines. There is no justification to reduce further the time for Commission review.

c. That the requirement in (a)2 that the licensee or applicant must provide "such other information as may be indicated from the materials submitted and requested by the Commission" be deleted because it may require excessive information. The Commission rejects this proposed deletion because the present language appropriately implements the Commission's authority and power, under the Act generally and under Section 84(e) in particular, to demand any information that may bear impact upon the suitability of the facility and the impact of its operation. Every casino is obliged to provide all requested information, subject only to the principle of reasonableness applicable to all State agencies. The proposed rule only alerts the casinos to the fact that the notice of filing does not exhaust their responsibilities.

d. That (a)3 be amended to provide that notification to the Commission of any anticipated change of use or occupancy of any real property be limited to cases where the change would require that a use variance be granted by the municipality. The Commission rejects this proposed amendment because it attempts to prescribe and restrict the limits of the Commission's jurisdiction under 84(e). The Commission's interest may legitimately extend to all cases concerning change of use or occupancy of any real property in Atlantic City. As previously stated, the Commission would take such facts as the zoning ordinances and the master plan into account in deciding what response, if any, is appropriate.

e. That (a)3 be amended to require notice to the Commission of any anticipated change of use or occupancy of real property within 20 business days after the change. This amendment would replace the present requirement to provide notice within a period no later than 5 days before the change occurs. The Commission rejects this proposed amendment for the reasons stated in 5b above.

You're viewing an archived copy from the New Jersey State Library.

f. That (a)3 be amended to provide that relocation as used in this rule refers to residential rather than commercial tenants. The Commission rejects this proposed amendment because it limits the scope of the Commission's authority under 84(e) to residential tenants. Clearly, the Commission's authority extends to a review of "overall environmental conditions," including the affect of casino operations on both commercial and residential tenants in Atlantic City.

g. That the requirement in (a)3 that the licensee must provide "such other information as may be indicated from the terms of the agreement and requested by the Commission" be deleted. The Commission rejects this suggested deletion in accordance with 5c above.

h. That (a)4 be amended to apply only to residential tenants in conformity with the requested amendment to (a)3 (see 5f above). The Commission rejects this amendment for the reasons stated in 5f above.

i. That the rules be amended to provide that all disclosures under these rules must remain confidential and are not available for public inspection. The Commission rejects this proposed amendment. Sections 74d. and e. of the Act and the Commission's rules (N.J.A.C. 19:40-3) provide the standards and procedures concerning the confidentiality of information received by the Commission, and it is pursuant to these requirements that all decisions must, on a case by case basis, be made. A blanket statement in these rules to the effect that all information which is received will be considered confidential may defy the existing provisions of the Act and the Commission's rules.

j. That the rules be amended to limit their application to leases, purchases and options made in relation to casino hotel facilities. The Commission rejects this proposed amendment because it would place in the industry's hands the initial determination whether a particular real estate transaction relates to an existing or proposed casino hotel facility or its operation. The rule correctly demands that the industry file a relatively simple notice with the Commission which may then determine whether the transaction implicates statutory concerns.

Full text of the adoption follows.

19:41-7.2A Disposition of property of a casino licensee or applicant for a casino license

(a) It shall be an affirmative responsibility of each casino licensee or applicant for a casino license, as this term is defined in (b) below, to:

1. Submit to the Commission a copy of all agreements regarding the lease or purchase of, or the option to lease or purchase, any residential, commercial or industrial structure in Atlantic City entered into by the licensee or applicant, or any affiliate of the licensee or applicant. Such submission shall be provided within two days of the execution of the agreement;

2. Notify the Commission of any anticipated demolition by the licensee or applicant, or any affiliate of the licensee or applicant, of any existing structure in Atlantic City within two days of execution of the contract for demolition or at the time of application for a permit to demolish such structure, whichever occurs earlier, but in no event less than five business days prior to demolition. Such notification shall include a description of the property and its use, and the intended use of the site following demolition. The licensee or applicant shall also provide such other information as may be indicated from the materials submitted and requested by the Commission;

3. Notify the Commission of any anticipated change of use or occupancy of any real property of the licensee or applicant, or its affiliate, located in Atlantic City, as soon as the licensee or applicant, or its affiliate, determines to effect such change of use or occupancy, but in no event less than five business days prior to such change. Such notification shall include the full terms and conditions of relocation and a schedule of any tenants who are to be relocated. The licensee or applicant shall also provide such other information as may be indicated from the terms of the agreement and requested by the Commission;

4. Be responsible for compliance with the conditions imposed by this section regardless of whether the licensee or applicant, or its affiliate, undertakes any of the enumerated transactions directly or through an agent or intermediary, or through a contract which requires a seller, lessor or other third party, as a condition of sale, lease, option or transfer, to institute relocation proceedings against the tenants, or to demolish or otherwise to alter the present use of any residential, commercial or industrial structure in Atlantic City.

(b) For the purposes of this section an "applicant for a casino license" or an "applicant" means an entity which has submitted the $100,000 nonrefundable deposit required by N.J.S.A. 5:12-139(c).

(c) Nothing in this section shall be construed to relieve a casino licensee or applicant of its obligation to demonstrate its initial and continued compliance with the requirements of N.J.S.A. 5:12-84(e) in order to obtain or maintain its casino license.

(a)

Fees
Work Permits

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

Proposed: November 4, 1985 at 17 N.J.R. 2604(b).
Adopted: December 13, 1985 by the Casino Control Commission, Walter N. Read, Chairman.
Filed: December 13, 1985 as R.1985 d.667, **without change.**

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

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): May 17, 1988.

Summary of Public Comments and Agency Responses: The Division of Gaming Enforcement submitted public comments in support of the adoption. Therefore, the rule has been adopted without change.

Full text of the adoption follows.

19:41-9.5 Work permits

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

You're viewing an archived copy from the New Jersey State Library.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WASTE MANAGEMENT

Exemption from Registration

Adopted Amendment: N.J.A.C. 7:26-1.7

Proposed: May 6, 1985 at 17 N.J.R. 1040(a).
Adopted: December 12, 1985 by Robert E. Hughey, Commissioner, Department of Environmental Protection.
Filed: December 13, 1985 as R.1985 d.666, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1E-4 and 13:1E-6.

Effective Date: January 6, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): February 21, 1989.
DEP Docket No. 018-85-04

Summary of Public Comments and Agency Responses:
Comments received during the public comment period, which closed on June 5, 1985, became part of the administrative record. Comments include those made by the New Jersey Builders Association, individual members of the New Jersey Builders Association, the State Department of Commerce and Economic Development's Office of Business Advocacy, the New Jersey Asphalt Pavement Association, the New Jersey Society of Municipal Engineers, the National Solid Waste Management Association, the State Department of Agriculture and a number of individual Soil Conservation Districts, the Monmouth County Board of Freeholders, Monmouth County Planning Board, V.A. Associates Sanitary Landfill, and a number of individual towns. A number of commenters, generally supportive of the proposal, recommended revising specific provisions. Other commenters, generally opposed to the proposal, recognized the need to conserve landfill space but recommended its withdrawal. A copy of the Department's complete summary of public comments and agency responses is on file for inspection with the Office of Administrative Law and is available from the Department. Highlights of these comments and agency responses thereto are provided below.

COMMENT: The requirement that waste be disposed so as to remain a minimum of three feet above the seasonal high groundwater table should be deleted in the adoption.

RESPONSE: The Department responds by establishing two categories of exempted wastes. Category I wastes will continue to be subject to the three-foot minimum, while Category II wastes will be exempt from the three-foot minimum.

COMMENT: The requirement that the disposal operation procedures, including trench opening and closing, be completed in one working day poses an undue hardship and should be deleted in the adoption.

RESPONSE: The Department specifies in this adoption the limited volume of waste that qualifies under this registration exemption. Completion of operations involving these quantities in one working day should pose no undue hardship to the competent holder of a Certificate of Authority to Operate. Therefore, the Department retains this provision.

COMMENT: Closure of the trench should be allowed to be performed above grade.

RESPONSE: The Department does not prohibit berming, but does require that the fill material within the berm be clean fill.

COMMENT: Existing projects should be "grandfathered in" to preclude the necessity of refiling a revised Soil Erosion and Sediment Control Plan (SESCP).

RESPONSE: The Department cannot regulate another department's programs. If a change is made in the approved SESCP, refiling the revision may be required by the State Department of Agriculture.

COMMENT: The term freshwater wetlands, as used in relation to waste storage restrictions, should be clarified.

RESPONSE: The applicable wording is clarified in the adoption.

COMMENT: Sanitary landfill facilities currently operating solely for the disposal of these exempted waste types will suffer detrimental economic impacts if this rule is adopted.

RESPONSE: The Department disagrees. The majority of these facilities dispose of waste generated solely from their own operations. Even those facilities that accept wastes from other parties should be able to continue to receive such wastes due to the volume restrictions for on-site burial exemptions contained in this adoption and because not all jurisdictions will participate in the exemption process.

COMMENT: The State will suffer detrimental economic impacts from the loss of taxes that are based on quantities of waste disposed at sanitary landfill facilities.

RESPONSE: The Department finds that the total quantity of waste potentially affected by this amendment represents approximately five percent of the total waste generated in the State and that the loss of tax revenues associated with this five percent would not have a substantially adverse economic impact.

COMMENT: On-site burial pursuant to this amendment will cause future settlement and slumping.

RESPONSE: The Department believes such action unlikely, but modifies the proposal to obligate the contractor/owner to one-year's post-burial maintenance.

COMMENT: The proposal will lead to excessive land clearing.

RESPONSE: The Department maintains that sufficient regulations are in place addressing the issue of vegetative clearing at construction sites. In addition, the 1000 cubic-yard limitation on waste disposal discourages excessive clearing.

COMMENT: Sufficient buffer between the buried waste and existing structures was not provided to preclude restricting the future uses of the property.

RESPONSE: The Department maintains that the exempted materials are inert and that their burial in accordance with the conditions imposed in this adoption should impose no significant limitation on the future use of the affected property. However, the Department requires in this adoption that the required engineering design be filed with the appropriate county recording agent to provide adequate notice to subsequent purchasers.

COMMENT: The department will be unable to enforce this amendment.

RESPONSE: The Department clarifies the operational procedures and defines noncompliance in this adoption. The department agrees with this comment and, therefore, requires

You're viewing an archived copy from the New Jersey State Library.

those county or local health agencies in counties establishing a program for on-site disposal in accordance with the criteria developed by the department to be responsible for enforcement pursuant to an interagency agreement with the Department. The Department believes that the local agencies will be in a better position to supervise the program in their jurisdiction if they choose, through the solid waste management planning process, to permit the exemption from registration.

COMMENT: Long term legal responsibility is inadequately addressed.

RESPONSE: The owner/contractor will be required to obtain a Certificate of Authority to Operate and to file the engineering design with the appropriate municipal or county recording agent, thereby providing for the adequate tracking of responsible parties.

COMMENT: Increased termite infestation will result from this amendment.

RESPONSE: Any structure in the ground would attract termites, irrespective of this amendment's allowing on-site burial of wood, because of the present level of termite populations in the ground. The State Building Code recognizes this fact and requires preventive measures to be employed during construction to prevent termite infestation.

COMMENT: Increased vermin infestation will result from this amendment.

RESPONSE: This amendment allows for only temporary storage of material prior to on-site burial. Further, only fill material free of putrescible waste is allowed, and this fill must be further covered by at least two feet of soil, thereby limiting the likelihood of a vermin infestation.

COMMENT: A public hearing must be held regarding the proposed amendment.

RESPONSE: The Department, in promulgating this amendment, has no statutory responsibility to hold a public hearing. Notice must be published in the New Jersey Register and a public comment period, allowing for the submission of written comments, must be held open for thirty days thereafter prior to agency adoption. The Department has fulfilled these statutory obligations.

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

7:26-1.7 Exemption from registration

(a) Pursuant to N.J.S.A. 13:1E-4a, the commissioner shall exempt, from the requirement of registration as set forth in N.J.A.C. 7:26-2, and shall grant a permanent or temporary certificate of authority to operate, with or without conditions, to the class of solid waste collection or disposal facilities or operations which in the commissioner's opinion meets the general and applicable specific criteria set forth in this section.

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

(e) Specific criteria for exempting on-site disposal of construction debris and vegetative waste removed in preparation for new construction are set forth in 1 below. Debris and waste resulting from rehabilitative work, partial or minor demolition, and agricultural clearing may be exempted subject to approval by the division as set forth in 2 below.

1. The contractor/owner disposing of on-site generated new construction waste, shall be exempt from the registration requirements at N.J.A.C. 7:26-2.2 *[provided that the following standard operating procedure is followed.]* ***in accordance with the following:***

i. The contractor/owner shall submit to the division ***for approval*** prior to disposal:

(1) An engineering design identifying the location(s) for disposal, size and depth of the fill area, amount and type of waste for disposal;

(2) An approval letter from the local Health Department and evidence of other applicable county and municipal government approvals; *[and]*

(3) Evidence of an approved Soil Erosion and Sediment Control Site Plan, where required, which shall include the *[information required at (1) above.]* ***location and depth of the fill areas required to be stabilized;***

(4) Evidence that the information provided at (1) above has been filed with the appropriate municipal and county recording offices;

(5) The schedule for disposal and any anticipated storage; and

(6) Evidence that the applicable district solid waste management plan has been modified to provide for this exemption from registration and that the appropriate county or local health agency has assumed responsibility for enforcing the on-site disposal program pursuant to an inter-governmental agreement with the Department.*

ii. The construction waste intended for disposal by the contractor/owner must be only that which is generated on-site ***and shall be no more than 1000 cubic yards.*** No other wastes shall be transported to the construction site for on-site disposal.

iii. The construction waste for disposal shall be limited to *[those]* ***the categories of*** solids listed below except as provided at iv. below:

*[stumps and tree parts
wood
cardboard
paper waste
masonry materials (e.g. brick, cement, concrete, plaster, and wallboard)
rock/gravel
glass
non-asbestos insulation
metal (e.g., pipe and wire)
asphalt]*

***Category I**	**Category II**
stumps and tree parts	**rock/gravel**
scrap wood	**glass**
cardboard	**masonary materials (e.g., brick, cement, and concrete;***
paper waste	
non-asbestos insulation	
asphalt	
plaster and wall board	

iv. The department, at its discretion, may permit on-site disposal of additional inert construction debris or vegetative solids other than those listed in iii. above as identified in the engineering design submitted pursuant to i(1) above.

v. The on-site generated construction waste for disposal ***listed in Category I above*** shall be placed so as to remain a minimum of three feet above the seasonal high groundwater table. ***The on-site generated construction waste for disposal listed in Category II above is exempted from the minimum restriction to seasonal high groundwater table.***

vi. There shall be no disposal of any kind in areas identified under the flood insurance studies prepared by the Federal Emergency Management Agency (FEMA). Pursuant to authority of the State Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., there shall be no disposal of any kind within the encroachment lines of an undelineated stream or within the floodway of a delineated stream. Prior to commencing disposal operations in the 100-year floodplain outside the encroachment lines of an undelineated stream or within the flood fringe area of a delineated stream, a stream encroachment permit shall be obtained.

vii. All fill areas for the disposal of on-site generated con-

You're viewing an archived copy from the New Jersey State Library.

struction waste shall be a minimum of 25 feet from any foundation, utility line, or roadway and a minimum of 10 feet from any septic system.

viii. As the on-site generated construction waste is placed in a trench for disposal, ***it shall be properly compacted and*** layers of soil *[will be]* placed on ***and around*** the waste to minimize voids.

ix. Upon closure of a trench utilized for the disposal of on-site generated construction waste, the exposed top surface of the waste shall be covered to grade with at least two feet of clean soil. The surface of the filled area must be seeded or otherwise stabilized in accordance with the "Standards for Soil Erosion and Sediment Controls," adopted at N.J.A.C. 2:90-1 pursuant to N.J.S.A. 4:24-39 et seq., within one working day.

x. The contractor/owner shall store all on-site generated construction waste prior to disposal in an area with proper drainage and in a manner that will minimize the scattering of debris. No such waste shall be stored in an area considered a floodway, stream ***encroachment area,*** *[or]* coastal ***wetlands,*** or freshwater wetlands ***pursuant to applicable State or federal law, regulation or policy***.

xi. The procedure for the disposal of on-site generated construction waste, including trench opening and closing, shall be completed within one working day.

xii. The contractor/owner shall maintain the on-site area for a period of one year after the closure of the trench as set forth in viii. above. The on-site disposal area shall be regraded and stabilized, as needed, to compensate for any initial settlement.

xiii. Any unauthorized waste, stored for disposal or within the disposal trench, other than that as approved for disposal as set forth in iii. above, such as paint cans, oils, tars, resins, or off-site waste, shall result in both the revocation of the certificate of authority to operate and the exhumation of the existing on-site fill by the contractor/owner at his own cost and may result in the denial of future approvals of the certificate of authority to operator for on-site disposal.*

2. The contractor/owner disposing of ***on-site generated*** debris and waste resulting from rehabilitative work, partial or minor demolition, and agricultural clearing, may be exempted from the registration requirements at N.J.A.C. 7:26-2.2 by the division at its discretion. The individual exemptions shall be approved or denied by the division on a case by case basis.

i. The division shall consider the environmental impacts of disposal of waste from rehabilitative work, partial or minor demolition, and agricultural clearing including, but not limited to, the following:

(1) The likelihood of the waste materials contaminating the soil based upon the composition of the waste material; and

(2) The likelihood of the waste materials contaminating the soil based upon the nature and degree of any contamination of the waste material.

ii. If the division approves the disposal of waste from rehabilitative work, partial or minor demolition or agricultural clearing, the owner/operator shall comply with the *[standard operating procedure]* ***provisions*** set forth in *[1i-xi]* ***1*** above.

You're viewing an archived copy from the New Jersey State Library.

EMERGENCY ADOPTIONS

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Marine Fisheries

Adopted Emergency Repeal and Concurrent Proposal: N.J.A.C. 7:25-18
Adopted Emergency New Rule and Concurrent Proposal: N.J.A.C. 7:25-18

Emergency Repeal and Emergency New Rule Adopted: November 23, 1985 by Robert E. Hughey, Commissioner, Department of Environmental Protection.
Gubernatorial Approval (see N.J.S.A. 52:14B(c)): December 16, 1985.
Emergency Repeal and New Rule Filed: December 17, 1985 as R.1985 d.674.

Authority: N.J.S.A. 23:2B-6, 23:2B-14, 23:5-24.2, 23:10-21, 23:10-21.1, and P.L. 1985, c.108.

Emergency Adoption Effective Date: December 17, 1985.
Emergency New Rule Expiration Date: February 15, 1986.
Concurrent Proposal Number: PRN 1985-725.
DEP Docket Number: 066-85-12.

A **public hearing** concerning the concurrent proposal will be held on:

January 22, 1986 at 6:30 P.M.
Room CC-103
Stockton State College
Pomona, NJ

Submit comments by February 5, 1986 to:

Paul E. Hamer, Chief
Bureau of Marine Fisheries
Division of Fish, Game and Wildlife
CN 400
Trenton, New Jersey

This repeal and new rule was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law) see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency new rule are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

The agency emergency repeal and adoption and concurrent proposal follows:

Summary

Subchapter 18 of the N.J.A.C. at 7:25 was scheduled to expire, via the "sunset" provisions of Executive Order 66, on September 17, 1985. On May 20, 1985 the department published the adoption of an emergency new rule at N.J.A.C. 7:25-18.5 (effective April 26, 1985), the concurrent proposal of this new rule, and the proposed readoption with amendments of N.J.A.C. 7:25-18 (including sections 18.1 to 18.5). On August 5, 1985 the readoption of N.J.A.C. 7:25-18 was published in the New Jersey Register effective July 8, 1985 except for the amended provisions which were effective August 5, 1985. Due to technical problems regarding the time given to the Marine Fisheries Council for disapproval of regulations promulgated under N.J.S.A. 23:2B-1 (see N.J.S.A. 23:2B-5b), there is considerable uncertainty as to the legal effect of the August 5, 1985 adoption. In order to clarify the status of N.J.A.C. 7:25-18, the Department proposes the repeal of the August 5, 1985 readoption of N.J.A.C. 7:25-18 and the adoption of this rule, as a new rule.

Absent adoption of this rule by emergency proceedings, the purposes of N.J.A.C. 7:25-18 and the statutory provisions it implements could not be effectuated for at least 75 days. During this period, the necessary fishing licenses would be unavailable, there would be no regulations regarding the harvesting of fish by the gear types involved, and there could be no legal taking of fish with the 12 types of nets involved in the marine and estuarine waters. Absent this implementing rule, it is anticipated that the closure of these fisheries and foreseeable loss of income would cause a catastrophic economic impact on the small gear net fisheries, the approximately 1,000 individual fishermen involved therein, and the families they support.

Absent the changes in N.J.A.C. 7:25-18.1 from the August 5, 1985 readoption, permitting 15 percent of the summer flounder (by number) purchased, sold, offered for sale or exposed for sale, to measure less than 14 inches until the end of calendar year 1986, it is anticipated that the summer flounder fishery in New Jersey would be compelled to relocate out of State.

A summary of the text of each section in N.J.A.C. 7:25-18 follows:

N.J.A.C. 7:25-18.1 size limits: sets minimum lengths for the purchase or sale of fluke, codfish, bluefish, weakfish, sea bass, kingfish, blackfish, mackerel, porgy and winter flounder.

N.J.A.C. 7:25-18.2 Fishpound nets: sets limits or net mesh size and proximity to adjacent fishpound nets.

N.J.A.C. 7:25-18.3 Net identification tags: provides for the proper use of State-supplied identification tags.

N.J.A.C. 7:25-18.4 Spearfishing: defines and authorizes spearfishing in the marine waters of the State.

N.J.A.C. 7:25-18.5 General net regulations: sets license fees and governs the use of various net types.

The proposed changes to the July 8, 1985, readoption of N.J.A.C. 7:25-18.1 (which was effective August 5, 1985 and published at 17 N.J.R. 1883(b)) establish a 15 percent tolerance of summer flounder below the minimum stated size limit for fish purchased, sold, offered for sale or exposed for sale (Note that N.J.A.C. 7:25-18.1(b) prohibits the possession of any fluke under 13 inches through December 31, 1986 and any fluke under 14 inches after December 31, 1986.) This proposal

You're viewing an archived copy from the New Jersey State Library.

would also establish a minimum mesh size for otter and beam trawls used in a directed fishery for summer flounder. Both of these changes were requested by commercial fishing interests to allow them to continue to fish and sell fish in their customary locations while conserving the resource.

Social Impact

Adoption of this subchapter will have a minimal social impact upon the general public. It is anticipated that it will permit the continued management of the marine fisheries resource to allow continued exploitation of the resource, thereby benefiting the affected recreational and commercial interests. The major social impacts will be upon the commercial fishery. Without the 15 percent tolerance, the commercial fishermen allege that they would be compelled to move their base of operations for summer flounder to other states, south of New Jersey, with more liberal size limits, during much of the summer and fall.

Economic Impact

Adoption of this subchapter, with amendments, will have a minimal economic impact on the general public. The proposed new rule should help assure that the impacts on the commercial fisheries will be minimal. The changes to N.J.A.C. 7:25-18.1 will allow commercial trawlers to continue to fish for, and land for sale, summer flounder in New Jersey. Without this change in the regulations, and due to increased enforcement on the minimum size limit, commercial trawl fishermen have alleged that they would have to move their base of operation out of New Jersey for at least part of the year. The commercial trawl fishery for summer flounder has annual average landings of approximately five million pounds valued at approximately four million dollars.

Environmental Impact

The continuation of regulatory provisions as provided for in this proposal will permit continued effective conservation and management of the affected marine resource, thereby continuing its contribution to the marine ecosystem. There will be a positive environmental impact on the summer flounder stocks with this new rule. By instituting a minimum stretched mesh requirement of four and one-half inches an estimated 58 percent of undersized flounder currently being inadvertently killed through the normal operation of the gear would be released alive with greater opportunity for propagation.

Full text of the emergency repeal and concurrent proposal may be found in the New Jersey Administrative Code at N.J.A.C. 7:25-18.

Full text of the emergency new rule and concurrent proposal follows.

SUBCHAPTER 18. MARINE FISHERIES

7:25-18.1 Size limits

(a) No person shall purchase, sell, offer for sale, or expose for sale any sea sturgeon measuring less than 42 inches in length, codfish measuring less than 12 inches in length, bluefish or weakfish measuring less than 9 inches in length, sea bass or kingfish measuring less than 8 inches in length, blackfish, mackerel, or porgy measuring less than 7 inches in length, winter flounder measuring less than 6 inches in length, or any quantity of summer flounder, commonly called fluke, where more than 15 percent by weight measure less than 14 inches in length.

(b) No person shall take from the marine waters in the State or have in his possession any summer flounder, commonly called fluke, under 13 inches in length from the effective date of this regulation through December 31, 1986 and under 14 inches in length after December 31, 1986.

(c) Special provisions applicable to summer flounder directed fishery are as follows:

1. No person utilizing an otter or beam trawl in a directed fishery for summer flounder, commonly called fluke, shall use a net of less than four and one-half inches stretched mesh.

2. Stretched mesh sizes are measured by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and a thickness of two and three-tenths millmeters, inserted into the meshes under pressure or pull of five kilograms. The mesh size of the body of the net will be the average of the measurements of any series of 20 consecutive meshes. The cod end will be measured in the same manner, at least 10 meshes from the lacings, beginning at the after end, and running parallel to the long axis.

3. No fishing vessel may use any device or method which would have the effect of reducing mesh size; provided, however, that chafing gear which does not obstruct the meshes of the cod end may be attached and net strengtheners may be attached to the cod end of trawl nets if such net strengtheners consist of mesh material similar to the material of the cod end and have a mesh size of at least twice the authorized minimum mesh size.

4. The possession of more than 500 pounds of summer flounder upon any otter or beam trawl vessel shall constitute having been engaged in a directed fishery for summer flounder.

5. The operator of, or any other person aboard, any fishing vessel subject to this regulation must immediately comply with instructions and signals issued by an authorized law enforcement officer to stop the vessel and comply with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch, for the purpose of enforcement of this regulation.

6. Any vessel subject to this regulation, while in the act of fishing and upon being boarded and instructed by an authorized law enforcement officer, shall haul back, or retrieve from the waters for inspection, all gear being utilized. After being so instructed, the operator of the vessel, or any other person so instructed, shall have a 60-minute time period to commence haul back or retrieval and shall continue haul back or retrieval at an ordinary rate and without interruption until the gear is on board and available for inspection.

(d) Any person violating the provisions of (a) or (b) above shall be liable to a penalty of $20.00 for each fish taken or possessed. Each fish taken or possessed shall constitute an additional separate and distinct offense.

(e) Pursuant to N.J.S.A. 23:10-21 and -21.1, any gear used in the violating of the provisions of this subchapter may be seized and forfeited to the Division of Fish, Game and Wildlife.

7:25-18.2 Pound nets

(a) The following words and terms shall have the following meanings unless the context clearly indicates otherwise.

"Department" means the New Jersey Department of Environmental Protection.

You're viewing an archived copy from the New Jersey State Library.

"Heart" means an upright fence of netting forming a heart-shaped (round or square) compartment located between the leader and the pocket. It is designed to cause fish to circle in front of and eventually enter the pocket of a pound net.

"Leader" means an upright fence of netting that acts as a barrier to fish and guides them toward a trap; the netting is made of heavy twine, not designed to catch fish by the gills.

"Navigable channel" means a channel marked with navigational markers including poles, piling or buoys, by the Coast Guard or the State.

"Pocket" means an upright fence of netting forming the final compartment of a pound net in which trapped fish accumulate.

"Pound net" means a large fish trap, consisting of a leader, pocket and one or more hearts, held in place with poles, the netting of which reaches from the bottom to above the surface of the water.

"Staked or anchored gill net" means an upright fence of monofilament or nylon netting, held in place at each end by stakes or anchors, that catches fish by snagging their gill covers as they try to pass through the mesh of the net.

"Submarine pound net" means a pound net that is totally submerged beneath the water and held in place by anchors.

(b) General requirements for all pound net users are as follows:

1. No person may install, operate or maintain a pound net in the marine waters of the State without having first obtained a license from the Department.

2. The Department may establish limits on the number of licenses to be issued for pound nets in Raritan Bay and Sandy Hook Bay and in the Atlantic Ocean within three nautical miles of the coastline.

3. Licenses must be renewed annually.

4. Holders of pound net licenses from the previous year shall have first priority in obtaining a new license, provided they apply before March 1 of the current year.

5. Any person operating any fish pound net in the marine waters of New Jersey, must, at the time of emptying the net, return to the waters wherein the net is located all striped bass, codfish less than ten inches in length, bluefish or weakfish less than nine inches in length, sea bass or kingfish less than eight inches in length, black fish, mackerel and porgy less than seven inches in length, winter flounder less than six inches in length and summer flounder less than 14 inches in length. This paragraph does not apply to less than five percent by weight of the total catch of each species.

6. No person may, by boat, anchor, dredge or otherwise, willfully and without reasonable cause, interfere with, break, damage or destroy any fish net or associated equipment being lawfully used by a license holder.

7. The Department may require any licensee to submit a money surety bond to insure removal of pound net poles and apparatus as required by these rules.

8. Violation of the rules in this section will subject the violator to money penalties, loss of license and/or injunctive relief under N.J.S.A. 23:2B-14.

(c) Specific requirements for pound net users in Raritan and Sandy Hook Bays are as follows:

1. Any person applying for a pound net license must indicate the specific proposed site for the net, as designated by a chart developed by the Department. Sites which have not previously been located on the approved chart must be approved by the Department prior to issuance of a license.

2. New pound net sites must be at least 3,000 feet from a previously located pound net site, when measured parallel to the shoreline, and must be at least 1,000 feet from any navigable channel.

3. Any pound net license holder has priority in retaining a pound net site previously licensed by him or her, provided that he or she has actively and lawfully fished that site during the previous year and has submitted a license application prior to March 1 of the current year. After March 1, any citizen may apply for any available site on a first-come basis.

4. No staked or anchored shad net may be placed within 3,000 feet of an operating pound net. However, shad nets may be set on licensed pound net sites by the license holder or on unoccupied, approved pound net sites, provided the shad nets are set end-to-end with and in line with any existing pound nets.

5. Pound nets must be placed end-to-end so as to form a straight line, perpendicular to the shoreline.

6. The maximum allowable length of a pound net, including leader and hearts, is 750 feet.

7. A minimum distance of 50 feet must be maintained between any two pound nets, shad nets or combination thereof, when measured perpendicular to the shoreline.

8. A pound net license holder must maintain a nameplate, on the offshore pole of the net not less than six inches square, on which shall be legibly marked the identification number of the pound, as assigned by the Department.

9. A flashing, amber light must be displayed between sunset and sunrise on the two end poles of a pound net or a continuous row of pound nets.

10. Within 30 days of the termination of fishing activities for that year, all poles and stakes must be removed by the pound net license holder.

11. The pound net license holder will be responsible for the cost of pole and/or stake removal where the Department accepts responsibility for such removal, due to the licensee's failure to comply with 10 above.

(d) Specific requirements for pound net users in the Atlantic Ocean are as follows:

1. When submitting a request for an ocean or submarine pound net license, the applicant must specify the specific proposed site-location for placement of each net. Upon site approval, the Department may issue the license. (Note: Permission for location of ocean pound nets is also required from the United States Army Corps of Engineers.)

2. No portion of a pound net may be set within 1,500 feet or greater than 7,000 feet from the mean low water line on the ocean shoreline.

3. No row of pound nets may be erected or operated within one and one-half miles of any other row of pound nets, when measured parallel with the coastline.

4. No more than two pound nets may be joined together.

5. A minimum distance of 1,000 feet, when measured perpendicular to the coastline, must be maintained between individual or paired pound nets set in a row.

6. A row of ocean or submarine pound nets must form a straight line with the nets placed end-to-end.

7. The maximum allowable length of an ocean or submarine pound net, including leader and pocket, is 1,100 feet.

8. The minimum mesh size for ocean or submarine pound nets is two inches, stretched.

9. Ocean pound nets shall be maintained in compliance with the following additional requirements:

i. White reflectors must be placed around the top of each pole so as to reflect in all directions;

ii Flashing amber lights must be displayed on the inshore and offshore poles of nets or rows of nets, between sunrise

You're viewing an archived copy from the New Jersey State Library.

and sunset; these lights must be placed at least 10 feet above the mean high water level and must be visible for at least three miles in all directions where clear visibility is possible.

10. Submarine pound nets shall be maintained in compliance with the following additional requirements;

i. At least eight, fluorescent orange floats, at least 12 inches in diameter, shall be maintained along the length of each net, including the inshore and offshore ends.

ii. The pound net license holder shall maintain a nameplate, not less than 12 inches square, on which shall be legibly marked the identification number of the pound, as assigned by the Department.

11. The license holder must completely remove all pound net poles and stakes, within ten months of the termination of fishing acitivities.

12. The pound net license holder will be responsible for the cost of pole and/or stake removal, where the Department accepts responsibility for such removal, due to the licensee's failure to comply with 11 above.

7:25-18.3 Net identification tags

(a) Any identification tag furnished by the division for a licensed net shall be displayed in a prominent and easily accessible place on such net.

(b) No identification tag furnished by the division may be counterfeited or transferred.

7:25-18.4 Spearfishing

It shall be lawful to take, catch, or kill all species of fish by means of spearfishing, during the open season therefor, except for those species of fish specifically protected. For the purpose of this rule, spearfishing shall mean the taking of fish by means of a spear, harpoon, or other missile, while completely submerged in the marine waters of the State.

7:25-18.5 General net regulations

(a) No person shall take, catch, kill or attempt to take, catch or kill any fish within the marine waters of the State by any means except in the manner commonly known as angling with hand line or with rod and line unless specifically permitted by statute or regulation.

(b) All stakes used in fyke nets, pound nets, parallel nets or gill nets shall be marked with at least one of the following which shall be placed at least two feet above mean high water and be visible from all sides:

1. Reflectors of not less than two inches in diameter;
2. Reflecting tape not less than two inches in width;
3. Light colored flags not less than two square feet; or
4. Light colored jugs or buoys not less than 12 inches in diameter.

(c) It shall be illegal to catch fish or attempt to catch fish by means of a rod and line or hand line, commonly called angling, within 100 feet of a set (operating) fish net as licensed pursuant to this section.

(d) It shall be illegal to set a fish net as licensed pursuant to this section within 100 feet of any person actively fishing with a rod and line or hand line, commonly called angling.

(e) All nets licensed pursuant to this section must be legibly and indelibly marked with the gear identification number of the owner.

(f) Persons intending to take fish with a net in the marine waters of this State pursuant to N.J.S.A. 23:5-24.2 shall, as required, apply to the commissioner for a license. Upon receipt of the application and the prescribed license fee, the commissioner may, in his discretion, issue single season licenses as specified for each net type for the taking of fish with nets only as follows:

1. Haul seines shall have a mesh not smaller than 2.75 inches stretched and shall not exceed 70 fathoms in length, whether used singly or in series. Haul seines may be used for all species except those specifically protected.

i. The haul seine season shall begin on November 1 and end on April 30;

ii. The haul seine resident fee shall be $25.00 per net.

2. Fykes shall have a length, including leaders, which shall not exceed 30 fathoms and no part of the net or leaders shall have a mesh larger than five inches stretched. Fykes may be used for all species except those specifically protected.

i. The fyke season shall begin on November 1 and end on April 30;

ii. The fyke resident fee shall be $12.00 per net.

3. Miniature fykes or pots shall only be used for the taking of catfish, suckers, killifish (Cyprinodontidae) and eels. This net type shall not exceed 16 inches in diameter in any of the marine waters of this State.

i. The miniature fyke or pot season shall begin on January 1 and end on December 31;

ii. The miniature fyke or pot resident fee shall be $100.00 regardless of the number of miniature fykes or pots employed;

iii. One or two miniature fykes or pots may be used for the taking of killifish or eels only for bait without application for or granting of a license, provided, however, that killifish or eels taken without having a valid license in possession may not be sold or used for barter.

4. Bait seines shall have a length over 50 feet but not exceeding 150 feet and the mesh shall not be larger than 2.5 inches stretched.

i. The bait seine season shall begin on January 1 and end on December 31;

ii. The bait seine resident fee shall be $3.00 per net.

5. Drifting gill nets shall be used only in the Atlantic Ocean, Delaware Bay, and the tributaries of Delaware Bay. The smallest mesh of any drifting gill net shall be not less than five inches stretched beginning February 1 through February 29 and not less than 2.75 inches stretched beginning March 1 through December 15. These nets shall not individually exceed 20 fathoms in length. Individual drifting gill nets shall not be fastened together to form a series of nets exceeding 400 fathoms in length beginning February 1 through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15. Drifting gill nets may be used for all species except those specifically protected.

i. Separate drifting gill nets or a series of joined drifting gill nets shall not be set or fished closer than 100 fathoms from any other net or series of nets;

ii. Separate drifting gill nets or a series of joined drifting gill nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches square and suspended at least two feet above the water;

iii. Drifting gill nets shall be used in the Atlantic Ocean only from February 1 through December 15. Drifting gill nets shall not be used in the Atlantic Ocean within one-half mile of any inlet;

iv. Drifting gill nets shall be used in the tributaries of the Delaware Bay only for the season extending from February 1 through May 15 and July 15 through December 15;

v. Drifting gill nets shall be used in the Delaware Bay only from February 1 through December 15. For the purpose of this section, that portion of the Delaware Bay defined by the New Jersey-Delaware boundary on the west, Loran C27180 on the east, and Loran C42830 on the north, during the period

You're viewing an archived copy from the New Jersey State Library.

from May 15th through June 15th, shall be known as the Brandywine Shoal Restricted Area.

(1) No more than two drifting gill nets shall be permitted to be set or operated within the Bradywine Shoal Restricted Area by any vessel.

(2) No more than one drifting gill net shall be permitted to be set or operated, nor shall any net be left unattended, within the Brandywine Shoal Restricted Area by any vessel at night (from sunset to sunrise) or on any public holiday as specified at N.J.S.A. 36:1-1 or weekend. For the purpose of this section, "unattended" means that set of circumstances where the operator is more than 100 feet from the nearest portion of his net.

vi. The drifting gill net resident fee shall be $20.00 per net.

6. Staked and anchored gill nets shall be used only in the Atlantic Ocean, Raritan Bay, Sandy Hook Bay, and the Delaware Bay and its tributaries. Staked or anchored gill nets shall not be fastened together to form a series of nets exceeding 400 fathoms in length beginning February 1 through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15.

i. Separate staked or anchored gill nets or a series of joined staked or anchored gill nets shall not be set closer than 20 fathoms from any other net or series of nets;

ii. Separate staked or anchored gill nets or a series of joined staked or anchored gill nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches square and suspended at least two feet above the water;

iii. Staked and anchored gill nets may be used in the Atlantic Ocean for any species except those specifically protected only beginning February 1 through December 15, where individual gill net length shall not exceed 50 fathoms. The smallest mesh of any such net used in the Atlantic Ocean shall not be less than five inches stretched beginning February 1 through February 29 and not less than 2.75 inches stretched beginning March 1 through December 15. Staked or anchored gill nets shall not be used in the Atlantic Ocean within one-half mile of any inlet.

iv. Staked and anchored gill nets shall be used only for shad in the Raritan Bay or Sandy Hook Bay and only beginning February 1 through May 15, where individual gill net length shall not exceed 30 fathoms. The smallest mesh of any such net used in Raritan Bay or Sandy Hook Bay shall not be less than five inches stretched;

v. Staked and anchored gill nets may be used in the tributaries of Delaware Bay for any species except those specifically protected only beginning February 1 through May 15 and July 15 through December 15, where individual gill net length shall not exceed 30 fathoms. The smallest mesh of any such net used in the tributaries of Delaware Bay shall not be less than five inches stretched beginning February 1 through February 29 and not less than 2.75 inches stretched beginning March 1 through May 15 and July 15 through December 15. No net shall be set across any tributary or mouth of any tributary, nor shall any net be set in a manner that impedes navigation;

vi. Staked and anchored gill nets may be used in the Delaware Bay for any species except those specifically protected only beginning February 1 through December 15, where individual gill net length shall not exceed 30 fathoms. The smallest mesh of any such net used in the Delaware Bay shall not be less than five inches stretched beginning February 1 through February 29 and not less than 2.75 inches stretched beginning March 1 through December 15. Stakes and anchored gill nets shall not be used in that portion of the Delaware Bay known as the Brandywine Shoal Restricted Area as defined in 5v. above;

vii. The staked and anchored gill net resident fee shall be $3.00 per net.

7. Pound nets shall have a mesh not smaller than two inches stretched and may be used for all species except those specifically protected. These nets shall be used only in Raritan Bay, Sandy Hook Bay, Delaware Bay and the Atlantic Ocean.

i. The pound net season shall begin on February 15 and end on May 15 in the Delaware Bay and begin on January 1 and end on December 31 in all other areas;

ii. The pound net resident fee shall be $100.00 per net.

8. Wire pound nets shall not extend into the Delaware Bay further than 300 feet from the mean low water mark nor 300 feet from the outside of the flats which fall bare at low water and may be set and used in the Delaware Bay only.

i. The wire pound net season shall begin on March 1 and end on December 31.

ii. The wire pound net resident fee shall be $25.00 per net.

9. Parallel net which may be used for all species except those specifically protected shall be used only in the Delaware Bay and its tributaries. Parallel nets shall have a mesh not smaller than 3.5 inches stretched and not exceed 100 fathoms in length. They shall be set approximately parallel to the shore and only at the low water mark. No net shall be set across any tributary or mouth of any tributary, nor shall any net be set in a manner that impedes navigation.

i. The parallel net season shall begin on September 1 and end on May 31;

ii. The parallel net resident fee shall be $10.00 per net.

10. Shrimp trawls shall be used for the taking of grass shrimp (Palaemonetes spp.) or sand shrimp (Crangon spp.) only. Any organisms other than these shrimp taken with a shrimp trawl shall immediately be returned to the waters from which such organisms were taken. The internal opening of the trawl shall have a maximum width of 60 inches and a maximum height of 12 inches. The full length of the bottom bar of a shrimp trawl must ride on top of, or be attached to, a grass comb that has teeth at least 18 inches in length and not more than six inches apart. The grass comb must precede the trawl net and slide horizontally across the bottom. The mesh of the net shall not be greater than one-half inch stretched. No boat shall have more than two trawls working at the same time, and each trawl shall be independently and separately attached to the vessel by a single cable or tow line.

i. The shrimp trawl season shall begin on April 15 and end on December 15;

ii. The shrimp trawl resident fee shall be $12.00 per net.

11. Lobster or fish pots may be used for the taking of all species except those specifically protected and shall be used only in the Atlantic Ocean, Delaware Bay, Raritan Bay, and Sandy Hook Bay.

i. Any fish or lobster pot license holder shall have priority in retaining the same license number previously issued to him or her provided that he or she has submitted a license application requesting the previously issued license number prior to March 1 of the current year and that the license number applied for was assigned to an active license not more than two years prior to the application;

ii. Effective January 1, 1986, each fishing vessel subject to this regulation must display its license number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be visible from above. The license number affixed to each vessel subject to this paragraph must

You're viewing an archived copy from the New Jersey State Library.

be of block Arabic numerals at least 10 inches in height and of a color contrasting the background;

iii. Effective January 1, 1986, all lobster or fish pots or traps and associated buoys and other gear deployed in the salt waters of this State and not permanently attached to the vessel must be legibly and indelibly marked with one of the following codes of identification:

(1) The State lobster or fish pot gear identification number; or

(2) The full name and address of the State lobster or fish pot license holder.

iv. No person other than the license holder shall remove fish or lobsters from any pot or trap. Anyone tending fish or lobster pots or traps after January 1, 1986, shall have in his or her possession the numbered license which corresponds to the gear identification number on the vessel and the gear identification number or name and address affixed to the pots and buoys being tended. The license must be displayed for inspection upon request of any authorized officer. No one shall cut or break the lines or otherwise tamper with or damage any pot, trap, or buoy which he or she does not own;

v. Effective January 1, 1987, all lobster traps must be constructed to include one of the following escape vents in the parlor section of the trap located in such a manner that it would not be blocked or obstructed in normal use by any portion of the trap, associated gear, or the sea floor:

(1) A rectangular portal with an unobstructed opening not less than 1.75 inches (44.5 mm) by six inches (152.5 mm); or

(2) Two circular portals with unobstructed openings not less than 2.25 inches (57.2 mm) in diameter.

vi. The use of spears, gigs, gaffs or other penetrating devices as a method of capture of lobsters is prohibited;

vii. The lobster or fish pot season shall begin on January 1 and end on December 31;

viii. The resident fee for lobster or fish pots shall be $100.00 regardless of the number of pots employed.

(g) Nonresident license fees shall be the same as resident fees established in this section if a resident of this State may obtain a license to fish for similar species of fish with similar gear in the nonresident applicant's state for the same fee as a resident of that state. Otherwise, the license fee for a nonresident is ten times the license fee charged to a resident.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Homestead Rebate Act
Extension of Time to File Homestead Rebate Claim

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 18:12-7.12

Emergency Amendment Adopted: November 27, 1985 by John R. Baldwin, Director, Division of Taxation.

Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): December 4, 1985.

Emergency Amendment Filed: December 5, 1985 as R.1985 d.655.

Authority: N.J.S.A. 54:4-3.80 and 54:50-1.

Emergency Amendment Effective Date: December 5, 1985.

Emergency Amendment Expiration Date: February 3, 1986.

Concurrent Proposal Number: PRN 1985-700.

Submit comments by February 5, 1986 to:
John R. Baldwin, Director
Division of Taxation
50 Barrack Street, CN 240
Trenton, New Jersey 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

The agency emergency adoption and concurrent proposal follows:

Summary

To respond to the imminent peril, N.J.A.C. 18:12-7.12 has been amended on an emergency basis to insure that approximately 850,000 persons be given additional time to file an Application for Homestead Rebate. Without this adoption, a large number of persons would forfeit their right to a homestead rebate. This additional time is given to people who for some reason did not file their application prior to December 1, 1985.

Social Impact

This emergency adoption will affect approximately 850,000 property owners who failed to file a timely application for homestead rebate.

Economic Impact

The economic impact upon the general treasury of the State of New Jersey will approximate 850,000 applications. The total amount of money involved is $17 million.

Full text of the emergency adoption and concurrent proposal follows (additions indicated in boldface **thus**).

18:12-7.12 Extension of filing date

(a)-(i) (No change.)

(j) The time for property owners to file their applications for a homestead rebate payable in 1986 pursuant to P.L. 1976, c. 72, including applications by shareholders in cooperative associations and those residing in properties of certain mutual housing corporations, has been extended to March 1, 1986.

You're viewing an archived copy from the New Jersey State Library

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Investment Tax Credits: Deferral of Obligation Determination of Extreme Financial Hardship

Adopted Emergency New Rules and Concurrent Proposal: N.J.A.C. 19:54-3

Emergency New Rules Adopted: December 17, 1985 by Casino Control Commission, Walter N. Read, Chairman.
Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): December 17, 1985.
Emergency New Rules Filed: December 17, 1985 as R.1985 d.675.

Authority: N.J.S.A. 5:12-144.1(c).

Emergency New Rules Effective Date: December 17, 1985.
Emergency New Rules Expiration Date: February 15, 1986.
Concurrent Proposal Number: PRN 1985-726.

Submit comments by February 5, 1986 to:
William H. Delaney, Director
Division of Financial Evaluation and Control
3131 Princeton Pike, Bldg. 5
CN 208
Trenton, New Jersey 08625

This new rule was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency new rule are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

The agency emergency adoption and concurrent proposal follows.

Summary

Under N.J.S.A. 5:12-144.1 et seq., there is imposed an investment alternative tax on the gross revenues of a casino licensee in the amount of two and one-half percent of those gross revenues, commencing with the first annual tax return of a casino licensee for any calendar year beginning after December 31, 1983. Each licensee is entitled to an investment tax credit against this tax if, as permitted by law, it purchases bonds offered by or through the Casino Reinvestment Development Authority (CRDA) or makes direct investments in approved eligible projects. See N.J.S.A. 5:12-144.1(b). The CRDA has the authority to enter into contracts with casino licensees to effectuate this investment alternative option.

N.J.S.A. 5:12-144.1(c) provides that a contract entered into between a casino licensee and the CRDA may may provide for a deferral of payment for and delivery of bonds required to be purchased and for a deferral from making approved eligible investments in any year upon, among other things, a determination by the Casino Control Commission (Commission) that the purchase of these bonds or the making of approved eligible investments would cause "extreme financial hardship" to the casino licensee. The law requires the Commission to adopt regulations establishing a uniform definition of "extreme financial hardship" applicable to the aforementioned contracts.

To secure a deferral of the payment for and delivery of bonds or from the making of approved eligible investments, the new rule requires a casino licensee to demonstrate that the economic effect of purchasing the bonds or of making the investments which are sought to be deferred would be to "increase materially the risk" that the licensee would be unable to maintain its qualifications for a casino license under the financial stability criteria of N.J.S.A. 5:12-84(a). This definition of "extreme financial hardship" recognizes that in most cases the point at which financial instability might be reached will not be a clearly definable event and, of necessity, requires the exercise of a certain amount of discretion by the Commission in evaluating a requested deferral.

Additionally, and in accordance with N.J.S.A. 5:12-144.1(c), the new rule establishes procedural requirements to facilitate the Commission's processing and review of petitions for deferral which may be received from the casino industry.

Social Impact

Apart from fulfilling a legislative mandate and facilitating the implementation of N.J.S.A. 5:12-144.1 et seq., the new rule provides a standard upon which casino licensees may petition the CRDA for a deferral under a claim of "extreme financial hardship." Further, the definition of this term will enable the Commission (after consultation with the Division of Gaming Enforcement) to determine the existence of this condition. The establishment of the standard necessarily affects, to some degree, the ease of obtaining a deferral and, to that extent, the flow of funds for CRDA projects designed to serve the public interest.

Economic Impact

The new rule will impose a slight economic burden on a petitioning casino licensee by requiring it to amass and supply to the Commission and the Division information and documentation necessary to establish "extreme financial hardship" which may be in excess of that which is provided to the CRDA. Such documentation may include, among other things, specific information concerning the assets, liabilities, resources and operating performance of the licensee, its holding and intermediary companies and any other related entity which is required to qualify or hold a casino license under the Act. Similarly, the receipt of this information will impose a slight economic burden on the Commission and Division which must direct staff time to the processing and review of the information.

That a grant of a deferral by the CRDA upon finding by the Commission of the existence of "extreme financial hardship" will prevent, for a time, the application of casino revenues to the purchase of bonds or the making of investments for the public good is a direct consequence of the underlying legislation rather than the implementing regulation.

Full text of the emergency adoption and concurrent proposal follows.

You're viewing an archived copy from the New Jersey State Library.

SUBCHAPTER 3. SECTION 144.1 INVESTMENT TAX CREDITS

19:54-3.1 Definitions

As used in this subchapter, the following words and terms shall have the meaning herein ascribed to them unless a different meaning clearly appears from the context.

"Authority" or "CRDA" means the Casino Reinvestment Development Authority established pursuant to the provisions of N.J.S.A. 5:12-153.

"Extreme financial hardship" is defined in N.J.A.C. 19:54-3.2(c).

19:54-3.2 Deferral petitions: Determination of extreme financial hardship

(a) In accordance with the provisions of N.J.S.A. 5:12-144.1(c), a contract between a casino licensee and the CRDA may provide for the deferral of the payment for and delivery of bonds otherwise required to be purchased by the licensee or for the deferral of the making of approved eligible investments otherwise required to be made by the licensee. A deferral of a casino licensee's obligation to purchase bonds or make other approved eligible investments may not be granted by the CRDA unless, among other things, the licensee obtains a determination from the Commission that the purchase of the bonds or the making of the approved eligible investments would cause extreme financial hardship to the casino licensee.

(b) A casino licensee shall apply for a deferral pursuant to N.J.S.A. 5:12-144.1(c) by filing a petition with the CRDA in accordance with its rules and regulations. Copies of this petition and all application materials submitted to the CRDA by the licensee shall be simultaneously filed with the Commission and the Division. The CRDA shall give notice of its receipt of a petition for deferral to the Commission and Division within three days of the date on which the licensee files the petition. The Commission shall render a decision on whether the licensee has established extreme financial hardship within 60 days after notice of the petition has been received from the CRDA. Notwithstanding the foregoing, the Commission shall not consider any request for a determination of extreme financial hardship unless the petitioning casino licensee demonstrates that the contract required by N.J.S.A. 5:12-144.1(c) and (a) above has been executed.

(c) In order to obtain a determination of extreme financial hardship from the Commission, a licensee shall be required to demonstrate by a preponderance of the evidence that the economic effect of purchasing the bonds or making the investments which are sought to be deferred would be to increase materially the risk that the licensee would be unable to maintain its qualification for a casino license under the financial stability criterion of N.J.S.A. 5:12-84(a).

(d) In addition to supplying the Commission and Division with any documentation or information filed with the CRDA in support of its petition for deferral, it shall be the affirmative obligation of the casino licensee to produce or cooperate in the production of any other information, documentation or assurances relating to the assets, liabilities, resources and operating performance of the licensee, its holding and intermediary companies and any other related entity which is required to qualify or hold a casino license under the Act, necessary to establish its entitlement to a determination of extreme financial hardship. A casino licensee shall promptly provide any information or assistance requested by the Commission or Division within the time period specified. Failure to provide in a timely manner any such information or assistance to the Commission and Division upon request by either agency may, in the discretion of the Commission, result in the information being excluded from consideration and an adverse inference being drawn against the interests of the casino licensee.

(e) A determination of extreme financial hardship shall be decided on the basis of the information submitted by the casino licensee with its petition and any other information or documentation requested by the Commission or Division or previously obtained from the casino licensee unless the casino licensee requests in writing that a hearing be provided in accordance with the relevant provisions of N.J.S.A. 19:42; provided, however, the Commission may on its own motion direct that a hearing be held. Unless otherwise permitted by the Commission for good cause shown, a licensee shall submit its written request for a hearing simultaneously with the filing of its petition pursuant to (b) above.

You're viewing an archived copy from the New Jersey State Library.

MISCELLANEOUS NOTICES

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Notice of Petition for a Rule: N.J.A.C. 5:18-3.2

Uniform Fire Code

Petitioner: Fuel Merchants Association of New Jersey

On December 6, 1985 a petition for a rule was submitted by the Fuel Merchants Association of New Jersey to the Division of Housing and Development requesting that N.J.A.C. 5:18-3.2(a)3.iv. (F-316-2.2) be amended to limit the requirements as to design and color (blue) of kerosene containers to those containers which hold not more than five gallons. The Association states that the five gallon container is the type most commonly used by consumers and the intended purpose of the regulation—to prevent interchange of gasoline and kerosene—will still be satisfied.

The Association has also requested that there be a moratorium on enforcement of the blue container requirement for six months to allow time for the public to become aware of the requirement and for blue containers to become commonly available in the retail market.

This petition has been transmitted to the Bureau of Fire Safety for consideration pursuant to N.J.A.C. 5:29-1.

ENVIRONMENTAL PROTECTION

DIVISION OF WATER RESOURCES

(b)

Statewide Water Quality Management Program Plan

Public Notice

Take notice that on December 5, 1985, pursuant to the provisions of the New Jersey Water Quality Planning Act (N.J.S.A. 58:11A-1 et seq.), the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.), and the Federal Clean Water Act (33 U.S.C. 1251 et seq.), the Statewide Water Quality Management Program Plan was adopted by the Department. A copy of the Plan has been filed with and may be reviewed at the Office of Administrative Law.

The following is a summary of the comments made during the public hearing on the document, held on May 15, 1985, as well as submitted during the public comment period ending on May 31, 1985. The Department's response follows each of the comments.

Summary of Public Comments and Agency Responses:

The Department has carefully reviewed the transcripts of the public hearings and the written comments submitted during the comment period. The following is a summary of the major issues raised and the Department's response or clarification.

Since many of the comments concerned overlapping issues, the Department has chosen to group specific comments on similar issues. Where the comment pertains to a specific section of the Statewide Water Quality Management Program Plan (Statewide WQM Plan), that section is indicated.

1. Introduction

COMMENT: Subject items cited as not included in the present version of the Statewide WQM Plan are: hazardous wastes, toxic pollutants, ground water management, and nonpoint source management. These and other topics should be included in future versions of the document.

RESPONSE: The Department concurs, and intends to include these and other topics in future updates of the document. The Department's intention to do so is stated in the Introduction of the document.

2. Shellfish Waters Restoration and Protection

COMMENT: For what information will the Department and local health agencies be sampling, and will the costs outweigh the benefits?

RESPONSE: Samples may be taken for standard bacterial indicators of sanitary significance, conventional and/or toxic pollutants. Intensive surveys may be conducted where shellfish growing waters of recreational or commercial importance are impaired, and where pollution control activities would be expected to maintain shellfish water quality consistent with the protection of public health.

3. Lake Restoration and Management

COMMENT: Certain major water supply impoundments should be included in the list of priority lakes for which restoration strategies will be developed.

RESPONSE: Based on federal guidelines (40 CFR Part 35), the Lakes Management Program is designed to deal with publicly owned multi-use impoundments which provide fishing, swimming and other recreational opportunities. Potable water impoundments are not eligible to be included on the priority list for restoration unless they provide recreational values as well. The Division of Water Resources will receive and consider recommendations for additional qualifying lakes for inclusion on the list of priority lakes.

4. Water Quality/Water Supply Integration

COMMENT: The Division should consider various land application methods of sewage treatment disposal, as well as ground water injection of treated waters.

RESPONSE: The Division does consider such methods of disposal, which are included as subjects in the Regulations Concerning the New Jersey Pollutant Discharge Elimination System (N.J.A.C. 7:14A-1.1 et seq.). It should also be noted that the subject of land application is addressed in two Technical Resource Documents which are considered informational components of the Statewide WQM Plan. These documents (entitled: "Guidelines for Land Disposal of Effluent by Spray Irrigation," and Guidelines for the Land Application of Residuals") are available to the public.

You're viewing an archived copy from the New Jersey State Library.

5. Environmental Health Services

COMMENT: The delegation of additional powers to local health agencies would result in inconsistent enforcement of regulatory powers.

RESPONSE: There may be some variation of implementation between agencies delegated responsibilities under the County Environmental Health Act. This should, however, be minimized through coordination of the programs with the Department. In addition, the Department will be conducting reviews of agency performance, and will be updating agreements periodically.

6. Public Involvement Program

COMMENT: The State should recognize and support local water resources-related public participation.

RESPONSE: The Public Participation Strategy included in the Statewide WQM Plan was developed to address public participation at the State level. Local interests are encouraged to develop locally responsive public participation programs which seek to promote the protection and improvement of water quality.

7. Policy on Permitting of Domestic Wastewater Treatment Facilities

COMMENT: Private wastewater treatment utilities should not require a "co-permittee."

RESPONSE: This policy was developed to ensure long term accountability and responsibility in the operation and maintenance of domestic wastewater treatment facilities. By having a responsible "co-permittee" in the form of a municipality, municipal utilities authority, or sewerage authority, the Department is enabling private ownership and operation of facilities with the assurance of local accountability and responsibility.

8. Sewer Extension Policy and Procedure

COMMENT: A new sewer extension permit procedure is not needed.

RESPONSE: The Department believes the new procedure to be necessary and beneficial as it is intended to reduce the processing time for permit applications at the State level.

9. Policy on Wastewater Management Plans

COMMENT: The requirements for preparing a Wastewater Management Plan should be included in the Statewide WQM Plan.

RESPONSE: While the requirements for preparing a Wastewater Management Plan are not physically included in the document, they are cited as a Technical Resource Document which is an informational component of the Plan. The requirements are available from the Department.

10. Facilities Planning Area Designation

COMMENT: It is not necessary to have wastewater facilities planning areas throughout the State.

RESPONSE: Facilities planning areas delineate areas, based on watershed configurations, political boundaries or other factors, which should be considered as units in determining the need for wastewater management and treatment. The fact that an area is a facilities planning area does not imply that centralized wastewater treatment facilities are needed. However, it does reflect the need for wastewater to be properly managed in all areas of the State.

11. Procedures for the Use and Review of Population Projections in Water Resources Management Planning

COMMENT: Population projections developed as part of 201 Facilities Planning should not be superseded by figures included in the Statewide WQM Plan.

RESPONSE: The population projections were developed to aid in the design of future wastewater treatment facilities. The figures will not affect projections to be used in 201 Facilities Plans which were developed prior to finalization of the Statewide WQM Plan.

COMMENT: Privately funded wastewater treatment facilities should be exempt from the constraints imposed by State population projections.

RESPONSE: Non-federally funded wastewater treatment facilities are not constrained by the projections except where such a facility would impact on a federally funded facility.

12. General

COMMENT: There should be local participation in water quality monitoring.

RESPONSE: Increased local involvement, primarily at the county level, in water quality monitoring activities is presently being achieved through such mechanisms as the County Environmental Health Act and the Clean Lakes Program.

13. General

COMMENT: 201 Wastewater Facilities Plans should be updated annually.

RESPONSE: The Department concurs that there is a need for 201 Wastewater Facilities Plans to be periodically updated. A strategy detailing the specific mechanisms by which this could be achieved may be included in a future update of the Statewide WQM Plan.

14. General

COMMENT: The Division should use uniform definitions in project reviews and in the mapping of environmental constraints.

RESPONSE: The Department concurs and does use a uniform definition of wetlands, floodplains, and endangered species in its sewer extension permit reviews.

15. General

COMMENT: There should be a different means of periodically modifying 201 or Water Quality Management (208) Plans.

RESPONSE: The Water Quality Management Plans were officially adopted according to required administrative procedures, and changes to the Plans must also be made based on these procedures. This ensures that the public is given the opportunity to review and comment on proposed amendments.

16. General

COMMENT: Planned projects are faced with wetlands-related reviews lat in the review process. These reviews should be conducted at the local level.

RESPONSE: The Department concurs with this recommendation and feels that this concern should become less significant as project applicants become more aware of the Department's requirements for wetlands reviews. Future wetlands reviews will provide greater local involvement as the Consistency Determination Program is delegated to designated Water Quality Management Planning agencies or to counties.

17. General

COMMENT: The identification of sewer service areas, as a component of 201 Facilities Plans, should be more strictly required.

Online viewing an archived copy from the New Jersey State Library

RESPONSE: The Department concurs with this recommendation and is requiring it through both the 201 Facilities Planning Program as well as the requirements related to Wastewater Management Plans. It is the Department's position that both mechanisms are vital in obtaining this and other related information.

18. General

COMMENT: The Division should minimize conflicts with other agencies in regulating surface waters.

RESPONSE: The Department concurs with this recommendation and seeks to ensure maximum coordination with other agencies where the possibility of overlap exists.

In addition to the above, comments were submitted that:

a. supported the possibility that the Corps of Engineers' "Dredge and Fill" (Section 404) permit program be delegated to the State,

b. supported alternative methods of wastewater treatment facility financing.

(a)

Amendment to the Northeast Water Quality Management Plan

Public Notice

The Pequannock River Basin Regional Sewage Authority (PRBRSA) has requested an amendment to the Northeast Water Quality Management Plan. The amendment provides for the elimination of the existing Butler Bloomingdale Wastewater Treatment Plant. Wastewater treatment for the PRBRSA service area will be provided by expanding the Two Bridges Sewerage Authority service area and by the construction of an Interceptor line connecting the two regional systems.

This notice is being given to inform the public that a plan amendment has been developed for the Northeast WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any **interested persons** may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within thirty days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(b)

Amendment to the Sussex County Water Quality Management Plan

Public Notice

Take notice that on October 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), an amendment to the Sussex County Water Quality Management Plan to expand plant capacity of the Sussex County Municipal Utilities to 2.5 million gallons per day to accurately reflect existing conditions, the Sparta Township Sewerage Treatment Plant (STP) serving the Plaza area will be upgraded, and all existing STP's in Hamburg and Franklin Boroughs, Hardystown Township and the plant now serving the Vernon Valley recreation area, other than the Upper Wallkill Valley STP, be abandoned and the sewerage flow conveyed to the Upper Wallkill Valley STP, was adopted by the Department.

(c)

Amendment to the Upper Delaware Water Quality Management Plan

Public Notice

The Warren County (Pequest River) Municipal Utilities Authority has requested an amendment to the Upper Delaware Water Quality Management Plan. This amendment provides for the MUA to Expand its sewer service area to include a portion of Mansfield Township for the purpose of providing sewer service to the existing Warren Haven County Complex.

This notice is being given to inform the public that a plan amendment has been developed for the Upper Delaware WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any **interested persons** may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within thirty days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

You're viewing an archived copy from the New Jersey State Library.

(a)

Amendment to the Cape May County Water Quality Management Plan

Public Notice

Cape May County has submitted for consideration an amendment to the Cape May County Water Quality Management (WQM) Plan. The amendment was completed subsequent to the Governor's certification of the initial Cape May County Water Quality Management Plan in August, 1980. The amendment entitled "Septics System Management Program" implements the on-site wastewater disposal systems program included in the initial Cape May County Water Quality Management Plan. This implementation is through a cooperative agreement between the Cape May County Planning Board, Cape May County Municipal Utilities Authority, Cape May County Health Department and the Cape-Atlantic Soil Conservation District. Those agencies agreed to coordinate their various programs and policies in order to protect water quality and quantity in the management of septic systems.

This notice is being given to inform the public that a plan amendment has been proposed for the Cape May County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the Cape May County Planning Board, Cape May Court House, New Jersey 08210, and at the NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the NJDEP with respect to the amendment request.

Any **interested person** may request in writing that the NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this 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.

INSURANCE

(b)

THE COMMISSIONER

Adjustment of $1,600 Tort Threshold Option Amount

Public Notice

Take notice that Jasper J. Jackson, Acting Commissioner of Insurance, pursuant to the authority of N.J.S.A. 39:6A-8(b), announces that the tort threshold option amount will be increased from $1,600 to $1,700. This change becomes effective January 1, 1986, to apply to any claim for non-economic loss arising from any automobile accident occurring on or after January 1, 1986, for those insureds who have selected the tort option.

The adjustment is based on the 6.1 percent increase in the professional services component of medical care services costs reflected in the Consumer Price Index for all urban consumers, United States city average, from October, 1984 to October, 1985. This percent change is determined by the United States Department of Labor, Bureau of Labor Statistics.

(c)

THE COMMISSIONER

Notice of Amendments to NJAFIUA Plan of Operation

Take notice that on October 9, 1985, Hazel Frank Gluck, Commissioner of Insurance, certified amendments to the Plan of Operation of the New Jersey Automobile Full Insurance Underwriting Association. The amendments are to the Operating Principles, Part II, Section 7 concerning payment of premiums by policyholders and to the Operating Principles, Part III, Section 3 concerning commissions paid to producers.

LAW AND PUBLIC SAFETY

(d)

DIVISION OF MOTOR VEHICLES

Bulk Commodities Application

Public Notice

Take notice that Acting Director, Robert S. Kline, Division of Motor Vehicles pursuant to the authority of N.J.S.A. 38:5E.11 hereby lists the name and address of an applicant who has filed an application for a common carrier's Certificate of Public Convenience permit to engage in the business of transporting bulk commodities in intrastate commerce.

COMMON CARRIER (NON-GRANDFATHER)
Garden State Asphalt Materials, Inc.
311 West Main Street
Rockaway, New Jersey 07866

Protests in writing verified under oath may be presented by interested parties to the Director of Motor Vehicles within 20 days following the publication date of an application.

You're viewing an archived copy from the New Jersey State Library

TRANSPORTATION

(a)

THE COMMISSIONER

Office of Regulatory Affairs

Zone of Rate Freedom: N.J.A.C. 16:53D

Public Hearing

Take notice that a public hearing will be held on January 24, 1986, at 1:30 PM in the Hearing Room, Office of Administrative Law, 185 Washington Street, Newark, New Jersey 07102, concerning N.J.A.C. 16:53D "Zone of Rate Freedom" as proposed May 7, 1984 in the New Jersey Register at 16 N.J.R. 1039(a), which became effective upon pubication in the July 16, 1984 New Jersey Register at 16 N.J.R. 3298(a) and became effective upon publication in the February 19, 1985 New Jersey Register at N.J.R. 17 N.J.R. 475(a).

The public hearing will be conducted in a quasi-legislative rather than quasi-judicial manner and is open to interested individuals, representatives of government bodies and companies and associations. The hearing will be the continuation of the annual hearing as prescribed by law. See N.J.S.A. 48:4-2.20 through 2.25. The initial hearing was held on December 12, 1985 at the above-mentioned location, at which time the Department of Transportation disclosed its recent decision to revise the currently effective Zone of Rate Freedom as follows:

1. The following chart sets forth the percentage maximum for increases to particular rates, fares or charges and resultant amount as upgraded to the nearest $.05.

PRESENT FARE	% OF INCREASE	INCREASE UPGRADE TO NEAREST $.05
$ .30	50	$.15
$ .40-.50	30	$.15
$ .55-.60	25	$.15
$ .65-.75	20	$.15
$ .80-1.00	15	$.15
$1.50 upward	10	$.15+

2. The following chart sets forth the percentage maximum for decrese to particular rates, fares or charges and the resultant amount as upgraded to the nearest $.05;

PRESENT FARE	% OF INCREASE	INCREASE UPGRADE TO NEAREST $.05
$.30	20	$.10
$.55-.75	20	$.15
$.80-upward	20	$.20+

Interested persons are invited to participate through written comments or oral presentations. Comments will be restricted to the rules as proposed. Persons wishing to make oral presentations or submit written comments are requested to do so on or before February 5, 1986 by notifying:

Sybil Moses
Administrative Law Judge
Office of Administrative Law
185 Washington Street
Newark, New Jersey 07102

OTHER AGENCIES

(b)

CASINO CONTROL COMMISSION

Petition for Rulemaking
Patron Credit

N.J.A.C. 19:45-1.27

Petitioner: Atlantic City Casino Association, Inc.

Authority: N.J.S.A. 5:12-69(c) and N.J.S.A. 52:14B-4(f)

Take notice that on November 22, 1985, petitioner filed a petition with the Casino Control Commission requesting several amendments to N.J.A.C. 19:45-1.27, concerning patron credit.

Specifically, petitioner seeks three amendments. The initial amendment seeks to permit a casino licensee to verify a patron's personal checking account information through a bank verification service. Petitioner states that this amendment would "provide the information faster and at less cost" than if each individual casino performed the function.

The second amendment by petitioner would, it is alleged, obligate each casino licensee to disclose "the present outstanding indebtedness of a patron" to a requesting casino licensee.

Lastly, petitioner seeks an amendment to the regulation "permitting a central verification service to provide all verification and information requirements pursuant to credit regulations for casino licensees."

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 5:12-69(c).

You're viewing an archived copy from the New Jersey State Library.

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the October 7, 1985 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to timely adopt a proposed rule requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1985 d.300 means the three hundredth rule adopted in 1985.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date verifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

You're viewing an archived copy from the New Jersey State Library.

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
17 N.J.R. 1 and 140	January 7, 1985	17 N.J.R. 1701 and 1818	July 15, 1985
17 N.J.R. 141 and 236	January 21, 1985	17 N.J.R. 1819 and 1954	August 5, 1985
17 N.J.R. 237 and 338	February 4, 1985	17 N.J.R. 1955 and 2070	August 19, 1985
17 N.J.R. 339 and 502	February 19, 1985	17 N.J.R. 2071 and 2170	September 3, 1985
17 N.J.R. 503 and 634	March 4, 1985	17 N.J.R. 2171 and 2318	September 16, 1985
17 N.J.R. 635 and 762	March 18, 1985	17 N.J.R. 2319 and 2484	October 7, 1985
17 N.J.R. 763 and 858	April 1, 1985	17 N.J.R. 2485 and 2584	October 21, 1985
17 N.J.R. 859 and 1006	April 15, 1985	17 N.J.R. 2585 and 2710	November 4, 1985
17 N.J.R. 1007 and 1158	May 6, 1985	17 N.J.R. 2711 and 2814	November 18, 1985
17 N.J.R. 1159 and 1358	May 20, 1985	17 N.J.R. 2815 and 2934	December 2, 1985
17 N.J.R. 1359 and 1460	June 3, 1985	17 N.J.R. 2935 and 3032	December 16, 1985
17 N.J.R. 1461 and 1608	June 17, 1985	18 N.J.R. 1 and 128	January 6, 1986
17 N.J.R. 1609 and 1700	July 1, 1985		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-3.7	Appearances by out-of-state attorneys	17 N.J.R. 1820(a)	R.1985 d.508	17 N.J.R. 2457(b)
1:2-2.1	Civil Service cases: pre-proposal concerning conference hearings	17 N.J.R. 2072(a)		
1:2-2.1, 2.4	Conference hearings and employee/employer disputes	17 N.J.R. 2712(a)		
1:6A-3.2	Adjournment and Department of Education settlement conferences	17 N.J.R. 2073(a)	R.1985 d.539	17 N.J.R. 2606(a)
1:6A-5.4	Special education hearings: placement of child pending an appeal	17 N.J.R. 2586(a)		
	(TRANSMITTAL 14, dated September 16, 1985)			
AGRICULTURE—TITLE 2				
2:32-2.7	Sire Stakes Program	17 N.J.R. 1956(a)	R.1985 d.521	17 N.J.R. 2535(a)
2:32-2.36, 3	Sire Stakes Program: appeals	17 N.J.R. 2320(a)		
2:48-5	Use of coupons in milk promotions	17 N.J.R. 2486(a)	R.1985 d.649	18 N.J.R. 77(a)
2:53-3	Milk sales below cost by stores	Emergency	R.1985 d.648	17 N.J.R. 3014(a)
2:90-1.5, 1.14	Soil conservation plan certifications; minor subdivisions	17 N.J.R. 2172(a)		
2:90-1.13	Soil conservation: extraction activity	17 N.J.R. 1957(a)		
	(TRANSMITTAL 33, dated September 16, 1985)			
BANKING—TITLE 3				
3:1-2.24	Modification of Commissioner's Order restricting stock transfers	17 N.J.R. 2487(a)		
3:1-11.1	Savings banks and loans to affiliated persons	17 N.J.R. 2073(b)	R.1985 d.556	17 N.J.R. 2606(b)
3:1-12	Multiple-party deposit accounts	17 N.J.R. 2488(a)	R.1985 d.660	18 N.J.R. 77(b)
3:6-10	Savings banks: unsecured days funds transactions	17 N.J.R. 2936(a)		
3:6-11	Short-term investments for trust cash	17 N.J.R. 2937(a)		
3:6-15	Savings banks and loans to affiliated persons	17 N.J.R. 2073(b)	R.1985 d.556	17 N.J.R. 2606(b)
3:26-4.1	State savings and loan parity with Federal associations	17 N.J.R. 2713(a)		
3:38-5.2	Return of borrower's commitment fee	17 N.J.R. 2488(b)		
3:41	Readoption of Cemetery Board rules	17 N.J.R. 1704(a)	R.1985 d.573	17 N.J.R. 2749(a)
	(TRANSMITTAL 28, dated September 16, 1985)			
CIVIL SERVICE—TITLE 4				
4:1-5.1, 8.26, 8.27	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)	R.1985 d.661	18 N.J.R. 77(c)
4:1-10.1, 10.2	Noncompetitive and labor appointments	17 N.J.R. 2937(b)		
4:1-12.12	Restorations to promotional lists	17 N.J.R. 645(a)		
4:1-23	Grievances and minor discipline	17 N.J.R. 2587(a)		

You're viewing an archived copy from the New Jersey State Library.

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
4:2-12.1, 12.2	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)	R.1985 d.661	18 N.J.R. 77(c)
4:2-23	Grievances and minor discipline	17 N.J.R. 2587(a)		
4:3-12.1, 12.2	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)	R.1985 d.661	18 N.J.R. 77(c)
4:3-23	Grievances and minor discipline	17 N.J.R. 2587(a)		

(TRANSMITTAL 27, dated September 16, 1985)

COMMUNITY AFFAIRS—TITLE 5

5:11-2.1	Uniform Fire Code enforcement and relocation assistance	17 N.J.R. 2938(a)		
5:11-6.1	Prior filing of Workable Relocation Assistance Plans	17 N.J.R. 2321(a)		
5:12-2.4, 2.5	Homelessness Prevention Program: eligibility and priorities	17 N.J.R. 2939(a)		
5:14	Neighborhood Preservation Balanced Housing Program	17 N.J.R. 2489(a)		
5:18-1.1, 1.3, 1.4, 1.5, 2.4, 2.5, 2.7, 2.8, 2.12, 3.1, 3.2	Uniform Fire Code	17 N.J.R. 1015(b)	R.1985 d.611	17 N.J.R. 2870(a)
5:18-1.1, 1.4, 1.5, 1.6, 2.3, 4	Uniform Fire Code, Fire Safety Code	17 N.J.R. 1161(a)		
5:18A-2.1—2.4, 2.6, 3.2, 3.3, 4.1, 4.3, 4.4	Fire Code Enforcement	17 N.J.R. 1015(b)	R.1985 d.611	17 N.J.R. 2870(a)
5:18B-3.2	High Level Alarms	17 N.J.R. 1015(b)	R.1985 d.611	17 N.J.R. 2870(a)
5:23-2.14, 4.18, 4.20	UCC: annual construction permits	17 N.J.R. 2490(a)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 1033(a)		
5:23-3.11, 4.22, 4.24, 4.25	Uniform Construction Code: premanufactured construction	17 N.J.R. 1169(a)		
5:23-3.15	UCC: Plumbing Subcode	17 N.J.R. 2714(a)		
5:23-5.4, 5.5	UCC inspectors: experience requirements	17 N.J.R. 1821(a)	R.1985 d.612	18 N.J.R. 80(a)
5:23-5.7, 5.11	UCC: license suspensions and revocations	17 N.J.R. 1705(a)	R.1985 d.528	17 N.J.R. 2535(b)
5:24	Condominium and cooperative conversion: readopt rules	17 N.J.R. 1706(a)	R.1985 d.529	17 N.J.R. 2536(a)
5:25	New Home Warranties and Builders' Registration	17 N.J.R. 2816(a)		
5:28	Readopt State Housing Code	17 N.J.R. 1174(a)		
5:31-2.1—2.5, 4.1, 4.2, 7.1—7.7	Local authorities: accounting principles, auditing and budgeting	17 N.J.R. 1823(a)	R.1985 d.511	17 N.J.R. 2537(a)
5:37	Municipal, County and Authority Employees Deferred Compensation Programs	17 N.J.R. 1960(a)	R.1985 d.598	17 N.J.R. 2749(b)
5:80-4	Housing and Mortgage Finance	17 N.J.R. 1174(b)		
5:80-8	Housing and Mortgage Finance Agency: housing project occupancy requirements	17 N.J.R. 1620(a)		
5:80-17, 18	Housing and Mortgage Finance: prevailing wages; debarment from contracting	17 N.J.R. 1174(b)	R.1985 d.559	17 N.J.R. 2607(a)
5:80-20	HMFA housing projects: applicant and tenant income certification	17 N.J.R. 2321(b)		

(TRANSMITTAL 33, dated September 16, 1985)

DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

EDUCATION—TITLE 6

6:3-1.2	Board of school estimate: correction	_____	_____	17 N.J.R. 2753(a)
6:3-1.17, 1.23	School facility planning services	17 N.J.R. 650(a)	R.1985 d.527	17 N.J.R. 2540(a)
6:11-3	Teacher education: Basic Certification Requirements	17 N.J.R. 2181(a)	R.1985 d.665	18 N.J.R. 85(a)
6:11-7	Standards for State approval of teacher preparation	17 N.J.R. 1708(a)	R.1985 d.613	17 N.J.R. 2884(a)
6:20-2.13	Local districts: overexpenditure of funds	17 N.J.R. 2939(b)		
6:22	School facility planning services	17 N.J.R. 650(a)		
6:27-3	Correction to Administrative Code: Approved Secondary School Summer Sessions	_____	_____	17 N.J.R. 2463(a)

You're viewing an archived copy from the New Jersey State Library.

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
6:28-3.5	Invalidation of "pre-school handicapped" definition and termination of special services rule	———	———	17 N.J.R. 2463(b)
6:43-1.3	Vocational and technical education: schools designated "other than full-time day"	17 N.J.R. 2940(a)		
	(TRANSMITTAL 34, dated September 16, 1985)			
ENVIRONMENTAL PROTECTION—TITLE 7				
7:1-7	Hazardous substance discharges: reports and notices	17 N.J.R. 1826(a)		
7:1E-3.2	Information filing address for Division of Waste Management	———	———	17 N.J.R. 2463(c)
7:1F	Industrial Survey Project rules: waiver of Executive Order No. 66	17 N.J.R. 866(a)		
7:1G	Worker and Community Right to Know Act: U.S. Court of Appeals decision	———	———	17 N.J.R. 2794(b)
7:2-12	Open lands management	17 N.J.R. 866(b)		
7:7-2.2	Wetlands maps in Ocean County	17 N.J.R. 1710(a)		
7:7E	Revisions to Coastal Resources and Development rules	17 N.J.R. 1466(a)		
7:7E	Coastal Resource and Development revisions: extension of comment period	17 N.J.R. 1797(b)		
7:7E	Coastal Resource and Development Policies: correction to Code and proposed revisions	17 N.J.R. 1797(c)		
7:9-15	Restoration of publicly-owned freshwater lakes	17 N.J.R. 2182(a)		
7:12-2.7	Hard clam relay program	17 N.J.R. 2185(a)	R.1985 d.634	17 N.J.R. 2971(b)
7:13-7.1	Flood hazard area along Long Brook and Manasquan River	17 N.J.R. 2324(a)		
7:13-7.1(c)29	Floodway delineations within Maurice River Basin	17 N.J.R. 2186(a)		
7:13-7.1(d)14	Flood hazard along Lamington River in Morris County	17 N.J.R. 2324(a)		
7:13-7.1(d)47	Redelineation of Pine Brook in Bergen County	17 N.J.R. 2074(a)		
7:13-7.1(d)49	Floodway delineations in Union County	17 N.J.R. 1965(a)		
7:13-7.1(d)53	Floodway delineations in Raritan Basin (Project H)	17 N.J.R. 2492(a)		
7:13-7.1(h)	Floodway delineations in Hackensack Basin	17 N.J.R. 1175(a)		
7:13-7.1(i)	Floodway delineations in Central Passaic Basin Projects G and R	17 N.J.R. 1176(a)		
7:19-6.10	Water supply management in critical areas	17 N.J.R. 1966(a)	R.1985 d.596	17 N.J.R. 2753(b)
7:19A-1.4	Emergency water supply: residential and nonresidential users defined	17 N.J.R. 1967(a)	R.1985 d.595	17 N.J.R. 2754(a)
7:19B-1.3	Emergency water supply: residential and nonresidential users defined	17 N.J.R. 1967(a)	R.1985 d.595	17 N.J.R. 2754(a)
7:25-2.20	Higbee Beach Wildlife Management Area	Emergency	R.1985 d.514	17 N.J.R. 2459(a)
7:25-4.6	Nongame and exotic wildlife: possession permit fees	17 N.J.R. 2589(a)		
7:25-5.12	Use of steel-jaw leghold traps	17 N.J.R. 2714(b)		
7:25-6	1986-87 Fish Code	17 N.J.R. 2187(a)	R.1985 d.646	17 N.J.R. 2972(a)
7:25-14	Readopt rules on Crab Pots	17 N.J.R. 1830(a)	R.1985 d.560	17 N.J.R. 2608(a)
7:25-15.1	Hard clam relay program	17 N.J.R. 2191(a)	R.1985 d.633	17 N.J.R. 2976(a)
7:25-16.1	Defining freshwater fishing lines	17 N.J.R. 2193(a)	R.1985 d.597	17 N.J.R. 2755(a)
7:25-17	Disposal and possession of dead deer	17 N.J.R. 2715(a)		
7:25-18	Marine fisheries	Emergency	R.1985 d.674	18 N.J.R. 102(a)
7:25-19	Atlantic Coast harvest season	17 N.J.R. 2494(a)		
7:26-1.4, 1.6, 9.1, 12.1	Tolling agreements and reclamation of hazardous waste	17 N.J.R. 1968(a)		
7:26-1.4, 7.4, 9.1, 12.1, 12.8	Reuse of hazardous waste	17 N.J.R. 2716(a)		
7:26-1.4, 9.3	Above-ground tank storage of hazardous waste	17 N.J.R. 1501(a)	R.1985 d.620	17 N.J.R. 2885(a)
7:26-1.7	Waste management: on-site disposal of construction debris	17 N.J.R. 1040(a)	R.1985 d.666	18 N.J.R. 99(a)
7:26-1.7	Solid waste disposal: exemption from registration	17 N.J.R. 1368(a)		
7:26-1.8	Solid waste disposal: land application operations	17 N.J.R. 2945(a)		
7:26-2.6, 2.7	Disposal of asbestos waste	17 N.J.R. 2719(a)		

You're viewing an archived copy from the New Jersey State Library.

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
7:26-3	Waste management: readopt Collection and Haulage rules	17 N.J.R. 1041(a)	R.1985 d.558	17 N.J.R. 2609(a)
7:26-6.5	Solid waste flow: Hunterdon County	17 N.J.R. 517(a)	R.1985 d.503	17 N.J.R. 2388(a)
7:26-6.5	Solid waste flow: Ocean County	17 N.J.R. 2590(a)		
7:26-6.5	Solid waste flow: Camden County	17 N.J.R. 2591(a)		
7:26-7.4, 8.3, 8.15, 9.2, 10.6, 10.	Restriction of land disposal of hazardous waste	17 N.J.R. 779(a)		
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management	17 N.J.R. 2941(a)		
7:26-12.9	Correction to Administrative Code: Short-term permit for hazardous waste treatment	————	————	17 N.J.R. 2794(a)
7:26-14	Resource Recovery grants and loans	16 N.J.R. 3385(b)	Expired	
7:26-14	Resource Recovery grants and loans: extension of comment period	17 N.J.R. 242(a)		
7:26-16.4	Solid and hazardous waste: transporters and facilities	17 N.J.R. 518(a)		
7:27-14.3	Diesel-powered motor vehicles: idle standard	16 N.J.R. 2887	R.1985 d.610	17 N.J.R. 2887(a)
7:27-15.6	Gas-fueled motor vehicle: idle standard	16 N.J.R. 2889	R.1985 d.610	17 N.J.R. 2887(a)
7:27-16	Air pollution by volatile organic substances	17 N.J.R. 1969(a)		
7:27B-3	Determination of volatile organic substances from source operations	17 N.J.R. 2194(a)		
7:27B-4.6	Lead test paper procedure	17 N.J.R. 781(a)		
7:28-1.4, 17	Industrial and nonmedical radiology	17 N.J.R. 1626(a)	R.1985 d.502	17 N.J.R. 2389(a)
7:28-19.2, 19.3, 19.4, 19.6, 19.9, 19.10	Podiatric x-ray technology	17 N.J.R. 1632(a)	R.1985 d.501	17 N.J.R. 2393(a)
7:30	Pesticide Control Code	17 N.J.R. 242(b)	R.1985 d.557	17 N.J.R. 2609(b)
7:38	Wild and scenic rivers system	17 N.J.R. 1986(a)	R.1985 d.510	17 N.J.R. 2553(a)
7:45	Delaware Raritan Canal State Park: Review Zone rules	17 N.J.R. 1711(a)		
7:50-2.11, 4.12-4.92	Pinelands comprehensive management	17 N.J.R. 1918(a)	R.1985 d.494	17 N.J.R. 2394(a)

(TRANSMITTAL 34, dated September 16, 1985)

HEALTH—TITLE 8

8:9-1.11	State Sanitary Code: disposal of unclaimed cremains	17 N.J.R. 2325(a)		
8:9-1.11	Disposal of cremains: public hearing	17 N.J.R. 2835(a)		
8:13-2.1, 2.4, 2.6—2.11, 2.13, 2.14	Depuration of soft shell clams	17 N.J.R. 1370(a)		
8:21-7	Frozen dessert products	17 N.J.R. 1986(b)	R.1985 d.591	17 N.J.R. 2755(b)
8:31-26.5	Family planning facilities: licensure fee	17 N.J.R. 1999(a)	R.1985 d.581	17 N.J.R. 2768(a)
8:31A-9.1, 9.2	SHARE economic factor	17 N.J.R. 2495(a)		
8:31B-3	Hospital reimbursement: procedure and methodology	17 N.J.R. 2000(a)	R.1985 d.551	17 N.J.R. 2633(a)
8:31B-3.5, 3.22, 3.54	Hospital reimbursement: "efficiency standard"	17 N.J.R. 2946(a)		
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	17 N.J.R. 2464(a)		
8:31B-3.31, 3.51	Hospital reimbursement: graduate medical education	17 N.J.R. 2947(a)		
8:31B-4	Hospital reimbursement: financial elements and reporting	17 N.J.R. 2004(a)	R.1985 d.550	17 N.J.R. 2637(a)
8:33	Certificate of Need application and review process	17 N.J.R. 1190(a)	R.1985 d.498	17 N.J.R. 2403(a)
8:33A-2.6	Surgical facilities: criteria for review and approval	17 N.J.R. 2497(a)		
8:33B	Extracorporeal Shock Wave Lithotripsey (ESWL)	17 N.J.R. 1728(a)	R.1985 d.497	17 N.J.R. 2431(a)
8:33F-1.2, 1.6, App. B	Renal disease: regional end-stage services	17 N.J.R. 2948(a)		
8:34-1.31	Licensing of nursing home administrators	17 N.J.R. 2212(a)		
8:43-1	Residential health care facilities	17 N.J.R. 2498(a)		
8:43-3.22	Fire safety in residential health care facilities	17 N.J.R. 1731(a)	R.1985 d.513	17 N.J.R. 2553(b)
8:43-4.13	Residential health care: personal needs allowance	17 N.J.R. 1731(b)	R.1985 d.512	17 N.J.R. 2554(a)
8:43B-1.14	Hospital facilities: psychiatric patient rights	17 N.J.R. 665(a)		
8:43B-5	Licensure of hospital facilities: personnel	17 N.J.R. 2501(b)		

You're viewing an archived copy from the New Jersey State Library.

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
8:43B-5, 15, 16	Standards for licensure of Hospital Facilities: waiver of sunset provision	17 N.J.R. 2501(a)		
8:43B-8.16	Obstetric and newborn services: use of oxytocic agents	17 N.J.R. 2213(a)		
8:43B-8.33—8.44	Newborn care services: physical plant standards	17 N.J.R. 519(a)		
8:43B-15	Hospital facilities: renal dialysis services	17 N.J.R. 2503(a)		
8:43B-16	Hospital facilities: nurse-midwifery services	17 N.J.R. 2512(a)		
8:43E-1	Hospital Policy Manual: Certificate of Need rules	17 N.J.R. 1220(a)		
8:44-2.10	Reportable occupational and environmental diseases and poisons	17 N.J.R. 1831(a)		
8:53	Implementation of Local Health Services Act	17 N.J.R. 2836(a)		
8:57-1.13	Reportable occupational and environmental diseases and poisons	17 N.J.R. 1831(a)	R.1985 d.518	17 N.J.R. 2554(b)
8:57-1.19, 1.20, -6	Cancer registry	17 N.J.R. 2836(b)		
8:65-5	Controlled dangerous substances: records and reports of registrants	17 N.J.R. 524(a)	R.1985 d.606	17 N.J.R. 2890(a)
8:65-8	Controlled dangerous substances: manufacture, distribution, disposal and nondrug use	17 N.J.R. 2721(a)		
8:65-10.1	Controlled dangerous substances: 3, 4-methylenedioxymethamphetamine	17 N.J.R. 2214(a)	R.1985 d.669	18 N.J.R. 87(a)
8:65-10.1	Temporary placement of Meperidine analogs MPPP and PEPAP into Schedule I	17 N.J.R. 2950(a)		
8:65-11.2	Narcotic treatment programs: registration fee	17 N.J.R. 359(a)		
8:71	Additions to generic drug list (see 17 N.J.R. 1295(a), 1562(a), 2043(a))	17 N.J.R. 158(a)	R.1985 d.516	17 N.J.R. 2556(a)
8:71	Generic drug list additions (see 17 N.J.R. 2042(b), 2556(b))	17 N.J.R. 1043(a)	R.1985 d.580	17 N.J.R. 2769(a)
8:71	Genric drug list additions (see 17 N.J.R. 2557(a))	17 N.J.R. 1733(a)	R.1985 d.579	17 N.J.R. 2769(b)
8:71	Generic drug list additions	17 N.J.R. 2842(a)		

(TRANSMITTAL 31, dated September 16, 1985)

HIGHER EDUCATION—TITLE 9

9:2-1	Minority Faculty Advancement Loan Program	17 N.J.R. 1512(a)	R.1985 d.567	17 N.J.R. 2640(a)
9:2-2	Fund for Improvement of Collegiate Education: policies and procedures	17 N.J.R. 2724(a)		
9:2-4.1	Eligibility for Alternate Benefit Program	17 N.J.R. 1635(a)	R.1985 d.588	17 N.J.R. 2770(a)
9:2-11	Veterans Tuition Credit Program	17 N.J.R. 2844(a)		
9:2-12.1, 12.2	Teacher education: degree standards	17 N.J.R. 1515(a)	R.1985 d.589	17 N.J.R. 2771(a)
9:2-12.2	Teacher education: curriculum	17 N.J.R. 22(b)		
9:5-1, 2	Tuition policies at public institutions	17 N.J.R. 2326(a)		
9:7-2.9	Student assistance programs: award combinations	17 N.J.R. 2725(a)		
9:7-3.1	Tuition Aid Grants: 1985-86 Award Table	17 N.J.R. 2050(a)	R.1985 d.572	17 N.J.R. 2643(a)
9:7-3.3, 5.9, 6.8	Student assistance program revisions	17 N.J.R. 1734(a)	R.1985 d.571	17 N.J.R. 2644(a)
9:7-4.1	Garden State Scholars: eligibility	17 N.J.R. 2007(a)	R.1985 d.570	17 N.J.R. 2644(b)
9:7-4.1, 4.2, 4.3, 4.5, 4.8	Garden State Scholarship Program	17 N.J.R. 2726(a)		
9:7-8	Vietnam Veterans Tuition Aid Program	17 N.J.R. 1735(a)	R.1985 d.569	17 N.J.R. 2645(a)
9:8	Jobs, Science and Technology Bond Act: policies and procedures	17 N.J.R. 1516(a)	R.1985 d.566	17 N.J.R. 2646(a)
9:9-1.2	Guaranteed Student Loan Program: second borrowing	17 N.J.R. 1518(a)	R.1985 d.568	17 N.J.R. 2648(a)
9:9-1.6	Guarantee Student Loans and payment of insurance fee	17 N.J.R. 2727(a)		
9:9-1.16	Interest liability on defaulted student loans	17 N.J.R. 2728(a)		
9:9-9.2	Direct PLUS program and co-signer requirement	17 N.J.R. 2728(b)		
9:11, 12	Educational Opportunity Fund Program rules	17 N.J.R. 2214(b)		

(TRANSMITTAL 28, dated August 19, 1985)

HUMAN SERVICES—TITLE 10

10:30	Organization of Division of Mental Health and Hospitals	Organizational	R.1985 d.515	17 N.J.R. 2558(a)
10:36-1	Patient supervision at State psychiatric hospitals	17 N.J.R. 2593(a)		
10:36-2	Clinical review procedures for special status psychiatric patients	17 N.J.R. 2951(a)		
10:37	Community Mental Health Services	17 N.J.R. 2222(a)	R.1985 d.605	17 N.J.R. 2894(a)

You're viewing an archived copy from the New Jersey State Library.

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
10:42	Developmental Disabilities: Emergency Mechanical Restraint	17 N.J.R. 1832(a)		
10:47	Private Licensed Facilities for Developmentally Disabled	16 N.J.R. 2902(a)	R.1985 d.540	17 N.J.R. 2648(b)
10:48	Division of Mental Retardation: appeal procedures	17 N.J.R. 876(b)		
10:49-1.1	Administration Manual: retroactive Medicaid eligibility	17 N.J.R. 2729(a)		
10:49-1.4	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:50	Transportation Services: HCFA Common Procedure Coding System	17 N.J.R. 1519(b)		
10:51-1, 2	Pharmacy Manual: pharmaceutical services and billing procedures	17 N.J.R. 2223(a)	R.1985 d.594	17 N.J.R. 2772(a)
10:51-1.13, 1.14, 3.12, App. A	Pharmaceutical services: "vaccine" reimbursement	17 N.J.R. 1237(a)	R.1985 d.533	17 N.J.R. 2559(a)
10:51-1.14, 5.16	Pharmaceutical services: ineligible prescription drugs	17 N.J.R. 2730(a)		
10:51-4	Consultant Pharmacist Services	17 N.J.R. 2731(a)		
10:52-1.1, 1.20	Ambulatory surgical centers	16 N.J.R. 3153(a)	R.1985 d.532	17 N.J.R. 2894(b)
10:52-1.16	Termination of pregnancy in licensed health care facilities	17 N.J.R. 1375(a)		
10:52-1.17	Out-of-state inpatient hospital services	17 N.J.R. 2225(a)		
10:52-1.21	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:53-1.1, 1.16	Ambulatory surgical centers	16 N.J.R. 3153(a)	R.1985 d.532	17 N.J.R. 2894(b)
10:53-1.14	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54	Physician Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:54-1.23	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54-3	Procedure Code Manual: fees for laboratory services	17 N.J.R. 1376(a)	R.1985 d.531	17 N.J.R. 2560(a)
10:55	Prosthetic-Orthotic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:57	Podiatry Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:58	Nurse Midwifery Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59	Medical Supplier Manual: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59-1.11	Medical Supplier Manual: repair of durable medical equipment	17 N.J.R. 2516(a)		
10:59-1.12	Medical Supplier Manual: correction			17 N.J.R. 2691(c)
10:59-2.1—2.11	Medical Supplier Manual: billing procedures	17 N.J.R. 2326(b)	R.1985 d.628	17 N.J.R. 2977(a)
10:60	Readopt Home Care Services Manual	17 N.J.R. 28(a)	R.1985 d.488	17 N.J.R. 2433(a)
10:60-1.1, 1.2, 2.2, 2.3, 3.1	Personal care assistant services: hours per week and rate of reimbursement	17 N.J.R. 2327(a)	R.1985 d.656	18 N.J.R. 87(b)
10:60-2.2, 3.1	Personal care assistant services: procedure codes	17 N.J.R. 2330(a)	R.1985 d.656	18 N.J.R. 87(b)
10:61	Independent Laboratory Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:62	Vision Care: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:63-1.5, 1.6, 1.8, 1.13, 2.5, 2.7	Long term care facilities: certification and plan of care	17 N.J.R. 2075(a)		
10:63-3	Vision Care Manual: billing procedures	17 N.J.R. 2731(b)		
10:63-3.2, 3.5, 3.10, 3.19	Reimbursement to long-term care facilities	17 N.J.R. 2331(a)		
10:63-3.17	Long Term Care Services: adjustments to base period data	17 N.J.R. 1736 (a)		
10:64	Hearing Aid Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66	Independent Clinic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66-1.1, 1.2, 1.3, 1.6, 1.7, 1.9	Ambulatory surgical centers	16 N.J.R. 3153(a)	R.1985 d.532	17 N.J.R. 2894(b)
10:66-1.2, 1.6, 3.3	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:66-1.6	Termination of pregnancy	17 N.J.R. 1375(a)		
10:66-1.6, 3.3	Personal care assistant services: hours per week and rate of reimbursement	17 N.J.R. 2327(a)	R.1985 d.656	18 N.J.R. 87(b)

You're viewing an archived copy from the New Jersey State Library.

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
10:66-3.3	Personal care assistant services: procedure codes	17 N.J.R. 2330(a)	R.1985 d.656	18 N.J.R. 87(b)
10:67	Psychological Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:69A-1.1, 1.2, 2.1, 4.1, 4.4, 5.3, 6.2, 6.4, 6.10	PAAD: eligibility standards	17 N.J.R. 2332(a)		
10:81-2.7, 3.18	PAM: continued absence; WIN registration	17 N.J.R. 2333(a)		
10:81-2.16, 3.18	PAM: photo IDs; ex-WIN children	17 N.J.R. 2335(a)		
10:81-10.7	PAM: eligibility for refugee and entrant programs	17 N.J.R. 2227(a)		
10:81-11.2, 11.7, 11.9, 11.20	PAM: child support paternity	17 N.J.R. 2845(a)		
10:81-11.3, 11.9	PAM: Social Security numbers; restriction of information	17 N.J.R. 2516(b)		
10:81-11.9	PAM: reimbursement by counties to State	17 N.J.R. 369(a)		
10:81-11.9	Public Hearing: County reimbursement to State for Tax Setoff Program for child support enforcement	17 N.J.R. 1526(a)		
10:81-11.19	PAM: distribution of arrearage payments for child support	17 N.J.R. 1238(a)	R.1985 d.585	17 N.J.R. 2774(a)
10:82-1.7, 2.3	Correction to Administrative Code	———	———	17 N.J.R. 2917(a)
10:82-1.10, 1.11	ASH: retrospective budgeting and monthly reporting	17 N.J.R. 2518(a)		
10:82-2.19	ASH: recovery of overpayments	17 N.J.R. 2847(a)		
10:82-3.2	ASH: exempt resources	17 N.J.R. 2518(b)		
10:82-3.11	ASH: correction to Administrative Code	———	———	17 N.J.R. 2691(b)
10:82-3.13	ASH: eligibility of sponsored alien and sponsor's income	17 N.J.R. 1523(a)	R.1985 d.491	17 N.J.R. 2440(a)
10:82-5.3	ASH: child care	17 N.J.R. 1835(a)	R.1985 d.586	17 N.J.R. 2774(b)
10:82-5.10	ASH: emergency assistance	17 N.J.R. 2336(a)		
10:82-5.10	ASH: emergency assistance	17 N.J.R. 2337(a)		
10:82-5.10	Correction to Administrative Code: Assistance Standards Handbook	———	———	17 N.J.R. 2464(b)
10:85-3.2	GAM: determination of unemployability	17 N.J.R. 547(a)		
10:85-3.2	GAM: nursing home patients from out-of-state	17 N.J.R. 2338(a)		
10:85-3.3	GAM: unearned income exclusion	17 N.J.R. 2849(a)		
10:85-3.3, 5.2	GAM: hospital notices and billings	17 N.J.R. 2519(a)		
10:85-3.4	GAM: disposal of resources	17 N.J.R. 2339(a)		
10:85-3.4	GAM: eligibility in other programs	17 N.J.R. 2520(a)		
10:85-3.4	GAM: disposal of assets	17 N.J.R. 2952(a)		
10:85-5.2, 11.2	GAM: inpatient hospital care	17 N.J.R. 2521(a)		
10:85-5.3	GAM: outpatient mental health care	17 N.J.R. 1836(a)	R.1985 d.565	17 N.J.R. 2665(a)
10:85-5.3	GAM: nursing home bed-hold payments	17 N.J.R. 2953(a)		
10:85-6.4	GAM: final reporting requirements	17 N.J.R. 1837(a)	R.1985 d.584	17 N.J.R. 2775(a)
10:85-10.1	GAM: "Workfare" defined	17 N.J.R. 2849(b)		
10:85-10.8	GAM: work registration violations and Food Stamp recipients	17 N.J.R. 1838(a)	R.1985 d.618	17 N.J.R. 2900(a)
10:86	Repeal obsolete AFDC Work Incentive Program rules	17 N.J.R. 1838(b)		
10:87-2.38, 5.9	Food Stamp Program: elderly or disabled defined; JTPA income exclusion	17 N.J.R. 2521(b)		
10:87-12.1, 12.2	Food Stamp Program: income deductions, maximum coupon allotments	17 N.J.R. 2564(a)	R.1985 d.647	17 N.J.R. 2978(a)
10:89	Home Energy Assistance Handbook	17 N.J.R. 1737(a)	R.1985 d.492	17 N.J.R. 2441(a)
10:89-2.2, 2.3, 3.2, 3.3, 3.4, 3.6, 4.1, 5.1	Home energy assistance	Emergency	R.1985 d.593	17 N.J.R. 2791(a)
10:90-2.2, 2.3, 2.4, 2.6, 3.3, 4.1—4.10, 5.1, 5.2, 5.6, 6.1, 6.2, 6.3	Monthly Reporting Policy Handbook	17 N.J.R. 1839(a)		
10:94-1.6, 3.14	Medicaid Only: ineligible individuals	17 N.J.R. 2522(a)		
10:94-3.6	Medicaid Only: change of county of residence	17 N.J.R. 2523(a)		
10:94-4.1	Medicaid Only: resource eligibility	17 N.J.R. 2524(a)		
10:94-4.1	Medicaid Only: availability of resources in third-party situations	17 N.J.R. 2954(a)		

You're viewing an archived copy from the New Jersey State Library.

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
10:94-5.5	Medicaid Only: deeming of income	17 N.J.R. 2732(a)		
10:94-7, 8, 9	Medicaid Only program for aged, blind and disabled	17 N.J.R. 2340(a)		
10:123-3.2	Personal needs allowance: residential health care and boarding homes	17 N.J.R. 2955(a)		
10:129-2	Child abuse prevention	17 N.J.R. 2735(a)		

(TRANSMITTAL 32, dated September 16, 1985)

CORRECTIONS—TITLE 10A

10A:31-3.7, 3.12	Adult county facilities: new inmate processing	17 N.J.R. 2229(a)	R.1985 d.604	17 N.J.R. 2901(a)
10A:31-3.12, 3.15	Adult county facilities: medical screening of new inmates	17 N.J.R. 2343(a)		
10A:31-3.12, 3.15	Medical screening of new inmates in county facilities: public hearing	17 N.J.R. 2955(b)		
10A:34	County correctional facilities	17 N.J.R. 2525(a)		

(TRANSMITTAL 11, dated May 20, 1985)

INSURANCE—TITLE 11

11:1-5	Administrative Orders and Declarations: correction of sunset date	16 N.J.R. 2677(a)	R.1984 d.426	17 N.J.R. 2566(a)
11:1-18	Approval of business names	17 N.J.R. 41(a)		
11:1-19	Uniform registration of branch offices	17 N.J.R. 42(a)		
11:1-20	Property and casualty/liability coverage: cancellations, nonrenewals and mid-term premium increases	17 N.J.R. 2460(a)	R.1985 d.627	17 N.J.R. 2978(b)
11:1-20, 22	Cancellation and nonrenewal of property and casualty/liability policies	17 N.J.R. 2956(a)		
11:1-20.1	Property and casualty/liability coverage	Emergency	R.1985 d.626	17 N.J.R. 2915(a)
11:1-21	Property/casualty insurers: preparation of annual loss reserve opinions	17 N.J.R. 2596(a)		
11:2-19	Approval of insurance schools and company training programs	16 N.J.R. 2920(b)	R.1985 d.608	17 N.J.R. 2901(b)
11:2-20	License renewal: continuing education requirement	17 N.J.R. 2962(a)		
11:2-23	Advertisement of life insurance and annuities	16 N.J.R. 2926(a)	R.1985 d.600	17 N.J.R. 2776(a)
11:3-7	Automobile Reparation Reform Act rules	16 N.J.R. 3417(a)	Expired	
11:3-10	Auto physical damage claims	16 N.J.R. 3170(a)	R.1985 d.629	17 N.J.R. 2988(a)
11:3-17	Automobile rate filings	16 N.J.R. 2936(a)	R.1985 d.609	17 N.J.R. 2905(a)
11:3-20	Reporting excess profits	17 N.J.R. 370(a)		
11:3-20	Automobile insurers: financial disclosure and excess profit reporting	17 N.J.R. 2597(a)		
11:3-21	Reduced PIP premium charges	16 N.J.R. 3286(a)	R.1985 d.654	18 N.J.R. 89(a)
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 887(a)		
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 2344(a)		
11:4-24	Smoker and nonsmoker mortality tables	17 N.J.R. 2348(a)	R.1985 d.617	17 N.J.R. 2907(a)
11:4-25	Social security disability offset	16 N.J.R. 3287(a)	Expired	
11:4-26	Annuity mortality tables	17 N.J.R. 2349(a)	R.1985 d.616	17 N.J.R. 2908(a)
11:5-1.3	Licensing of real estate brokers and salespeople	17 N.J.R. 2350(a)		
11:5-1.15	Real estate advertising	17 N.J.R. 2351(a)		
11:5-1.15, 1.25	Advertising of real estate; sale of interstate property	17 N.J.R. 666(a)		
11:5-1.20	Payment of fees prescribed by Real Estate License Act	17 N.J.R. 2353(a)		
11:5-1.28	Approved real estate schools: requirements	17 N.J.R. 376(a)		
11:5-1.29	Real estate license applicants: record checks	17 N.J.R. 2230(a)	R.1985 d.601	17 N.J.R. 2779(a)
11:16	Provider verification of services	17 N.J.R. 47(a)		
11:17-1	Surplus lines insurance guaranty fund surcharge	17 N.J.R. 1045(b)		

(TRANSMITTAL 30, dated August 19, 1985)

LABOR—TITLE 12

12:15-1.3	Maximum weekly benefit rates for Unemployment Compensation and State Plan Disability	17 N.J.R. 2079(a)	R.1985 d.545	17 N.J.R. 2666(a)
12:15-1.4	Taxable wage base subject to Unemployment Compensation contributions	17 N.J.R. 2079(b)	R.1985 d.546	17 N.J.R. 2667(a)

You're viewing an archived copy from the New Jersey State Library.

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
12:15-1.5	Unemployment Compensation contribution rate for government units	17 N.J.R. 2079(c)	R.1985 d.543	17 N.J.R. 2667(b)
12:15-1.6	Base week for unemployment compensation and temporary disability	17 N.J.R. 2007(b)	R.1985 d.525	17 N.J.R. 2461(a)
12:15-1.6	Base week for Unemployment Compensation and State Plan Disability claims	17 N.J.R. 2080(a)	R.1985 d.544	17 N.J.R. 2667(c)
12:15-1.7	Alternate earnings test for benefits eligibility	17 N.J.R. 2080(b)	R.1985 d.542	17 N.J.R. 2668(a)
12:16-4.8	Determining employee's 1986 taxable wage base	17 N.J.R. 2850(a)		
12:16-4.10	Temporary disability payments under private plans	17 N.J.R. 2850(b)		
12:16-5.2	Due dates of employer's combined Forms UC-27/WR-30	17 N.J.R. 2851(a)		
12:17-10	Refund for unemployment benefits	17 N.J.R. 2525(b)	R.1985 d.657	18 N.J.R. 91(a)
12:17-11	Unemployment compensation and pension offset	17 N.J.R. 2736(a)		
12:56	Readopt Wage and Hour rules	17 N.J.R. 2008(a)	R.1985 d.524	17 N.J.R. 2461(b)
12:57	Readopt Wage Orders for Minors	17 N.J.R. 2009(a)	R.1985 d.523	17 N.J.R. 2461(c)
12:58	Readopt Child Labor rules	17 N.J.R. 2009(b)	R.1985 d.522	17 N.J.R. 2461(d)
12:70	Field sanitation for seasonal farm workers	17 N.J.R. 1860(a)		
12:105	Board of Mediation: arbitration	17 N.J.R. 2526(a)		
12:235	Practice and procedure before Division of Workers' Compensation	17 N.J.R. 2081(a)		
12:235-1.5	Maximum weekly benefit rate for Workers' Compensation	17 N.J.R. 2090(a)	R.1985 d.541	17 N.J.R. 2668(b)

(TRANSMITTAL 24, dated September 16, 1985)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

12A	Departmental rules; small business set-aside contracts	16 N.J.R. 1955(a)	R.1985 d.421	17 N.J.R. 2683(a)

LAW AND PUBLIC SAFETY—TITLE 13

13:19-10.1	Motor vehicle driver violations: point assessment	17 N.J.R. 2231(a)	R.1985 d.599	17 N.J.R. 2780(a)
13:20-32.16	Motor vehicle reinspection centers	17 N.J.R. 676(a)		
13:20-33.6	Glazing inspection standards for motor vehicles	17 N.J.R. 894(a)		
13:20-36.1, 36.2	Special National Guard Plates	17 N.J.R. 2602(a)		
13:21-2	Motor Vehicle Licensing Service: Statutory Language Interpretation	17 N.J.R. 2090(b)	R.1985 d.576	17 N.J.R. 2780(a)
13:21-5.11	Registration of vehicles subject to Federal Heavy Vehicle Use Tax	17 N.J.R. 2737(a)		
13:21-11.13	Temporary initial registration of motor vehicles	17 N.J.R. 1863(a)	R.1985 d.520	17 N.J.R. 2562(a)
13:21-15.6	Auto dealers: acceptance of altered title documents	17 N.J.R. 169(a)		
13:21-20	Motor home title certificates	17 N.J.R. 2353(b)	R.1985 d.644	17 N.J.R. 2991(a)
13:27	Rules of Board of Architects	17 N.J.R. 2851(b)		
13:27-8.11	Certified landscape architects: title block contents	17 N.J.R. 1864(a)	R.1985 d.538	17 N.J.R. 2668(c)
13:29-1.4	Change of address by licensed accountants	17 N.J.R. 1639(a)		
13:29-1.11	Fee for CPA certificate	17 N.J.R. 2092(a)		
13:29-2.1	Applicants for registered municipal accountant's test	17 N.J.R. 2092(b)		
13:30-8.1	Board of Dentistry: fee schedule	17 N.J.R. 378(a)		
13:30-8.3, 8.14	Board of Dentistry licensee requirements	17 N.J.R. 1864(b)	R.1985 d.548	17 N.J.R. 2669(a)
13:34-1.1	Marriage counseling: annual license fees and charges	17 N.J.R. 1527(a)	R.1985 d.549	17 N.J.R. 2669(b)
13:35-1A.4	Clinical clerkships for foreign medical graduates	17 N.J.R. 2010(a)	R.1985 d.564	17 N.J.R. 2670(a)
13:35-2.4	Approval of colleges of chiropractic	17 N.J.R. 2231(b)	R.1985 d.631	17 N.J.R. 2991(b)
13:35-2.15	Physician-nurse anesthetist standards	17 N.J.R. 796(a)		
13:35-4.2	Termination of pregnancy	17 N.J.R. 1865(a)	R.1985 d.530	17 N.J.R. 2562(b)
13:35-4.2	Termination of pregnancy	17 N.J.R. 2738(a)		
13:35-6.4	Pre-proposal: professional conduct of Medical Board licensees	17 N.J.R. 894(b)		
13:35-6.6	Directly dispensed medication by physicians and podiatrists	17 N.J.R. 1866(a)	R.1985 d.505	17 N.J.R. 2442(a)
13:37-1.4	Nursing licensees: reporting unlawful conduct	17 N.J.R. 2232(a)	R.1985 d.607	17 N.J.R. 2908(b)
13:37-2.1, 2.3, 3.5, 4.1, 4.3-4.6, 5.1, 5.5	Licensing of nurses	17 N.J.R. 1529(a)	R.1985 d.592	17 N.J.R. 2781(a)
13:37-6.2	Delegation of nursing tasks by RPNs	17 N.J.R. 2354(a)		
13:38-3.2	Board of Optometrists: reexamination	17 N.J.R. 677(a)		

You're viewing an archived copy from the New Jersey State Library.

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
13:38-3.2	Reexamination for optometry licensure	17 N.J.R. 1639(b)	R.1985 d.504	17 N.J.R. 2443(a)
13:39-3.10	Practice of pharmacy: qualifying examinations	17 N.J.R. 2528(a)	R.1985 d.670	18 N.J.R. 92(a)
13:39A-1	Board of Physical Therapy: organization and administration	17 N.J.R. 2355(a)		
13:39A-2	Authorized practice by physical therapists	17 N.J.R. 2356(a)		
13:39A-3	Unlawful practices by physical therapists	17 N.J.R. 2358(a)		
13:39A-3.2	Pre-proposal: fee splitting and kickbacks by physical therapists	17 N.J.R. 2360(a)		
13:39A-4	Unlicensed practice of physical therapy	17 N.J.R. 2361(a)		
13:39A-5	Physical therapy applicants: required credentials	17 N.J.R. 2362(a)		
13:40-1, 2	Title block contents on drawings, site plans and land surveys	17 N.J.R. 2602(b)		
13:40-6.1	Professional engineers and land surveyors: application, examination, and licensing fees	17 N.J.R. 2860(a)		
13:41-4	Board of Professional Planners: readopt preparation of site plan rules	17 N.J.R. 1240(a)		
13:42-1.5	Psychological Board licensees: notification of current address	17 N.J.R. 896(a)	R.1985 d.621	17 N.J.R. 2909(a)
13:44-1.2, 1.3, 1.4, 2.4, 2.9, 2.14, 2.15, 6	Veterinarian licensure	17 N.J.R. 1739(a)	R.1985 d.622	17 N.J.R. 2909(b)
13:44C-1.1	Audiology and Speech Language Pathology Advisory Committee: fees and charges	17 N.J.R. 1062(a)		
13:44D	Public moving and warehousing	17 N.J.R. 1382(a)		
13:45A-2	Motor vehicle advertising practices	17 N.J.R. 2861(a)		
13:45A-14	Unit pricing in retail establishments	17 N.J.R. 2232(b)	R.1985 d.643	17 N.J.R. 2991(c)
13:45A-24	Sale of grey market merchandise	17 N.J.R. 2866(a)		
13:47B-1.20	Weights and measures: National Bureau of Standards Handbook 44	17 N.J.R. 2233(a)	R.1985 d.636	17 N.J.R. 2993(a)
13:47B-1.24	Weights and measures: central registry for security sealing devices	17 N.J.R. 2234(b)	R.1985 d.638	17 N.J.R. 2993(b)
13:47C-3.6	Standard for treated lumber	17 N.J.R. 2234(b)	R.1985 d.645	17 N.J.R. 2993(c)
13:48	Charitable fund raising	17 N.J.R. 1244(a)		
13:70-4.1, 4.17, 4.19, 4.20, 4.21	Thoroughbred racing: fingerprint checks and licensing	17 N.J.R. 2362(a)	R.1985 d.639	17 N.J.R. 2994(a)
13:70-4.15	Thoroughbred racing: farms and training centers	17 N.J.R. 1393(a)	R.1985 d.635	17 N.J.R. 2995(a)
13:70-6.57	Thoroughbred rules: workout program	17 N.J.R. 2529(a)	R.1985 d.663	18 N.J.R. 92(b)
13:70-14A.11	Thoroughbred racing: urine testing of track personnel	17 N.J.R. 1640(a)	R.1985 d.602	17 N.J.R. 2912(a)
13:70-14A.11	Thoroughbred racing: urine testing and confidentiality of information	17 N.J.R. 2363(a)	R.1985 d.641	17 N.J.R. 2996(a)
13:71-7.1	Harness racing: fingerprint checks and licensing	17 N.J.R. 2364(a)	R.1985 d.640	17 N.J.R. 2996(b)
13:71-7.26	Harness racing: farms and training centers	17 N.J.R. 1393(b)	R.1985 d.637	17 N.J.R. 2996(c)
13:71-18.2	Harness racing: urine testing of track personnel	17 N.J.R. 1641(a)	R.1985 d.603	17 N.J.R. 2913(a)
13:71-18.2	Harness racing: urine testing and confidentiality of information	17 N.J.R. 2364(b)	R.1985 d.642	17 N.J.R. 2997(a)
13:75-1.5	Violent crimes compensation: filing of claims	17 N.J.R. 2010(b)	R.1985 d.630	17 N.J.R. 2998(a)
13:76-1.2, 1.3, 3.2, 4.1	Arson investigators	17 N.J.R. 2011(a)		

(TRANSMITTAL 34, dated September 16, 1985)

PUBLIC UTILITIES—TITLE 14

14:1-1, 6	BPU: general provisions; petitions	17 N.J.R. 2235(a)	R.1985 d.624	17 N.J.R. 2998(b)
14:3-4.7	Adjustment of utility bills	17 N.J.R. 2236(a)		
14:3-10.9	Petitions by solid waste collectors	16 N.J.R. 3292(b)	Expired	
14:5-3	Electric meters	17 N.J.R. 2237(a)	R.1985 d.625	17 N.J.R. 2998(c)
14:6-1.1	Intrastate transportation of natural gas	17 N.J.R. 2740(a)		
14:10-5	Inter LATA telecommunications carriers	17 N.J.R. 2012		
14:18-11	Pre-proposal: Renewal of CATV municipal consents and certificates of approval	17 N.J.R. 1394(a)		

(TRANSMITTAL 25, dated September 16, 1985)

ENERGY—TITLE 14A

14A:3-11	Used oil recycling	17 N.J.R. 1866(b)	R.1985 d.506	17 N.J.R. 2443(a)
14A:20-1	Energy conservation planning and evaluation	16 N.J.R. 3293(a)	Expired	
14A:21	Home Energy Savings Program	17 N.J.R. 2365(a)	R.1985 d.632	17 N.J.R. 2998(d)

(TRANSMITTAL 15, dated September 16, 1985)

You're viewing an archived copy from the New Jersey State Library.

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
STATE—TITLE 15				
15:10	Election rules	17 N.J.R. 2381(a)		
	(TRANSMITTAL 15, dated August 19, 1985)			
PUBLIC ADVOCATE—TITLE 15A				
	(TRANSMITTAL 1, dated March 20, 1978)			
TRANSPORTATION—TITLE 16				
16:22	Urban revitalization, special demonstration and emergency project rules	17 N.J.R. 2385(a)		
16:28A-1.2, 1.10, 1.15, 1.18, 1.19, 1.21, 1.23, 1.36, 1.46, 1.67	Bus stops and parking restrictions throughout State	17 N.J.R. 2742(a)		
16:28A-1.7, 1.38, 1.51, 1.71	Parking on U.S. 9 in Marlboro, Routes 71 in Asbury Park, 168 in Camden, and 67 in Fort Lee	17 N.J.R. 2013(a)	R.1985 d.536	17 N.J.R. 2670(b)
16:28A-1.18, 1.21, 1.37, 1.40, 1.55, 1.56, 1.57, 1.69	Parking on Routes 27 in Middlesex County, U.S. 30 in Hammonton, 70 in Cherry Hill, 73 in Mt. Laurel, U.S. 202, 202-206 and 206 in Bedminster, and 124 in Springfield	17 N.J.R. 2014(a)	R.1985 d.534	17 N.J.R. 2671(a)
16:28A-1.31, 1.46	Parking on Route 45 in Mantua, U.S. 130 in Penns Grove and Carneys Point	17 N.J.R. 2016(a)	R.1985 d.535	17 N.J.R. 2673(a)
16:28A-1.32, 1.34, 1.36, 1.40, 1.42	Additional parking restrictions in Essex, Monmouth, Cumberland, Camden and Warren counties	17 N.J.R. 2744(a)		
16:28A-1.71	Bus stops along Route 67 in Fort Lee	17 N.J.R. 2967(a)		
16:29-1.49, 1.50, 1.51	No passing zones on Routes 26, 91 and 35	17 N.J.R. 2967(b)		
16:31-1.4	No left turn on Route 35 in Old Bridge, Aberdeen and Keyport	Emergency	R.1985 d.578	17 N.J.R. 2681(a)
16:32-2.3	Temporary exemptions from Federal bridge formula	17 N.J.R. 1868(a)		
16:44-1.2	Classification of project bidders	17 N.J.R. 2746(a)		
16:51	Pre-proposal: Practice before Office of Regulatory Affairs	17 N.J.R. 2867(a)		
16:53-9.1	Autobuses: public liability insurance	17 N.J.R. 2149(a)	R.1985 d.574	17 N.J.R. 2783(a)
16:56-7.1	Airport safety improvement aid	17 N.J.R. 2017(a)		
16:62-5.1, 8, 9, 10	Air safety and hazardous zoning	17 N.J.R. 1869(a)	R.1985 d.537	17 N.J.R. 2673(b)
16:72-1.6	NJ TRANSIT: quotation threshold for purchases	17 N.J.R. 2867(b)		
16:78	Senior Citizen and Disabled Resident Transportation Assistance Act Program	17 N.J.R. 1532(a)	R.1985 d.490	17 N.J.R. 2445(a)
	(TRANSMITTAL 33, dated September 16, 1985)			
TREASURY-GENERAL—TITLE 17				
17:1-2.3	Alternate Benefit Program: salary reduction and deduction	17 N.J.R. 2350(b)		
17:1-2.18	Alternate Benefit Program: contributions	17 N.J.R. 2603(a)	R.1985 d.664	18 N.J.R. 93(a)
17:1-4.11	PERS: purchase of credit for temporary service	17 N.J.R. 2529(b)	R.1985 d.659	18 N.J.R. 93(b)
17:2-1.4	PERS: election of member-trustee	17 N.J.R. 2238(a)	R.1985 d.590	17 N.J.R. 2784(a)
17:3-2.1	Teachers' Pension and Annuity Fund: eligibility for enrollment	17 N.J.R. 2238(b)	R.1985 d.658	18 N.J.R. 93(c)
17:3-2.3	Teachers' pension and annuity: full-time employment	17 N.J.R. 60(a)		
17:3-6.21	Teachers' Pension and Annuity: special veterans' retirement	17 N.J.R. 2239(a)	R.1985 d.547	17 N.J.R. 2674(a)
17:5	State Police Retirement System rules	17 N.J.R. 2018(a)	R. 1985 d.614	17 N.J.R. 2914(a)
17:5-5.12	State Police disability retirant rule	17 N.J.R. 2746(b)		
17:9-1.5	State Health Benefits Program: voluntary termination by employer	17 N.J.R. 1399(a)	R.1985 d.587	17 N.J.R. 2784(b)
17:9-5.3	State Health Benefits Program: interest penalties against participants	17 N.J.R. 2868(a)		
17:9-6.1, 6.3	State Health Benefits Program: retired employees' coverage	17 N.J.R. 2386(a)		
17:9-6.2	State Health Benefits Program: retirement coverage	17 N.J.R. 2604(a)		

You're viewing an archived copy from the New Jersey State Library.

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
17:16-6.1	Permissible purchases for funds under control of Director of Investment	17 N.J.R. 2093(a)	R.1985 d.552	17 N.J.R. 2674(b)
17:16-7.1, 7.2, 7.3, 7.4, 8	Debt issue ceiling on long-term corporate issues	17 N.J.R. 2093(b)	R.1985 d.553	17 N.J.R. 2675(a)
17:16-17.3	State Investment Council: common and preferred stock limitations	17 N.J.R. 2239(b)	R.1985 d.582	17 N.J.R. 2784(c)
17:16-31.3-31.11	Cash Management Fund: method of accounting	17 N.J.R. 2095(a)	R.1985 d.554	17 N.J.R. 2676(a)
17:16-32, 38	Common Pension Funds A and C	17 N.J.R. 2386(b)	R.1985 d.615	17 N.J.R. 2914(b)
17:16-39.1, 39.3	Capital requirements for bankers acceptance eligibility	17 N.J.R. 2095(b)	R.1985 d.555	17 N.J.R. 2676(b)
17:16-42.4	State Investment Council: sales of covered call options	17 N.J.R. 2968(a)		
17:28	Charitable fund raising and public employees: payroll deduction campaigns	17 N.J.R. 1931(a)	R.1985 d.496	17 N.J.R. 2449(a)
17:29	Charitable fund raising and local government	17 N.J.R. 2294(a)	R.1985 d.577	17 N.J.R. 2785(a)

(TRANSMITTAL 32, dated September 16, 1985)

TREASURY-TAXATION—TITLE 18

18:7-1.15, 4.5, 4.11, 11.7	Corporation Business Tax: investment company, subsidiary, indebtedness, timely filing	17 N.J.R. 1537(a)	R.1985 d.561	17 N.J.R. 2677(a)
18:7-5.1, 5.2, 5.4	Corporation Business Tax: entire net income base	17 N.J.R. 1538(a)	R.1985 d.562	17 N.J.R. 2678(a)
18:7-5.12-5.16	Corporation Business Tax: net operating loss carryover	17 N.J.R. 2096(a)		
18:12-7.12	Homestead rebate claim: filing extension	Emergency	R.1985 d.655	18 N.J.R. 107(a)
18:17-4.1	Local property tax: assessor duties	17 N.J.R. 1870(a)	R.1985 d.563	17 N.J.R. 2679(a)
18:24-2.3	Sales and use tax: ADP record retention	17 N.J.R. 2240(a)	R.1985 d.652	18 N.J.R. 94(a)
18:24-24.2	Sales tax and gas station equipment	17 N.J.R. 2387(a)	R.1985 d.651	18 N.J.R. 94(b)
18:25	Luxury Tax rules	17 N.J.R. 2241(a)	R.1985 d.653	18 N.J.R. 94(c)
18:26-11.1	Transfer Inheritance Tax: spousal waiver	17 N.J.R. 2241(b)	R.1985 d.650	18 N.J.R. 94(d)

(TRANSMITTAL 31, dated September 16, 1985)

TITLE 19 SUBTITLES A-L—OTHER AGENCIES (Except Casino Control Commission)

19:4-4.142	Meadowlands: granting zoning variances	17 N.J.R. 1871(a)		
19:4-4.146—4.156, 6.28	Commercial park zone	17 N.J.R. 2530(a)		
19:4-6.28	Change in zoning designation	17 N.J.R. 385(b)		
19:4-6.28	Meadowlands: official zoning map change	17 N.J.R. 1872(a)		
19:25-1.7	"Political committee" defined	17 N.J.R. 2531(a)	R.1985 d.662	18 N.J.R. 95(a)
19:25-15	Public financing of gubernatorial elections	17 N.J.R. 2868(b)		
19:30-4.4	Targeting of EDA assistance	17 N.J.R. 1872(b)	R.1985 d.499	17 N.J.R. 2454(a)
19:30-7	Economic Development Authority: private activity bonds	17 N.J.R. 1750(a)	R.1985 d.500	17 N.J.R. 2454(b)

(TRANSMITTAL 27, dated August 19, 1985)

TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION

19:41-7.2A	Disposition of Atlantic City real property	17 N.J.R. 2532(a)	R.1985 d.668	18 N.J.R. 96(a)
19:41-9.1, 9.4, 9.19, 9.20	Crediting of Casino Control Fund surplus; fees for services to other agencies	17 N.J.R. 2242(a)	R.1985 d.583	17 N.J.R. 2788(a)
19:41-9.5	Fee for casino work permit	17 N.J.R. 2604(b)	R.1985 d.667	18 N.J.R. 98(a)
19:43, 45	Pre-proposal: Rules governing casino industry bus operations	17 N.J.R. 1401(a)		
19:45-1.1, 1.25	Acceptance by casinos of checks issued by other casinos	17 N.J.R. 2245(a)		
19:45-1.11	Casino licensee's organization and surveillance personnel	17 N.J.R. 2969(a)		
19:45-1.11A	Jobs compendium submission	17 N.J.R. 2747(a)		
19:45-1.27	Patron credit	17 N.J.R. 1254(a)	R.1985 d.493	17 N.J.R. 2456(a)
19:45-1.27	Patron credit: extension of operative date	———	———	17 N.J.R. 2914(c)
19:45-1.27	Patron credit files	17 N.J.R. 2970(a)		
19:45-1.33	Counting and recording contents of drop boxes	17 N.J.R. 1752(a)	R.1985 d.495	17 N.J.R. 2457(a)
19:45-1.37	Issuance and use of tokens for slot machines	17 N.J.R. 184(a)		
19:46-1.26, 1.27, 1.33	Issuance and use of tokens for slot machines	17 N.J.R. 184(a)		
19:46-1.27	Aisle space and slot machines	17 N.J.R. 2533(a)		
19:54-3	Investment tax credit: deferral of obligation	Emergency	R.1985 d.675	18 N.J.R. 108(a)

(TRANSMITTAL 16, dated August 19, 1985)

You're viewing an archived copy from the New Jersey State Library.

CONTENTS

(Continued from Front Cover)

EDUCATION
Teacher education: Basic Certification Requirements ..... 85(a)
ENVIRONMENTAL PROTECTION
Waste management: on-site disposal of construction debris ..... 99(a)
HEALTH
Add 3, 4-methylene dioxymethamphetamine to Schedule I ..... 87(a)
HUMAN SERVICES
Personal care assistant services: reimbursement, procedure codes ..... 87(b)
INSURANCE
Reduced PIP premium charges ..... 89(a)
LABOR
Refund for unemployment benefits ..... 91(a)
LAW AND PUBLIC SAFETY
Practice of pharmacy: qualifying examinations ..... 92(a)
Thoroughbred rules: workout program ..... 92(b)
TREASURY-GENERAL
Alternate Benefit Program: contributions ..... 93(a)
PERS: purchase of credit for temporary service ..... 93(b)
Teachers' Pension and Annuity Fund: eligibility for enrollment ..... 93(c)
TREASURY-TAXATION
Sales and use tax: ADP record retention ..... 94(a)
Sales tax and gas station equipment ..... 94(b)
Luxury Tax rules ..... 94(c)
Transfer Inheritance Tax: spousal waiver ..... 94(d)
OTHER AGENCIES
ELECTION LAW ENFORCEMENT COMMISSION
"Political committee" defined ..... 95(a)
CASINO CONTROL COMMISSION
Disposition of Atlantic City real property ..... 96(a)
Fee for casino work permit ..... 98(a)

EMERGENCY ADOPTIONS

ENVIRONMENTAL PROTECTION
Marine fisheries ..... 102(a)
TREASURY-TAXATION
Homestead rebate claim: filing extension ..... 107(a)
CASINO CONTROL COMMISSION
Investment tax credit: deferral of obligation ... 108(a)

MISCELLANEOUS NOTICES

COMMUNITY AFFAIRS
Petition to amend Uniform Fire Code concerning kerosene containers ..... 110(a)
ENVIRONMENTAL PROTECTION
Statewide Water Quality Management Program Plan ..... 110(b)
Northeast water quality management ..... 112(a)
Sussex County water quality management ..... 112(b)
Upper Delaware water quality management .... 112(c)
Cape May County water quality management ..... 113(a)
INSURANCE
Amendments to NJ Automobile Insurance Underwriting Operating Principles ..... 113(c)
Tort option threshold for automobile accident claims ..... 113(b)
LAW AND PUBLIC SAFETY
Common carrier applicant ..... 113(d)
TRANSPORTATION
Zone of Rate Freedom: public hearing ..... 114(a)
CASINO CONTROL COMMISSION
Petition to amend Patron Credit rule ..... 114(b)

INDEX OF PROPOSED AND ADOPTED RULES 115

Filing Deadlines

February 3 issue:
Proposals ..... January 6
Adoptions ..... January 13
February 18 issue:
Proposals ..... January 17
Adoptions ..... January 27
March 3 issue:
Proposals ..... February 3
Adoptions ..... February 10
March 17 issue:
Proposals ..... February 14
Adoptions ..... February 24