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REGISTER

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS*, PAGE 1111.

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***MOST RECENT UPDATE TO ADMINISTRATIVE CODE: MARCH 17, 1986.**
See the Register Index for Subsequent Rulemaking Activity.
NEXT UPDATE WILL BE DATED APRIL 21, 1986.

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RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **June 18, 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. 1:30-4.3. 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 June 18, 1986 to:
Steven L. Lefelt, Deputy Director
Office of Administrative Law
Quakerbridge Plaza, CN 049
Building No. 9
Quakerbridge Road
Trenton, New Jersey 08625

(a)

Uniform Administrative Procedure Rules Prior Transcribed Testimony

Proposed New Rule: N.J.A.C. 1:1-15.10

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

Proposal Number: PRN 1986-176.

The agency proposal follows:

Summary

The proposed new rule clarifies the circumstances under which a transcript of prior recorded testimony may be introduced into evidence. It has been the practice of several agencies to permit the receipt of such evidence under specified conditions.

The new rule permits a party to offer the transcript of a witness instead of producing the witness at the hearing if the witness' testimony was taken under oath, all parties were present at the previous proceeding and were afforded an opportunity to cross-examine the witness and the previous proceeding was electronically or stenographically recorded. In addition, a party who intends to offer a transcript must give the other parties and the judge at least five days notice.

Opposing parties may subpoena the witness to appear personally. Parties may produce additional witnesses or other relevant evidence. However, where otherwise permitted by law, the entire controversy may be presented solely upon transcribed testimony subject to the agreement of all parties and the approval of the judge.

Social Impact

The proposed procedure has been utilized by several agencies and, when appropriately used, can shorten the hearing process, eliminate the

necessity for a witness to reappear and save the parties and agency time and money.

Economic Impact

By eliminating the need for producing witnesses under appropriate circumstances, the new rule will result in some savings to the parties and to the Office of Administrative Law.

OAL NOTE: In the April 21, 1986, Register at 18 N.J.R. 747, the following rule was codified as N.J.A.C. 1:1-14.12 in the pre-proposal to amend the Uniform Administrative Procedure Rules.

Full text of the proposed new rule follows.

1:1-15.10 Prior transcribed testimony

(a) If there was a previous proceeding in the same matter which was electronically or stenographically recorded, a party may, unless otherwise precluded by law, offer the transcript of a witness in lieu of producing the witness at the hearing provided that the witness' testimony was taken under oath, all parties were present at the proceeding and were afforded a full opportunity to cross-examine the witness.

(b) A party who intends to offer a witness' transcribed testimony at the hearing must give all other parties and the judge at least five days notice of that intention.

(c) Opposing parties may subpoena the witness to appear personally. Any party may produce additional witnesses and other relevant evidence at the hearing.

(d) When permissible by law, the entire controversy may be presented solely upon such transcribed testimony if all parties agree and the judge approves.

(b)

Uniform Administrative Procedure Rules Rules of Special Applicability Education Budget Hearing Rules

Proposed New Rules: N.J.A.C. 1:6

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

Proposal Number: PRN 1986-177.

The agency proposal follows:

Summary

The proposed new rules represent a codification of the existing process for conducting education budget dispute cases. Essentially, the new rules

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require the exchange of certain documents prior to the commencement of the hearing.

Within 10 days of receipt of the Notice of Hearing, the governing body must forward to the judge copies of the changes to the school district operating or capital budget, including the statement of supporting reasons for the reductions. Within 20 days of the Notice of Hearing, the district board of education must forward to the governing body and to the judge information concerning the past, current and next school year including line item budgets, numbers of staff and pupils, salary schedules and certain costs. The proposed budget must be accompanied by written testimony explaining why the disputed amounts are necessary to provide a "thorough and efficient" system of education.

The supporting statements supplied by both the governing body and the district board must be in the form of written testimony, verified and accompanied by a certified copy of each official document. Other discovery is permitted only on motion for good cause shown.

Social Impact

The proposed new rules codify the existing procedure for conducting education budget dispute cases. The procedure has proven to be an efficient and effective method of handling these cases. Codification of this procedure into rules will provide all interested parties with a formalized method by which to appeal decisions concerning budget disputes.

Economic Impact

As the proposal codifies the existing practice, no substantial economic impact is foreseen.

Full text of the proposed rule follows.

CHAPTER 6 DEPARTMENT OF EDUCATION BUDGET HEARING RULES

SUBCHAPTER 1. APPLICABILITY

1:6-1.1 Applicability

These rules of special applicability shall apply to any hearings concerning appeals by district boards of education of a governing body's decision to reduce a school budget, pursuant to N.J.S.A. 18A:6-9 and N.J.A.C. 6:24-7.1 et seq.

SUBCHAPTER 2. THROUGH SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. TRANSMISSION OF CASES TO THE OFFICE OF ADMINISTRATIVE LAW

1:6-5.1 Transmission of cases; material to be submitted

When a case is transmitted to the Office of Administrative Law, as provided by N.J.A.C. 6:24-7.7(b), the Commissioner of Education shall forward along with the transmittal form any material submitted by the district board of education or board of school estimate or any decisions by the Commissioner relating to any request for a cap waiver by the district board.

SUBCHAPTER 6. THROUGH SUBCHAPTER 10. (RESERVED)

SUBCHAPTER 11. DISCOVERY

1:6-11.1 Discovery; exchange of documents

(a) Within 10 days of receipt of the notice of hearing, the governing body shall forward to the judge assigned to hear the case a copy of the information which was given to the district board of education when the reduction was made, including the following documents:

1. If changes were made to the operating budget, a copy of the line item budget detailing the specific reductions that were effectuated by the governing body; a copy of the statement of supporting reasons for each of these reductions; and a certification stating the date on which these documents were originally given to the district board of education;

2. If changes were made to the capital budget, a copy of the capital budget; a copy of the statement of supporting reasons for each change; and a certification stating the date on which such documents were originally given to the board of education.

(b) Within 20 days of receipt of the notice of hearing, the district board of education shall forward a copy to the governing body and two copies to the judge of each of the following:

1. A complete line item budget listing each item by code and line description, including actual expenditures for the previous school year, actual budgeted amount for the current school year, proposed budgeted amount for the next school year (as submitted to the voters), amount

reduced by the governing body and revised budgeted amount for the next school year. This budget should be accompanied by written testimony, approved by the district board of education, as to why each of the amounts in dispute is necessary to provide a "thorough and efficient" system of education;

2. Staff, numbers of professional and nonprofessional, during the current school year and projected staff for the next school year, with reasons for increase or decrease;

3. Pupil enrollment by grade for the district as of June 30, preceding; September 30 preceding; and that projected for September of the next school year;

4. Salary schedules for all employees;

5. Number of schools and classrooms in each;

6. Costs for non-aided transportation for the previous school year and projected for the current school year and the next school year;

7. Tuition received or paid during the previous school year and anticipated for the current school year and the next school year;

8. Advertised budget for the next school year;

9. If a capital budget is in dispute, a substantiation for each proposed capital project.

(c) The governing body and the district board shall submit their statements of supporting reasons in the form of written testimony, verified by each and accompanied by a certified copy of each official document.

(d) All other discovery shall be on motion for good cause shown.

BANKING

(a)

DIVISION OF BANKING CONSUMER CREDIT BUREAU Small Loan Law Regulations Proposed Redoption: N.J.A.C. 3:17

Authorized By: Mary Little Parel, Commissioner of Banking.

Authority: N.J.S.A. 17:10-23.

Proposal Number: PRN 1986-195.

Submit comments by June 18, 1986 to:

Roger Wagner
Deputy Commissioner
Department of Banking
CN 040
Trenton, NJ 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), Chapter 17, Small Loan Law Regulations, of Title 3 of the Administrative Code expires on June 18, 1986. The Department has reviewed these regulations and determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. The Department of Banking proposes to redopt these rules without change.

Subchapter 1, Advertising, regulates the type and content of advertising. Subchapter 2, Applications of Licenses, sets rules for acceptance of reapplications. Subchapter 3, Books and Records, concerns the maintenance of books, files, and records. Subchapter 4, General, permits borrowers to receive copies of documents, prohibits use of blank forms and solicitation of business. Subchapter 5, Insurance, sets out the licensee's responsibilities and clarifies insurance-related procedures. Subchapter 6, Loans, regulates loan terms, the granting of multiple loans, accounts for collection and out-of-State loans. Subchapter 7, Other Business, establishes the requirements for engaging in other permitted businesses.

Social Impact

The proposed redoption will allow the Department to continue in full force and effect the benefits of the regulation of small loan consumer services to residents of the State. The proposed redoption would continue to provide the Department with the regulatory structure to aid in the enforcement of its responsibilities pursuant to, and implement the provisions of, the small loan law, N.J.S.A. 17:10-1 et seq. All small loans (\$5000 or less) lenders are affected. The Department licenses approximately 206 small loan lenders throughout the State, who are required to conduct their businesses in conformance with these regulations.

Economic Impact

The proposed readoption will continue the existing regulatory structure and no additional economic impact is foreseen. Licensees will continue to incur compliance costs and borrowers will continue to benefit in cost savings because of greater disclosure and the eradication of cost-incurring abuses. The Department incurs administrative costs due to licensing, examination and investigation.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 3:17.

COMMUNITY AFFAIRS**(a)****DIVISION OF LOCAL GOVERNMENT SERVICES****Cooperative Pricing and Joint Purchasing Systems
Proposed Amendment: N.J.A.C. 5:30-17**

Authorized By: Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs.

Authority: N.J.S.A. 40A:11-11.

Proposal Number: PRN 1986-180.

Submit comments by June 18, 1986 to:

Barry Skokowski, Director
Division of Local Government Services
New Jersey Department of Community Affairs
CN 803
Trenton, New Jersey 08625-0803

The agency proposal follows:

Summary

This proposal amends existing regulations governing local cooperative purchasing programs. Counties, municipalities, other contracting units as defined by the Local Public Contracts Law (N.J.S.A. 40A: 11-1 et seq.), and boards of education are authorized under various statutes to join together for the procurement of needed items or services. These rules promulgated pursuant to the Local Public Contracts Law (N.J.S.A. 40A:11-11(5)), provide a single set of requirements for all such systems, regardless of the statutory basis or membership of the system.

The first cooperative purchasing regulations were promulgated by the Division of Local Government Services in 1980. These proposed amendments incorporate needed changes due to subsequent legislation, which authorized boards of education to participate, and reflect necessary adjustments to the regulatory scheme based on the experience of the past five years.

These regulations establish the methods to be followed by local units in establishing or joining a cooperative purchasing system, and specify minimum administrative requirements for the operation of a system. Two types of cooperative purchasing are recognized by the regulations. A joint purchasing system operates by a single contracting unit, the Lead Agency, performing all administrative tasks for participants, including the award of purchase contracts and payment to vendors. A single contract exists between the Lead Agency and the vendor. In cooperative pricing systems, participants use the services of a Lead Agency for selected tasks, principally accumulation of participants' supply needs and administrative activities relating to advertising for bids, evaluating proposals and selecting the lowest responsible bidder. The Lead Agency and each participating contracting unit enter into individual contracts with the chosen vendor and each are responsible for payment for their own needs. Specific administrative requirements are provided in the regulations for each type of cooperative purchasing.

No cooperative purchasing program may operate until it has been registered with and approved by the Director, Division of Local Government Services, New Jersey Department of Community Affairs. In addition, all membership changes or changed contractual provisions of an approved system must be reported to and approved by the Director. The Director's approval may be for up to five years. This proposal clarifies that a participant's approval terminates on the expiration date of the cooperative purchasing system, and not five years from the member's approval.

The most significant change proposed by this amendment concerns the renewal of approved systems. Current regulations provide a five year approval period after which the system and all participants must pass

new ordinances or resolutions of participation, execute new agreements of membership, and file for approval of the Division. In larger systems which have up to 70 members, this can be an involved and complicated process. Also, since ordinances require publication and a minimum waiting period before final adoption is possible, this can also be a lengthy procedure.

This proposal will allow the execution of a new agreement without prior adoption of another ordinance or resolution, provided the existing instruments do not restrict participation to a particular time period. Contracting units will be able to renew participation by executing a new participant's agreement. The time required for membership renewal can thus be shortened by several weeks.

The proposal also clarifies the proper method to authorize participation in a cooperative purchasing system. There has been some confusion over whether a municipality could use a resolution, rather than an ordinance. Similarly, some boards of education questioned the need for a resolution and attempted to substitute motions passed at business meetings. The amendments now clearly require municipalities and counties operating under an optional charter form of government to authorize participation by ordinance. Resolutions are required for non-charter counties and other contracting units. Motions are specifically prohibited.

Rotation of Lead Agency status among system participants is specifically authorized by this amendment but limited to one rotation per year. This recognizes a common practice among participants. Rather than reimburse administrative costs and fees to the Lead Agency many systems prefer to simply rotate Lead Agency status, with each town absorbing all administrative expenses in turn.

The amendments also reflect recent legislation that allows advance payment of administrative costs from participation in an approved cooperative endeavor. Prior to the enactment of P.L. 1985, c. 419, local units were prohibited from paying such costs in advance. They could only pay after services had been rendered by the Lead Agency. The proposal specifies the methods to be followed in authorizing, receiving, and expending such payments.

For consistency with the basic enabling statute (the Local Public Contracts Law) all references to participants and local agencies have been changed to "contracting units." Also, references to a specific dollar amount for the bidding threshold have been replaced with "the appropriate statutory bid limit." Recent legislation (P.L. 1985, c. 469) provides for a periodic adjustment of the local bidding threshold based on changes in the Consumer Price Index. This change will eliminate the need for continual amendment as the amount is adjusted.

The current regulations require a legal notice to be published by cooperative purchasing systems at their inception and in January of each year thereafter. This notice must identify the system's members and Lead Agency, state the type of system, and include the State identification code. This proposal continues the publication requirement at the system's inception but allows annual publication either in January or on the system's anniversary date. In those systems which rotate Lead Agency status, it occurs on the system's anniversary date, rather than on a calendar year basis. This change will eliminate the need for a second annual publication when the Lead Agency changes.

A new provision specifies that any performance bonds, certificates of insurance or other securities required of a vendor are the responsibility of each participating contracting unit. There had been some question whether the Lead Agency was responsible for ensuring these documents were provided.

The regulations also address participation in the State cooperative purchasing program. There are no changes in these provisions.

Social Impact

This proposal affects the 19 approved cooperative and joint purchasing systems registered with the Division of Local Government Services. A total of 335 local contracting units participate in these systems. Others will be affected only if they choose to participate in cooperative purchasing programs. Participation in or withdrawal from a program is a voluntary decision by local units.

The Division does not anticipate negative response to these proposed amendments. In January, 1984 a meeting between Division staff and representatives of the Lead Agencies of the approved systems considered the status of the cooperative purchasing programs and the need for amendments to the regulations. Based on this meeting a draft proposal was prepared and circulated to all Lead Agencies for comment by their membership. Many of those comments were incorporated into this present proposal.

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The Division believes that this proposal will not have an adverse social impact on those currently participating in approved systems. The proposal should have a beneficial impact through the less cumbersome and time consuming renewal process.

Economic Impact

The principal economic result of the proposal will be the reduced costs and time required to renew registration of systems and participants' membership. Contracting units will save the advertising costs associated with the passage of ordinances and the indirect costs of waiting until the final adoption of the ordinance. The Lead Agency will not have the administrative expenses and staff time devoted to checking that its system's membership has complied with State requirements. Additionally, the Lead Agency may not be required to file a large number of system modification reports, since more participants will be able to renew faster.

There will also be some minor cost reduction through the changed publication requirements for the annual legal notice of cooperative purchasing by the Lead Agency.

Actual dollar amounts may not be sizable but there will be measurable cost savings and reduced indirect costs.

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

SUBCHAPTER 17. COOPERATIVE PRICING AND JOINT PURCHASING SYSTEMS

5:30-17.1 Applicability

This subchapter is adopted under authority N.J.S.A. 40A:11-11, as amended, and 52:27BB-1 et seq. [It] **The subchapter** applies to contracting units as defined in the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and boards of education (hereinafter also referred to as contracting units), **as authorized by N.J.A.C. 6:20-8.7 by the Commissioner of Education.**

5:30-17.2 Definition

(No change.)

5:30-17.3 Basis for cooperative purchasing

(a) All cooperative purchasing shall be based on a formal agreement entered into between the participating contracting units, authorized by resolution or ordinance, **as described in 1, through 4. below.** [as may be required by the appropriate statute. Participation is limited to all types of contracting units within the same or adjoining counties. The agreement shall include, as a minimum, the following:]

1. Municipalities shall first adopt ordinances to authorize creation and/or participation in a system and execution of a formal agreement among participating contracting units. Resolutions from municipalities cannot be substituted in place of ordinances.

2. Counties which operate pursuant to the Optional County Charter Law, N.J.S.A. 40:41A-13 et seq., shall first adopt ordinances to authorize creation and/or participation in a system and execution of a formal agreement among participating contracting units.

3. Counties which operate pursuant to all statutes other than the Optional County Charter Law, N.J.S.A. 40:41A-13 et seq., shall first adopt resolutions to authorize creation and/or participation in a system and execution of a formal agreement among participating contracting units.

4. All other participating contracting units, including but not limited to, board of education, county colleges, authorities, boards, and commissions, shall first adopt resolutions to authorize creation and/or participation in a system and execution of a formal agreement among participating contracting units. Motions made and carried at business meetings cannot be substituted for resolutions.

(b) The formal agreement shall include, at a minimum, the following:

1. Reference to the authorizing statute.

2. Denomination of the system to be established as either a:

i. Joint Purchasing System (in which one [participant] **participating contracting unit**, known hereafter as the Lead Agency, performs the complete purchasing responsibilities for the others, with the only contractual relationship with the vendor being between the Lead Agency and the vendor); or

ii. Cooperative Pricing System (in which one [participant] **participating contracting unit**, the Lead Agency, advertises for bids, awards a master contract to the vendor providing for its own needs and for the prices to be extended to the other [participants] **participating contracting units**, and notifies other [participants] **participating contracting units**, of the bid prices awarded. Those other [participants] **participating contracting units** then contract directly with the vendor for their own needs, subject to the specifications in the master contract).

3. Description of the categories (or exact items) of work, supplies or equipment to be included.

4. Clear and specific assignment of responsibilities, duties and rights of all [participants] **participating contracting units.**

5. Provision for any sharing of administrative costs and/or payment for items bought, together with any necessary standards of performance.

6. Length of contract (note that State approval is only given for up to five years at a time).

7. Name of Lead Agency for the system. At the local option, the responsibility of Lead Agency may rotate at the most once a year among participating contracting units. A provision for this rotation, along with names of future Lead Agencies, shall be included in the agreement.

[(b)](c) In order to participate in the Cooperative Purchasing Program administered by the Division of Purchase and Property of the State Department of the Treasury, a formal agreement with that Division is not required, but local authorization should be secured. (See [section 7 of this subchapter] N.J.A.C. 5:30-17.8).

5:30-17.4 Approval and registration

(a) All cooperative purchasing agreements or systems hereafter entered into or participated in by any contracting units regardless of statutory authorization, shall be subject to registration with and approval by the Director, Division of Local Government Services, Department of Community Affairs. This provision of the regulation shall not extend to local participation in the cooperative purchasing program administered by the Division of Purchase and Property pursuant to N.J.S.A. 40A:11-12, except as may be specifically set forth [herein] **in N.J.A.C. 5:30-17.8.**

[(b)] All previously existing agreements and systems shall file for approval no earlier than April 15, 1980 nor later than June 1, 1980 and all proposed systems shall file for approval no later than 45 days before the proposed effective date of the agreement's beginning.]

[1. The Director, Division of Local Government Services, shall make available forms which shall be used for this purpose, and which shall disclose all significant elements of the agreement and the systems and records to be maintained.]

(b) A Lead Agency for a proposed system shall formally apply to the Director for registration and approval of systems on behalf of all participating contracting units.

1. Applications shall be made on forms prescribed by the Director. All completed applications shall include, at a minimum, dated, signed, and certified ordinances and/or resolutions, as appropriate, and properly executed agreements.

2.-3. (No change.)

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

(e) If additional contracting units apply to the Director and are approved for registration in an approved cooperative purchasing program, their participation in the system terminates on the expiration date assigned by the Director for the system.

5:30-17.5 Identification coding

(a) In approving a system, the Director shall assign it an identification code, consisting of letters, numbers, or a combination thereof. **All Lead Agencies and participating contracting units shall affix [T]his identification code [shall be affixed] on all contracts, purchase orders., bidding documents, vouchers and records of whatever nature that are prepared within the scope of the approved system. Locally, this identification number shall be supplemented by uniform consecutive numbers for each item of purchase handled under the system, said number to be assigned by the Lead Agency. The Director shall also assign a general identification code to be used by all contracting units purchasing under the Division of Purchase and Property's cooperative purchasing (pricing) program.**

(b) (No change.)

5:30-17.6 Renewal or termination of systems

(a) After a system has been registered with the Division, as described in N.J.A.C. 5:30-17.3, but no later than 30 days prior to the expiration date of the system, the Lead Agency for that system may apply to the Director for renewal of the system on forms prescribed by the Director. At the local option, each system shall be renewed by complying with one of the following procedures:

1. Each Lead Agency and contracting unit shall renew the system by complying with the procedures for ordinances, resolutions, agreements, and Director approval, as outlined in N.J.A.C. 5:30-17.3; or

2. Each Lead Agency and contracting unit shall renew the system for an additional period not in excess of five years, subject to Director approval, by executing a new formal agreement to include, at a minimum:

i. The new expiration date of the system; and

ii. Additional changes in the terms of the formal agreement, as required in N.J.A.C. 5:30-17.3 and 17.7; and

iii. The formal agreement shall be executed by the local official(s) representing the Lead Agency and contracting unit, as authorized in the enabling ordinance or resolution, as appropriate.

(1) If an ordinance adopted by a municipality or county creating the system needs to be revised for reasons such as, but not limited to, a specified expiration date for the system, change(s) in the form of government, and change(s) in title of the local official(s) authorized to execute the agreement, then said ordinance shall only be amended by adoption of another ordinance.

(2) If a resolution which has created the system needs to be revised for reasons described in (1) above, then said resolution shall only be amended by adoption to another resolution by the contracting unit.

(3) Prior to the expiration date of the system, the Director shall review existing ordinances and resolutions and make final determination as to their compliance with the above provisions. The Director shall then inform the Lead Agency of any amendments required in said ordinances and resolutions.

(4) If no provisions in an ordinance or resolution of a participating contracting unit need to be revised for reasons described in (1) and (2) above, then an agreement between the Lead Agency and the participating contracting unit shall be executed. This agreement shall be affirmed by resolution of the governing body of a municipality or county, or by motions made and carried in minutes of governing body meetings of other participating contracting units.

(b) If approved, through the procedures described in N.J.A.C. 5:30-17.4, registration and approval of the system shall be for a period not in excess of five years and shall be limited to the terms, participants, and scope presented for approval. Any subsequent amendments shall be submitted to the Director for review and approval on forms prescribed by the Director.

(c) Any Lead Agency in a system which chooses to terminate registration of the system shall notify the Director no later than 30 days prior to the expiration date of the system on forms prescribed by the Director.

5:30-17.[6]7 Local administrative responsibilities

(a) (No change.)

(b) At the beginning of participation in any system [and during each January thereafter,] the Lead Agency shall publish a legal advertisement in a newspaper normally used for such purposes, to read substantially as follows:

Notice of Cooperative Purchasing

[Outer County] (Name of Lead Agency) acts as Lead Agency in a cooperative purchasing agreement in cooperation with (list all participating [agencies] contracting units. Under this system, [Outer County] (Name of Lead Agency) solicits competitive bids for certain items purchased by participating [governments] contracting units. This is a (specify, Joint Purchasing System or Cooperative Pricing System) as defined and regulated by N.J.A.C. 5:30-17. Interested citizens or vendors may obtain information regarding the manner of operation of this system by contacting (name, address and phone number of Lead Agency). System Number _____ (State ID Code), approved by State Division of Local Government Services through (expiration date of the system).

1. This notice will cover either a Joint Purchasing system or a Cooperative Pricing system; a more specific description of how it works may be included at local option, but in any event must be made available to any citizen upon request.

2. This notice shall also be published once a year in a newspaper normally used for such purposes. At the local option, publication of said notice shall be on the anniversary date of the system (approval date by the Director) or during each January thereafter.

[(c) Before seeking bids, the Lead Agency shall obtain from the other participants:

1. In the case of a joint purchasing system, the exact quantity of items that the Lead Agency shall purchase for the other participants, or

2. In the case of a cooperative pricing system, estimated quantities that each participant may wish to contract for during the life of the master contract.]

(c) The Lead Agency shall also provide an appropriate opportunity to discuss with the other participating contracting units the terms of the specifications to be issued.

[(d) The Lead Agency shall also provide an appropriate opportunity to discuss with the other participants the terms of the specifications to be issued.]

(d) Before seeking bids, the Lead Agency shall obtain from the other participating contracting units:

1. In the case of a joint purchasing system, the exact quantity of items that the Lead Agency shall purchase for the other participating contracting units;

2. In the case of a cooperative pricing system, estimated quantities that each participating contracting unit may wish to contract for during the life of the master contract.

(e) The Lead Agency, in seeking bids shall:

1. If actually making the purchase for other [participants] participating contracting units (a Joint Purchasing System) disclose in the specifications the quantities and details of delivery required; or

2. If obtaining prices for items to be ordered by the Lead Agency for its own needs and directly by other [participants] participating contracting units (a Cooperative Pricing Service), include in the specifications:

1. Two categories upon which bids are sought:

(1) Lead Agency requirements, stated in definite quantities; and

(2) Other [Agencies] Participating Contracting Units, stated as an estimated total quantity of the needs of all other participating agencies, which total shall not be exceeded in the aggregate by more than 20 percent of the total cost awarded for that category. The specifications for this category shall list the [O]ther [Agencies], Participating Contracting Units, their delivery address, their estimated maximum quantities and other relevant information to permit the bidder to understand what is potentially involved.

ii. A provision stating that contracts shall be in compliance with N.J.A.C. 5:30-14.4(g), open-end contract rules.

[ii.]iii. Language requiring the bid price(s) to be stated so that it is uniform with respect to both categories (Lead Agency and other [Agencies] participating contracting units). A provision with respect to the [O]ther [Agencies] participating contracting units category shall be included substantially as follows:

[OTHER AGENCIES REQUIREMENTS]
REQUIREMENTS OF OTHER PARTICIPATING
CONTRACTING UNITS

Check here if willing to provide the item(s) herein bid upon to [Other Agencies] other participating contracting units in System Number (State ID Code and name of the system), without substitution on deviation from specifications, size, features, quality, price or availability as herein set forth. It is understood that orders will be placed directly by the other participating [agencies] contracting units by separate contract, subject to the overall terms of the master contract to be awarded by the (Name of the Lead Agency), and that no additional service or delivery charges will be levied except as permitted by these specifications[.]. [And that order shall not be accepted from said Other Agencies purchases) to be exceeded by twenty percent over the cost (based on the bid price) of the total estimated quantity specified herein for that category.]

Check here if not willing to extend prices to [Other Agencies] other participating contracting units as described above. It is understood that this will not adversely affect consideration of this bid with respect to the needs of the (name of the Lead Agency).

[iii.]iv. A statement as to the procedure to be followed in the event that the lowest responsible bidder, in the bid document, declines to extend prices to the [Other Agencies] other participating contracting units category, such as:

(1) The contract for the stated needs of the Lead Agency will be awarded to the lowest responsible bidder, and new bids will be sought and a second master contract subsequently awarded with respect to the needs of the [Other Agencies] other participating contracting units; or

(2) The contract for the stated needs of the Lead Agency will be awarded to the lowest responsible bidder, and a second (master) contract for the [Other Agencies] other participating contracting units will be awarded to the next lowest bidder whose bid agrees to so extend his prices; or

(3) Only the contract for the Lead Agency's needs will be awarded, all other bids shall be rejected and no further bids will be sought by the Lead Agency on behalf of the [Other Agencies] other participating contracting units.

(f) Note that a bidder shall not be required [(or permitted)] to extend his bid prices to participating [agencies] contracting units unless he has voluntarily agreed to do so as part of his bid.

(g) Financing and contractual details for joint purchasing systems are as follows:

1. In the case of a joint purchasing system, the Lead Agency shall have available before awarding the contract an unexpended appropriation balance sufficient to cover the full amount of the contract, including the quantities being ordered on behalf of the other [participants] participating

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contracting units. The Lead Agency shall comply with the certification of funds requirement of N.J.A.C. 5:30-14.5 with respect to the full amount of the contract.

2. (No change.)

3. In order to handle the funds of the other participating [agencies] **contracting units**, the Lead Agency shall request approval of the Director, Division of Local Government Services, for a Dedication by Rider per J.J.S.A. 40A:4-39, entitled "Receipts from Other Agencies participating in the (Name) Joint Purchasing System, ID Number _____." In order to meet the statutory requirement that expenditures under a Rider may be made only in accordance with the availability of cash, the following steps shall be taken:

i. Prior to the award of contract, each participating [agency] **contracting unit** (other than the Lead Agency) shall, in accordance with N.J.A.C. 5:30-14.5, issue a certificate of available funds for its full share of the contract proposed to be awarded.

ii. The [purchasing] **contracting agent** of each of these participating [agencies] **contracting units** (with authorization by resolution of the governing body if over \$[4,500] **the appropriate statutory bid limit**) shall issue a purchase order to the Lead Agency together with a copy of its certification of available funds.

iii. The Lead Agency shall issue its own certificate, covering the full amount of the proposed contract including both its own share and those of the other participating [agencies] **contracting units**. The certificate shall be conditional with respect to the amounts due from the participating [agencies] **contracting units** so that the certificate shall read in part as in the following example:

\$5,000 From (Lead Agency) appropriation number 207, Road Department, Other Expenses.

\$2,000 Due from (Other Town) per its purchase order number 70243 and Certification of Available Funds dated _____, (Lead Agency) Dedication by Rider Account number 17.

\$1,000 Due from (Another Town), per its purchase order number A-402 and Certification of Available Funds dated _____, (Lead Agency) Dedication by Rider Account number 17.

\$8,000 Total Certified

iv. The Lead Agency shall then award the total contract to the successful bidder.

v. The Lead Agency shall not advance funds of its own to cover the purchase on behalf of the other participating [agencies] **contracting units** but shall make payments only upon receipt of the cash. Payments to the Lead Agency shall be made promptly in accordance with an agreed-upon schedule, which may include making payment to the Lead Agency in advance of receipt of goods. The voucher providing for the advance payment shall indicate: "Transfer of funds to (Name of Lead Agency) as cash advance to enable it to purchase the following on behalf of (Name of Participating [Town] **Contracting Unit**) as Lead Agency in (Name of Joint Purchasing System), number _____." **(Then list what is to be bought.)**

vi. Funds received by the Lead Agency as advances from other participating agencies shall be:

(1) Placed in a separate bank account established within the Rider and held in trust for the purpose of permitting the Lead Agency to serve as general agent for the awarding of joint purchasing contracts;

(2) Used only for the payment of actual bills to the vendors pursuant to the overall joint purchasing agreement; and

(3) Returned immediately to the participating [agency] **contracting unit** upon any determination that the full amount is not needed for payments as initially expected.

(h) Financing and contractual details for cooperative pricing systems are as follows:

1. In the case of a cooperative pricing system, the Lead Agency shall certify the funds available only for its own needs ordered. The contract executed shall provide for two categories of the items generally specified:

i. The quantities ordered for the Lead Agency's own needs, and

ii. The estimated aggregate quantities to be ordered by [Other Agencies] **other participating contracting units** by separate contract, subject to the specifications and prices set forth in the Lead Agency's overall (master) contract.

2. The Lead Agency shall supply the other [members] **participating contracting units** of the cooperative pricing system copies of the specifications, name of the successful bidder, prices awarded and the contract identification number. [These Other Agencies may then order directly from that vendor, by purchase order if under \$4,500, or contract of governing body if over \$4,500. The identification number shall be affixed

to each order to contract and shown on all forms pertaining thereto.] **Each participating contracting unit may then order directly from that vendor, by purchase order if under the appropriate statutory bid limit or by contract of the governing body if over the appropriate statutory bid limit. The identification number assigned by the Director shall be affixed to each purchase order or contract and shown on all forms pertaining thereto.**

[3. Participants shall not issue orders and vendors shall not make deliveries under such contracts deviating from the specifications, price or quality set forth in the master contract.]

3. **If it determines insurance certificates and/or performance bonds are necessary, the Lead Agency shall be responsible for requiring insurance certificates and/or performance bonds only for its own needs. Each participating contracting unit may require insurance certificates and/or performance bonds for any purchases it makes through the cooperative pricing system.**

4. **Participating contracting units shall not issue orders and vendors shall not make deliveries under such contracts deviating from the specifications, price or quality set forth in the master contract.**

5. **Rotation of Lead Agency responsibilities among participating contracting units, as set forth in N.J.A.C. 5:30-17.3, shall not invalidate contracts or purchase orders with vendors that are in effect at the time of rotation.**

[(i) Administrative costs: Any administrative costs agreed upon to be paid to the Lead Agency under either a Joint Purchasing or a Cooperative Pricing System shall be received by the Lead Agency as a Miscellaneous Revenue and available for expenditure only through the budget appropriation method. Such revenues shall not be handled through the Lead Agency's Dedication by Rider.]

(i) **Pursuant to the provisions of N.J.S.A. 40A:5-16.3 of the Local Fiscal Affairs Law, each participating contracting unit may, by resolution, provide for and authorized payment in advance for estimated administrative costs to be paid to the Lead Agency for a joint purchasing or cooperative pricing system. Such administrative costs shall be received by the Lead Agency as a Miscellaneous Revenue off-set with appropriations and available for expenditure only through the budget appropriation method.**

(j) No purchase order or contract shall be issued by any participating [agency] **contracting unit** under the auspices of any cooperative purchasing endeavor for a price which exceeds any other price available to it from any other such system in which it is authorized to participate or from bids which it has itself received.

5:30-17.[7]8 [State Cooperative Purchasing (Pricing) Program] **The State of New Jersey's Cooperative Purchasing (Pricing) System**

(a) (No change.)

1.-4. (No change.)

5. **Requiring that purchases made under the State's Cooperative Purchasing Program, which individually or cumulatively exceed \$[4,500] the appropriate statutory bid limit, be only authorized by an individual resolution of the governing body in the same manner as has previously been specified by N.J.S.A. 40A:11-4 for all purchases over the statutory bid limit. [Purchases which do not exceed \$4,500 cumulatively may be issued by the purchasing agent if such authorization has been generally assigned pursuant to 40A:11-3.] Purchases which do not exceed the appropriate statutory bid limit cumulatively may be awarded by the contracting agent if such authorization has been generally assigned pursuant to N.J.S.A. 40A:11-3.**

(b) In the case of those limited situations in which local [jurisdictions] **contracting units** are authorized by the Division of Purchase and Property to purchase commodities directly from [State warehouses] **the State distribution center**, such purchases should be treated as an open-end contract authorized at least annually by resolution of the governing body. The resolution should indicate the nature of the commodity that the [purchasing] **contracting agent** is thereby authorized to purchase. The resolution should also indicate the maximum quantities and the maximum costs covered by the open-end authorization, with purchase orders representing the contract to purchase from the State. Certification of available funds should be handled in accordance with N.J.A.C. 5:30-14.5(c)2, Open-End Contracts.

(c) With respect to purchases under [\$4,500] **the appropriate statutory bid limit** from [State warehouses] **the State distribution center**, the [purchasing agent's authority] **authority of the contracting agent** shall be the same as applies to all other contracts under that limit.

5:30-17.[8]9 Authority of Director

The Director, Division of Local Government Services, shall take whatever additional action he may deem advisable to assure the orderly

conduct of cooperative purchasing systems in light of sound financial administration in accordance with statutory responsibilities. Local units contemplating establishment of such systems are advised to informally contact for advice:

New Jersey Department of Community Affairs
Division of Local Government Services
Bureau of Local Management Services
[P.O. Box 2768] CN 803
Trenton, NJ 08625
609-292-7843

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF COASTAL RESOURCES

Wetlands Management

Wetlands Maps in Atlantic County

Proposed Amendment: N.J.A.C. 7:7-2.2

Authorized By: Richard T. Dewling, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:9A-1 et seq. and 13:1D-1 et seq.

DEP Docket No. 019-86-04.

Proposal Number: PRN 1986-191.

A public hearing concerning this proposal will be held on:

June 11, 1986 at 10:00 A.M.
Police Building
17 North First Street
Pleasantville, N.J. 08232

Copies of the wetlands maps affected by this proposal are available for inspection at the Atlantic County Clerk's Office, Clerk Building, Main Street, Mays Landing, New Jersey.

Submit comments by June 18, 1986 to:

Michael P. Marotta, Esq.
Department of Environmental Protection
Office of Regulatory Services
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Wetlands Act (N.J.S.A. 13:9A-1 et seq.) authorizes the Department of Environmental Protection to regulate certain activities on mapped tidal wetlands throughout the State. Wetlands are delineated at a scale of 1:2,400 on maps listed at N.J.A.C. 7:2-2(c).

The purpose of this proposal is to remove the wetlands designation from approximately 100 acres of land which is presently listed as wetlands on Map No. 196-2040, 196-2046, 203-2040 and 203-2046. This land is part of a site described as Lot 27 in Block 271 on the Tax Map of the City of Pleasantville. The entire site, which is approximately 440 acres in size, is presently designated as wetlands. At the request of the property owner, the Department has reviewed this designation and has determined that the portion of land which is proposed here for de-regulation does not meet the definition of "wetlands" as provided in the Department's Rules on Coastal Resources and Development, N.J.A.C. 7:7E-3.25. The Department has modified the maps to show the change in wetlands designation.

Individual notice to the affected property owner has been made and a public hearing scheduled as required by the Wetlands Act (N.J.S.A. 13:9A-1 et seq.)

Social and Economic Impact

All forms of development or disturbance within designated wetlands areas are subject to strict regulation except for mosquito control and continued commercial production of salt hay or other agricultural crops or activities. As a result of this proposed revision, the described tract of land will no longer be subject to these stringent regulations and, therefore, certain types of development and other uses on the site will be more likely to occur. The site will become more useful and commercially valuable.

Environmental Impact

The proposed revision is expected to have little or no impact upon the environment. The lands proposed for de-regulation are not wetlands as defined by the Department and there is, therefore, no need to impose the strict environmental standards which wetlands require.

Full text of the proposal follows (all maps listed will be physically altered):

7:7-2.2 Wetlands

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

(c) The Wetlands Order promulgated by the Commissioner of Environmental Protection in April 1972, any amendments thereto, and these rules shall be applicable only in those areas shown waterward of the upper wetland boundary on the following wetlands maps:

1.-4. (No change.)

5. Atlantic County:

...
196-2040
196-2046

...
203-2040
203-2046

...
6.-11. (No change.)

(b)

DIVISION OF FISH, GAME AND WILDLIFE

Fish and Game Council

1986-87 Game Code

Proposed Amendments: N.J.A.C. 7:25-5

Authorized By: Fish and Game Council, Anthony E.

DiGiovanni, Chairman.

Authority: N.J.S.A. 13:1B-30 et seq. and 23:1-1 et seq.

DEP Docket No. 021-86-04.

Proposal Number: PRN 1986-189.

A public hearing concerning this proposal will be held on:

June 10, 1986 at 8:00 P.M.
Mercer County Community College
West Windsor Campus
1200 Old Trenton Road
Audio Visual Building, Room 110
West Windsor, New Jersey

Submit comments by June 18, 1986 to:

Russell A. Cookingham, Director
Division of Fish, Game and Wildlife
Department of Environmental Protection
CN 400
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed 1986-87 Game Code states when, under what circumstances, in what locations, by what means, and in what amounts and numbers, game birds, game animals, and fur-bearing animals may be pursued, taken, killed or possessed.

These regulations have provided a system for the protection, propagation, increase, control, and conservation of game birds, game animals, and fur-bearing animals in this State and for their use and development for public recreation and food supply. They are based on scientific investigation and research. The existing regulations expire July 31, 1986.

The proposed amendments include the following revisions:

1. Season dates adjusted to correspond with the 1986-87 calendar, including date changes for regular and early small game seasons.

2. The ruffed grouse season in the northern zone will open nine days later than last year, to correspond with the traditional opening of the early squirrel season and the probable opening of the federally regulated woodcock season. (N.J.A.C. 7:25-5.4)

3. The cottontail rabbit season will be extended by nine days to include two holidays. The squirrel season will be shortened by five days to close with the rabbit season. (N.J.A.C. 7:25-5.3, 5.5)

4. Three turkey hunting areas are added with an allocation of 750

Additional hunting permits. A fifth hunting period consisting of three Saturdays only has been added and will provide for 1,250 additional hunting permits. One turkey hunting area boundary has been modified. (N.J.A.C. 7:25-5.7)

5. Permit allocations for the trapping of beaver and otter are adjusted. (N.J.A.C. 7:25-5.9, 5.10)

6. Restrictions are provided concerning the use of body gripping restraining snares including a mandatory division-approved training course related to their use. References to grapples used in trapping have been deleted. (N.J.A.C. 7:25-5.12)

7. The designated steel shot area for waterfowl hunting has been expanded to include all of Atlantic, Ocean, and Cape May Counties and a greater portion of Burlington County. (N.J.A.C. 7:25-5.14)

8. The expanded bow and arrow deer season has been replaced by a special permit bow and arrow deer season which involves nine additional hunting zones. Season lengths and bag limits for the special either-sex shotgun season in certain deer management zones are adjusted and one day has been added to the winter bow and arrow deer season. Quotas for the shotgun and muzzleloading rifle seasons are adjusted. (N.J.A.C. 7:25-5.24 to 5.26; N.J.A.C. 7:25-5.29, 5.30)

9. Provision is made to allow 14 to 17-year old hunters to hunt squirrels with a muzzleloading rifle. (N.J.A.C. 7:25-5.23)

10. Provision is made to permit the use of the rifled shotgun barrel for deer hunting. (N.J.A.C. 7:25-5.23)

11. The use of sights other than open iron sights and peep sights on muzzleloading rifles is prohibited. (N.J.A.C. 7:25-5.23)

12. Provision is made to allow farmers or their agents to control coyotes at any time when coyotes are found destroying livestock, crops, or property. (N.J.A.C. 7:25-5.11; 5.21)

13. Provision is made to allow the taking of merlins during migration by licensed falconers and a restriction on the taking of eyas goshawks reflecting changes from their threatened species status. (N.J.A.C. 7:25-5.16)

14. An extension of the fox season is made statewide to run concurrently with the regular fall bow and arrow deer season for the taking of fox by licensed bow hunters only. Hunting with hounds and/or firearms will not be permitted until the regular season opening on November 8. Also a February 28 closing of the southern zone fox season is made to provide for three additional weeks of fox hunting without the use of hounds. (N.J.A.C. 7:25-5.19)

15. Restrictions are placed on quail hunting within two specific areas of the State selected as quail release sites for the division's quail restoration program. (N.J.A.C. 7:25-5.3)

16. Turkey and deer permit application procedures are modified. (N.J.A.C. 7:25-5.7, 5.28, 5.29)

17. Wording has been changed for the purpose of clarification.

Social Impact

No adverse social impact is anticipated from the amendments to this subchapter. Positive social impact anticipated includes furthering the conservation, management, and enhancement of the wildlife resource for continued recreational opportunities.

The relatively limited changes proposed for hunting seasons, hunting methods, permit quotas, bag limits, and hunting areas should have minimal adverse social impact.

Additional hunting areas and hunting periods that have been established, including three new turkey hunting areas and one new hunting period, should increase hunting opportunity. Adjustments that have been made to deer hunting permit quotas, season lengths, and bag limits should benefit all segments of the public in providing for healthier deer populations, long-term enhanced recreational hunting opportunities, and deer population levels compatible with other land uses. Adjustments in the grouse, rabbit, and squirrel seasons are minor with no social impact anticipated.

The mandatory snare training course requirement will educate the trapping public in proper use of restraining snares.

The provision to allow 14 to 17-year olds to hunt squirrels with muzzleloading rifles will increase recreational opportunity for these hunters.

The provision for the use of the rifled shotgun barrel will provide deer hunters a choice of rifled or smoothbore shotgun barrels.

The added fox season for bow hunters only and the added fox season in the southern zone for fox callers only will provide for additional recreation for these groups of hunters.

Other minor changes in dates, bag limits and the issuance of special permits are designed to offer sportsmen additional recreational opportunity.

Economic Impact

No adverse economic impact is anticipated from the proposed amendments. Rather, continuation of the Game Code should further the conservation and enhancement of the wildlife resource upon which a significant recreational and commercial industry is dependent.

There may be minor economic impact as a result of changes in permit quotas, added special permit seasons, restrictions on the use of snare devices, expansion of the designated steel shot only areas, some limited adjustments to hunting season dates and certain other new regulations. The Fish and Game Council does not, however, foresee any specific adverse economic impact arising from the proposed amendments.

Environmental Impact

The proposed amendments to the Game Code should have a positive environmental impact in continuing conservation, management and enhancement of the State's wildlife resource.

Annual revisions to the Game Code ensure the preservation and maintenance of the State's wildlife resources as changes in their populations, distributions and habitats occur.

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

7:25-5.1 General provisions

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

(c) This Code, when adopted and when effective, shall supersede the provisions of [1984-85] **1985-86** Game Code.

(d)-(e) (No change.)

7:25-5.2 Pheasant—Chinese Ringneck (*Phasianus colchicus torquatus*), English or Blackneck (*P. c. colchicus*), Mongolian (*P. c. mongolicus*), Japanese Green (*Phasianus versicolor*); including mutants and crosses of above

(a) The duration for the male pheasant season is November [9] **8**, to December [7] **6**, inclusive and December [16] **15** through January [4, 1986] **3, 1987** excluding December [18 and 19] **17 and 18** in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open.

(b) The duration for the male pheasant season for properly licensed persons engaged in falconry is September 1, to December [7] **6** inclusive and December [16] **15** through March 31, [1986] **1987** excluding November [9] **7** and December [18 and 19] **17 and 18** in those management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open.

(c) (No change.)

(d) The duration of the season for pheasants of either sex in the area described as Warren County north of Route 80, Morris County north of Route 80, Ocean County south of Route 70 and the counties of Sussex, Passaic, Bergen, Hudson, Essex, Camden, Atlantic and Cape May is November [9] **8** to December [7] **6**, inclusive and December [16] **15** through February [8, 1986] **7, 1987** excluding December [18 and 19] **17 and 18** in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open. Except for those Wildlife Management Areas located within the above described area, the pheasant season on wildlife management areas shall close on January [14, 1986] **3, 1987**.

(e) The hours for hunting pheasants on November [9] **8** will be 8:00 a.m. to 1/2 hour after sunset. All other days on which the hunting for pheasants is legal, the hours shall be sunrise to 1/2 hour after sunset.

(f) (No change.)

(g) The opening of the season on semi-wild preserves shall coincide with the listed statewide openings of November [9] **8**.

(h) (No change.)

7:25-5.3 Cottontail rabbit (*Sylvilagus floridanus*), black-tailed jack rabbit (*Lepus californicus*), white-tailed jack rabbit (*Lepus townsendii*), european hare (*Lepus europeus*), chukar partridge (*Alectoris graeca*), and quail (*Colinus virginianus*)

(a) The duration of the season for the hunting of [the animals enumerated by this section] **chukar partridge and quail** shall be November [9] **8** through December [7] **6** inclusive, and December [16, 1985] **15, 1986** to February [8, 1986] **7, 1987** excluding December [18 and 19, 1985] **17 and 18, 1986** in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open.

(b) The duration of the season for the hunting of cottontail rabbit, white-tailed jack rabbit, black-tailed jack rabbit and European hare shall be November 8 through December 6 inclusive and December 15, 1986 to February 16, 1987 excluding December 17 and 18, 1986 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open.

[(b)](c) The duration of the season for the hunting of the animals enumerated by this section for properly licensed persons engaged in falconry shall be September 1 to December [7] 6 inclusive and December [16, 1985] 15, 1986 through March 31, [1986] 1987 excluding November [8] 7 and December [18 and 19, 1985] 17 and 18, 1986 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open.

(d) The bobwhite quail season enumerated by this section shall be closed within the area described as that portion of Hunterdon County lying within a continuous line beginning at the intersection of Rt. 519 and Rt. 12; then east on Rt. 12 to its intersection with Rt. 579; then south along Rt. 579 to its intersection with Rt. 523; then southwest along Rt. 523 to its intersection with Rt. 604 at Sergeantsville; then west along Rt. 604 to its intersection with Rt. 519; then north along Rt. 519 to the point of beginning and in that portion of Sussex County lying within a continuous line beginning at the intersection of Rt. 519 and Rt. 618; then south and east along Rt. 618 to its intersection with Rt. 206; then south along Rt. 206 to its intersection with Rt. 517 at Andover; then south and west along Rt. 517 to its intersection with Rt. 611 at Tranquility; then north and west along Rt. 611 to its intersection with Henry Road; then west along Hibler Road to its intersection with Rt. 519; then northeast along Rt. 519 to the point of beginning. This shall not preclude the hunting of bobwhite quail on commercial shooting preserves located within the closed area, provided they are licensed for quail.

[(c)](e) (No change in text.)

[(d)](f) The hunting hours for the animals enumerated in this section are as follows: November [9] 8, 8:00 a.m. to 1/2 hour after sunset. On all other days for which hunting for these animals is legal, the hours shall be sunrise to 1/2 hour after sunset.

[(e)](g) (No change in text.)

7:25-5.4 Ruffed grouse (*Bonasa umbellus*)

(a) The duration of the season for the hunting of grouse in that portion of the state situated north of Rt. 70 from Pt. Pleasant west to Camden shall be October [2] 11 through December [7] 6 inclusive and December [16] 15 to February [8, 1986] 7, 1987, excluding December [18 and 19, 1985] 17 and 18, 1986 in those deer management zones in which a special shotgun deer season is authorized and excluding any extra Special Deer Permit Season Day that is declared open.

(b) The duration of the season for the hunting of grouse in that portion of the state situated south of Rt. 70 from Pt. Pleasant west to Camden shall be October [19] 18 through December [7] 6 inclusive and December [16] 15 to February [8, 1986] 7, 1987, excluding December [18 and 19, 1985] 17 and 18, 1986 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Deer Permit Season Day that is declared open.

(c) (No change.)

(d) The hunting hours for ruffed grouse shall be sunrise to 1/2 hour after sunset, with the exception of November [9] 8 when legal hunting hours shall be 8:00 a.m. to 1/2 hour after sunset.

(e) (No change.)

7:25-5.5 Eastern gray squirrel (*Sciurus carolinensis*)

(a) The duration of the season for the hunting of squirrels in that portion of the state situated north of Rt. 70 from Pt. Pleasant west to Camden shall be October [12] 11 through December [7] 6 inclusive and December [16] 15 to February [22, 1986] 16, 1987 excluding December [18 and 19, 1985] 17 and 18, 1986 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Season Day if declared open.

(b) The duration of the season for hunting squirrels in that portion of the state situated south of Rt. 70 from Pt. Pleasant west to Camden shall be October [19] 18 through December [7] 6 inclusive and December [16] 15 to February [22, 1986] 16, 1987 excluding December [18 and 19, 1985] 17 and 18, 1986 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Deer Season Day that is declared open.

(c) The duration of the season for the hunting of squirrels for properly licensed persons engaged in falconry shall be September 1 to December [7] 6 inclusive and December [16] 15 through March 31, [1986] 1987

excluding December [18 and 19, 1985] 17 and 18, 1986 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open.

(d) (No change.)

(e) Hunting hours for squirrels shall be sunrise to 1/2 hour after sunset, with the exception of November [9] 8 when legal hunting hours shall be 8:00 a.m. to 1/2 hour after sunset.

(f) (No change.)

7:25-5.6 (No change.)

7:25-5.7 Wild turkey (*Meleagris gallapavo*)

(a) The duration of the Spring Wild Turkey Gobbler hunting season shall include [four] five separate hunting periods of three or five days each. The hunting periods for hunting areas 1-9 shall be:

1. Monday, April [28] 27-Friday, May [2] 1
2. Monday, May [5] 4-Friday, May [9] 8
3. Monday, May [12] 11-Friday, May [16] 15
4. Monday, May [19] 18-Friday, May [23] 22
5. Saturday, May 2; Saturday, May 9; Saturday, May 16

The hunting periods for hunting areas 14[,16] through 18, 20 and 22 shall be:

1. Monday, April [21] 20-Friday, April [25] 24
2. Monday, April [28]27-Friday, May [2] 1
3. Monday, May [5] 4-Friday, May [9] 8
4. Monday, May [12] 11-Friday, May [16] 15
5. Saturday, May 2; Saturday, May 9; Saturday, May 16

(b) [Season] Bag limit: One male wild turkey may be taken with [a] each special wild turkey hunting permit.

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

(f) Method: The taking of one male wild turkey per special turkey permit with firearm or bow and arrow [under a special wild turkey permit] will be permitted in [thirteen] sixteen designated turkey hunting areas by holders of a special wild turkey permit.

1. Special wild turkey permits will be issued on an individual basis to holders of valid [1986] 1987 firearm or archery hunting licenses. Only one application per person may be submitted for the spring wild turkey season.

(g) (No change.)

(h) Applying For a Wild Turkey Hunting Permit

1. Only holders of valid [1986] 1987 firearm or archery hunting licenses, including juvenile licenses may apply by detaching from the hunting license the stub marked "Special Spring Turkey", signing as provided on the back, and sending the stub together with an application form which has been properly completed in accordance with instructions. Application forms may be obtained from:

i.-iii. (No change.)

2. Only one application may be submitted by any one individual during the prescribed application period. Duplicate applications will cause all applications by an individual to be void.

3. Fill in the application form to include: Name, address, [1986] 1987 firearm or archery hunting license number, turkey hunting areas applied for, hunting periods applied for, and any other information requested. Only those applications will be accepted for participation in random selection which are received in the Trenton office during the period of February [14-March 1, 1986] 13-28, 1987, inclusive. Applications received after [March 1] February 28 will not be considered for the initial drawing. Selection of permits will be by random drawing.

i. If a fall turkey hunting season is authorized for 1987, application shall be made in conjunction with the spring season application procedures in a form as prescribed by the division.

4.-5. (No change.)

6. Nothing contained herein shall preclude the division from issuing unfilled permits on a first come-first served basis to any properly licensed bow and arrow or firearm hunter.

(i) Applying for the Special Farmer Spring Turkey Permit.

1.-2. (No change.)

3. Fill in the application form to include: Name, age, address and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of February [14-March 1, 1986] 13-28, 1987. There is no fee required and all qualified applicants will receive a special farmer spring turkey permit delivered by mail.

- 4. (No change.)
- (j) (No change.)
- (k) Turkey Hunting Area Map (on file at the Office of Administrative Law).

TURKEY HUNTING AREA MAP

[1986] 1987 SPRING TURKEY HUNTING SEASON PERMIT QUOTAS

Turkey Hunting Area Number	Weekly Permit Quota	Season Total	Portions of Counties Involved
1	100†	[400] 500	Sussex
2	120†	[480] 600	Sussex, Warren
3	80†	[320] 400	Sussex, Warren
4	100†	[400] 500	Sussex, Warren, Morris
5	100†	[400] 500	Sussex
6	150†	[600] 750	Sussex, Passaic, Bergen
7	150†	[600] 750	Sussex, Morris, Passaic
8	50†	[200] 250	Warren, Hunterdon
9	50†	[200] 250	Warren, Hunterdon, Morris
14	100††	[400] 500	Burlington, Ocean
15	50††	250	Burlington, Camden, Atlantic
16	100††	[400] 500	Burlington, Atlantic
17	50††	250	Burlington, Ocean
18	50††	[200] 250	Atlantic, Cape May, Cumberland
20	50††	250	Cumberland, Salem
22	100††	[400] 500	Atlantic, Cape May, Cumberland
	[1250] 1400	[5000] 7,000	

†Applied to each of the [four] five hunting periods (A,B,C,D,E) in areas 1-9:

- A. Monday, April [28] 27-Friday, May [2] 1
- B. Monday, May [5] 4-Friday, May [9] 8
- C. Monday, May [12] 11-Friday, May [16] 15
- D. Monday, May [19] 18-Friday, May [23] 22
- E. Saturday, May 2; Saturday, May 9; Saturday, May 16

††Applied to each of the [four] five hunting periods (A,B,C,D,E) in areas 14[, 16,] through 18 [and] 20 and 22.

- A. Monday, April [21] 20-Friday, April [25] 24
- B. Monday, April [28] 27-Friday, May [2] 1
- C. Monday, May [5] 4-Friday, May [9] 8
- D. Monday, May [12] 11-Friday, May [16] 15
- E. Saturday, May 2; Saturday, May 9; Saturday, May 16

- (l) (No change.)
- (m) Location of Turkey Hunting Areas: 1.-9. (No change.)

10. Turkey Hunting Area No. 14: That portion of Burlington and Ocean Counties lying within a continuous line beginning at the intersection of Rt. 70 and Rt. 72; then northeast along Rt. 70 to its intersection with [Rt. 88 at Laurelton; then east along Rt. 88 to Bay Head; then south along the Atlantic coast to Ship Bottom] the Garden State Parkway; then south along the Garden State Parkway to its intersection with Rt. 72; then west along Rt. 72 to the point of beginning.

11. Turkey Hunting Area No. 15: That portion of Atlantic, Burlington and Camden Counties lying within a continuous line beginning at the intersection of Routes 70 and 206 at Red Lion; then south along Route 206 to Hammonton; then south along Route 54 from Hammonton to its intersection with the Atlantic City Expressway; then west along the Atlantic City Expressway to its intersection with Route 73; then north along Route 73 to its intersection with Route 70 at Marlton; then east along Route 70 to the point of beginning at Red Lion.

[11.]12. (No change in text.)

13. Turkey Hunting Area No. 17: That portion of Burlington and Ocean Counties lying with a continuous line beginning at the intersection of Routes 72 and 563; then southeast along Rt. 72 to its intersection with the Garden State Parkway; then south along the Garden State Parkway to its intersection with the northern bank of the Mullica River; then west along the northern bank of the Mullica River to its intersection with Rt. 563; then north along Rt. 563 to the point of beginning.

[12.]14. (No change in text.)

15. Turkey Hunting Area No. 20: That portion of Cumberland and Salem Counties beginning at the intersection of east bank of the Delaware River and the New Jersey Turnpike; then east along the New Jersey Turnpike to its intersection with Route 40; then east along Route 40 to its intersection with Route 553; then south along Route 553 to its intersection with Route 49; then west along Route 49 to Bridgeton and its intersection with the

Cohansey River; then south along the west bank of the Cohansey River to its confluence with the Delaware River; then north along the east bank of the Delaware River to the point of beginning.

[13.]16. (No change in text.)

7:25-5.8 Mink (*Mustela vison*), [and] muskrat (*Ondatra zibethicus*), and nutria (*Myocaster coypus*) trapping only

(a) (No change.)

(b) The duration of the mink, muskrat and nutria trapping season is as follows:

1. Northern Zone: 6:00 a.m. on November 15, [1985] 1986 through March 15, [1986] 1987, inclusive, except on State Fish and Wildlife Management Areas.

2. Southern Zone: 6:00 a.m. on December 1, [1985] 1986 through March 15, [1986] 1987, inclusive, except on State Fish and Wildlife Management Areas.

3. (No change.)

4. On State Fish and Wildlife Management Areas: 6:00 a.m. on January 1 through March 15, [1986] 1987 inclusive.

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

7:25-5.9 Beaver (*Castor canadensis*) trapping

(a) (No change.)

(b) The duration of the trapping season for beaver shall be February 1 through February 28, [1986] 1987, inclusive.

(c) Special Permit: A special \$5.00 permit obtained from the Division of Fish, Game and Wildlife is required to trap beaver. (If the number of applications received in the Trenton office exceeds the quotas listed, a random drawing will be held to determine permit holders.) Applications must be received in the Trenton office during the period December 1, [1985] 1986-December 25, [1985] 1986. Applicants may apply for only one beaver trapping permit and must provide their [1985] 1986 trapping license number. Permits will be allotted on a zone basis as follows: Zone 1-6, Zone 2-[6] 7, Zone 3-2, Zone 4-[2] 4, Zone 5-2, Zone 6-4, Zone 7-2, Zone 8-[3] 6, Zone 9-[4] 5, Zone 10-11, Zone 11-[3] 5, Zone 12-5, Zone 13-1, Zone 14-2, Zone 15-0. Total [53] 62. Successful applicants must provide their [1986] 1987 Trapping License Number to the Division before permit will be issued.

(d) (No change.)

(e) A "beaver transportation tag" provided by the division must be affixed to each beaver taken immediately upon removal from trap, and all beaver must be taken to a designated beaver checking station at the times and dates specified on the beaver permit and in any case no later than March [8, 1986] 7, 1987.

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

7:25-5.10 River otter (*Lutra canadensis*) trapping

(a) (No change.)

(b) The duration for the trapping of otter shall be February 1 through February 28, [1986] 1987, inclusive.

(c) Special Permit: A special \$5.00 permit obtained from the Division of fish, Game and Wildlife is required to trap otter. (If the number of applications received in the Trenton office exceeds the quotas listed, a random drawing will be held to determine permit holders). Beaver permit holders will be given first opportunity for otter permits in their respective zones. Applications must be received in the Trenton office during the period December 1, [1985] 1986-December 25, [1985] 1986. Only 1 application per person may be submitted for trapping otter and applicants must provide their [1985] 1986 trapping license number. Permits will be allotted on a zone basis as follows: Zone 1-3, Zone 2-2, Zone 3-2, Zone 4-4, Zone 5-4, Zone 6-4, Zone 7-3, Zone 8-6, Zone 9-3, Zone 10-6, Zone 11-5, Zone 12-9, Zone 13-[10] 12, Zone 14-5, Zone 15-[8] 10. Total [74] 78. Successful applicants must provide their [1986] 1987 Trapping License Numbers to the Division before permit will be issued.

(d) (No change.)

(e) The "otter transportation tag" provided by the Division must be affixed to each otter taken immediately upon removal from the trap. All otter pelts and carcasses must be taken to a beaver-otter check station at dates specified on the otter permit, and in any case no later than March [8, 1986] 7, 1987, where a pelt tag will be affixed and the carcass surrendered.

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

7:25-5.11 Raccoon (*Procyon lotor*), red fox (*Vulpes vulpes*), gray fox (*Urocyon cinereoargenteus*) and virginia opossum (*Didelphis virginiana*), striped skunk (*Mephitis mephitis*), long-tail weasel (*Mustela frenata*), short-tail weasel (*Mustela erminea*), coyote (*Canis latrans*) trapping only

(a) (No change.)

(b) The duration of the regular raccoon, red fox, gray fox, Virginia opossum, striped skunk, long-tail weasel, short-tail weasel and coyote trapping season shall be 6:00 a.m. on November 15, [1985] **1986** to March 15, [1986] **1987**, inclusive, except on State Fish and Wildlife Management Areas.

(c) The duration for trapping on state fish and wildlife management areas shall be after 6:00 a.m. on January 1, through March 15, [1986] **1987**, inclusive.

(d)-(e) (No change.)

(f) Farmers may trap fox and coyote destroying poultry, crops or property at any time of the year.

(g)-(h) (No change.)

7:25-5.12 General trapping

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

(f) Body gripping restraining snares shall be subject to the following requirements:

1. No person shall set, use or maintain any type of snare unless they have first satisfactorily completed a division-approved snare training course and carry on their person appropriate certification thereof.

2. Except when submerged underwater, all snares of the body gripping type used in trapping must be constructed of aircraft cable or crucible wire measuring 5/64 to 3/32 inches in diameter and be equipped with a swivel.

3. Except when submerged underwater, no body gripping snare shall be set, used, or maintained with a loop diameter average (arithmetic mean) greater than eight inches.

4. No body gripping snare shall be set, used, or maintained with the distance between the ground or walking surface to the top of the loop greater than 18 inches.

5. Except when submerged underwater, no body gripping snare shall be set, used, or maintained unless it is equipped with a stop six inches from the end to restrict loop closure to no less than six inches in circumference.

[(f) All grapples used for the trapping of furbearers shall be constructed from ferrous (steel or iron) metal wire with a minimum diameter of 1/4 inch. Grapples shall have a minimum of two sharpened upturned points, five inches apart. Grapples must be attached to the trap with no less than 48 inches of chain. Any trap set on or below ground level and affixed to a stake or other immovable object shall be fastened with no more than eight inches of chain. This regulation will not apply to traps completely submerged in water or in tidal areas to traps set below the high water line, nor will it prohibit the use of drags, grapples, body gripping traps or drowning devices.]

(g)-(j) (No change.)

7:25-5.13 Migratory birds

(a) Should any open season on migratory game birds, including waterfowl, be set by federal regulation which would include the date of November [9, 1985] **8, 1986**, the starting time on such date will be 8:00 a.m. to coincide with the opening of the small game season on that date. However, this shall not preclude the hunting of migratory game birds, including waterfowl, on the tidal marshes of the state as regularly prescribed throughout the season by federal regulations.

(b) (No change.)

(c) No person shall take, attempt to take, hunt for or have in possession, any migratory game birds including waterfowl, except at the time and in the manner prescribed by the code of federal regulations of the U.S. Department of Interior, U.S. Fish and Wildlife Service, for the [1985-86] **1986-87** hunting season. The species of migratory game birds, including waterfowl, that may be taken or possessed and unless otherwise provided the daily bag limits shall be the same as those prescribed by the U.S. Department of the Interior, U.S. Fish and Wildlife Service for the [1985-86] **1986-87** hunting season.

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

(i) A special canvasback permit [is] **shall be** required to hunt canvasback ducks [during the] if a prescribed special season is established by federal regulations.

(j)-(l) (No change.)

(m) No person shall take migratory game birds:

1. (No change.)

2. With a trap, net, snare, cross bow, rifle, pistol, shotgun larger than 10 gauge, fish hook, poison, drug or explosive.

3.-10. (No change.)

11. Before 8:00 a.m. on November [9, 1985] **8, 1986**. However this shall not preclude the hunting of migratory game birds on tidal waters or tidal marshes of the State.

12.-13. (No change.)

14. Except at the time and manner prescribed by the state or federal regulation, or by the [1985-86] **1986-87** Game Code.

15.-19. (No change.)

(n) Seasons and Bag Limits

1. Tundra swan (*Cygnus columbianus*), and Mourning dove (*Zenaidura macroura*) are protected. There will be no open season on these birds during [1985-86] **1986-87**.

2. Rail and Gallinule

i. The duration of the season for hunting clapper rail (*Rallus longirostris*), Virginia rail (*Rallus limicola*), sora rail (*Porzana carolina*) and common gallinule or moorhen (*Gallinule chloropus*) shall be September [2] **1** through November 8, [1985] **1986** inclusive.

ii. (No change.)

3. Woodcock

i.-ii. (No change.)

iii. Hunting hours for woodcock are sunrise to sunset except on November [9] **8**, when the hunting hours are 8:00 a.m. to sunset.

(o) (No change.)

7:25-5.14 Special regulation limiting use of shotgun shells containing lead pellets

(a) (No change.)

1. The state [and federal] designated steel shot area [is bounded on the north by the Shark River on the west by the Garden State Parkway, on the south by the Cape May Canal and on the east by the Atlantic Ocean] includes the counties of Ocean, Atlantic and Cape May and that portion of Burlington County lying within a continuous line beginning at the intersection of Rt. 542 and the Atlantic-Burlington County line, then east on Rt. 542 to its intersection with Rt. 563, then north on Rt. 563 to its intersection with Rt. 679, then southeast on Rt. 679 to its intersection with Stage Road, then east on Stage Road to its intersection with the Ocean-Burlington County line, then south on the Ocean-Burlington County line to its intersection with the Atlantic-Burlington County line, then northwest on the Atlantic-Burlington County line to the point of beginning.

2. (No change.)

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

7:25-5.15 Common crow (*Corvus brachyrhynchos*)

(a) Duration for the season for hunting the common crow shall be Monday, Thursday, Friday and Saturday from August [19, 1985] **18, 1986** through March [29, 1986] **28, 1987** inclusive, excluding December [9-14] **8-13** and December 18, [1985] **1986** in those deer management zones in which a special regular firearm deer season is authorized.

(b) (No change.)

(c) The hours for hunting crows shall be sunrise to 1/2 hour after sunset, except on November [9] **8** when the hours are 8:00 a.m. to 1/2 hour after sunset.

(d)-(e) (No change.)

7:25-5.16 General falconry regulations

The following regulations govern the taking, possession, training, transfer, marking and housing facilities of raptors, the classification of permittees and the use of raptors for falconry, to take, kill, or pursue wild birds or wild animals.

(a) (No change.)

(b) Classes of Permits

1.-2. (No change.)

3. Master: Permittee shall have at least five years of falconry experience in the practice of falconry at the general class. A raptor shall have been in possession for no less than 36 months during this time.

i. (No change.)

ii. A permittee may not take, transport or possess any species listed as endangered on a U.S. Dept. of Interior or N.J. Division of Fish, Game and Wildlife list, provided, however, that captive bred birds, when legally acquired and possessed in compliance with Federal Authorization may be used. Captive bred Cooper's Hawks [and merlins,] or Cooper's Hawks [and merlins] legally acquired from the wild from outside New Jersey where it is not classified as endangered or threatened may be possessed. Passage or captive bred red-shouldered hawks may also be possessed. Eyaas birds or nestlings of threatened or endangered species may not be taken.

iii.-v. (No change.)

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

(e) Restrictions on Taking Raptors

1. (No change.)

2. Young birds not yet capable to flight (eyasses) may only be taken by a general or master falconer and only during the period April 15 to June 29 inclusive. No more than two eyasses may be taken by the same

permittee during the specified period. No more than one eyass per nest may be taken, leaving at least one eyass in the nest. [No more than one eyass goshawk may be taken by the same permittee during the specified period. Eyass goshawks may be taken only with written consent from the Division.] A three (3) foot metal flashing painted a dark color must be fastened completely around the nest tree at least four feet from the base of the tree. The flashing shall be removed after the nestlings have fledged.

3.-8. (No change.)

(f)-(l) (No change.)

7:25-5.17 Raccoon (*Procyon lotor*) and virginia opossum (*Didelphis virginiana*) hunting

(a) The duration for the season of hunting raccoons and Virginia opossum shall be one hour after sunset on October 1, [1985] **1986** to one hour before sunrise on March 1, [1986] **1987**. The hours for hunting shall be one hour after sunset to one hour before sunrise.

(b) (No change.)

(c) No person shall hunt for raccoon or opossum with dogs and firearms or weapons of any kind on December [9-14] **8-13** and on December [18 and 19, 1985] **17 and 18, 1986** in those deer management zones in which a special shotgun deer season is authorized and including any extra special shotgun permit deer season day.

(d) No person shall train a raccoon or opossum dog other than during the period of September 1 to October 1, [1985] **1986** and from March 1 to May 1, [1986] **1987**. The training hours shall be 1 hour after sunset to 1 hour before sunrise.

(e) (No change.)

7:25-5.18 Woodchuck (*Marmota monax*) hunting

Duration for the hunting of woodchucks with a rifle in this state shall be March [15] **14-September [27, 1986] 25, 1987**. Licensed hunters may also take woodchuck with shotgun or long bow and arrow or by means of falconry during the regular woodchuck rifle season and during the upland game season established in N.J.A.C. 7:25-5.3.

(b)-(f) (No change.)

7:25-5.19 Red fox (*Vulpes vulpes*) and gray fox (*Urocyon cinereoargenteus*) hunting

(a) The duration of the red fox and gray fox hunting season is as follows:

1. Northern Zone: **Bow and Arrow Only—September 27 through November 7, 1986; Firearm or Bow and Arrow—November [9, 1985] 8, 1986** through [March 1, 1986] **February 28, 1987** inclusive, excluding December [9-14] **8-13** and December [18 and 19, 1985] **17 and 18, 1986** in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra special shotgun permit deer season day if declared open.

2. Southern Zone: **Bow and Arrow Only—September 27 through November 7, 1986; Firearm or Bow and Arrow—November [9, 1985] 8, 1986** through February [8, 1986] **February 28, 1987** excluding December [9-14, 18 and 19, 1985] **8-13, 17 and 18, 1986** in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra special shotgun permit deer season day if declared open.

(b) **The use of dogs shall not be allowed for fox hunting during the Statewide bow and arrow only season of September 27—November 7, 1986 and during the period of February 9—February 28, 1987 in the Southern Zone.** There shall be no fox hunting during the firearm deer season, except that a person hunting deer during the firearm deer season may kill fox if the fox is encountered before said person kills a deer. However, after a person has killed a deer he must cease all hunting immediately.

(c) (No change.)

(d) The hours for hunting fox shall be 8 a.m. to 1/2 hour after sunset on November [9, 1985] **8, 1986** and other days sunrise to 1/2 hour after sunset.

(e)-(f) (No change.)

7:25-5.20 Dogs

(a) There shall be no exercising or training of dogs on State Fish and Wildlife Management Areas May 1 to August 31, inclusive, except on portions of various wildlife management areas designated as dog training areas, and there shall be no exercising or training of dogs on any Wildlife Management Area on November [8] **7** and on Clinton, Flatbrook, Black River, Assunpink and Whittingham WMA's on the following Sundays: November [10, 17 and 24, and December 1, 1985] **9, 16, 23 and 30, 1986**.

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

7:25-5.21 Squirrel (*Sciurus* spp.), raccoon (*Procyon lotor*), opossum

(*Didelphis virginianus*), skunk (*Mephitis mephitis*), weasel (*Mustela* spp.) [and] woodchuck (*Marmota monax*) and coyote (*Canis latrans*) damage

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

(c) **Farmers or their agents may control coyotes by lawful procedures at any time when found destroying livestock, crops or poultry, subject to State law and local ordinances.**

[(c)] (d) (No change in text.)

7:25-5.22 (No change.)

7:25-5.23 Firearms and missiles, etc.

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

(e) Within the areas described as portions of Passaic, Mercer, Hunterdon, Warren and Sussex Counties lying within a continuous line beginning at the intersection of Rt. 513 and the New York State line; then south along Rt. 513 to its intersection with the Morris-Passaic County line; then west along the Morris-Passaic County line to the Sussex County line; then south along the Morris-Sussex County line to the Warren County line; then southwest along the Morris-Warren County line to the Hunterdon County line; then southeast along the Morris-Hunterdon County line to the Somerset County line; then south along the Somerset Hunterdon County line to its intersection with the Mercer County line; then west and south along the Hunterdon-Mercer County line to its intersection with Rt. 31; then south along Rt. 31 to its intersection with Rt. 546; then west along Rt. 546 to the Delaware River; then north along the east bank of the Delaware River to the New York State Line; then east along the New York State Line to the point of beginning at Lakeside; and in that portion of Salem, Gloucester, Burlington, Mercer, Monmouth, Ocean, Atlantic, Cape May and Cumberland counties lying with a continuous line beginning at the intersection of Rt. 295 and the Delaware River; then east along Rt. 295 to its intersection with the New Jersey Turnpike; then east along the New Jersey Turnpike to its intersection with Rt. 40; then east along Rt. 40 to its intersection with Rt. 47; then north along Rt. 47 to its intersection with Rt. 536; then east along Rt. 536 to its intersection with Rt. 206; then north along Rt. 206 to its intersection with the New Jersey Turnpike; then northeast along the New Jersey Turnpike to its intersection with Rt. 571; then southeast along Rt. 571 to its intersection with the Garden State Parkway; then south along the Garden State Parkway to its intersection with Rt. 9 at Somers Point; then south along Rt. 9 to its intersection with Rt. 83; then west along Rt. 83 to its intersection with Rt. 47; then north along Rt. 47 to its intersection with Dennis Creek; then south along the west bank of Dennis Creek to its intersection with Delaware Bay; then northwest along the east shore of Delaware Bay and the Delaware River to the point of beginning; persons holding a valid and proper rifle permit in addition to their 1986 firearm hunting license may hunt for squirrels between January 20 and February [22, 1986] **16, 1987** using a .36 caliber or smaller muzzleloading rifle loaded with a single projectile.

(f) Except as specifically provided below for waterfowl hunters, semi-wild and commercial preserves, muzzleloader deer hunters and trappers, from December [9-14] **8-13** inclusive, it shall be illegal to use any firearm of any kind other than a shotgun. **Nothing herein contained shall prohibit the use of a shotgun not smaller than 20 gauge nor larger than 10 gauge with a rifled bore for deer hunting only.** Persons hunting deer shall use a shotgun not smaller than 20 gauge or larger than 10 gauge with the lead or lead alloy rifled slug or slug shotgun shell only or a shotgun not smaller than 12 gauge nor larger than 10 gauge with the buckshot shell. It shall be illegal to have in possession any firearm missile except the 20, 16, 12 or 10 gauge lead or lead alloy rifled slug or hollow based slug shotgun shell or the 12 or 10 gauge buckshot shell. (This does not preclude a person legally engaged in hunting on semi-wild or commercial preserves for the species under license from being possessed solely of shotgun and nothing larger than No. 4 fine shot, nor a person engaged in hunting waterfowl only from being possessed solely of shotgun and nothing larger than No. 2 lead fine shot or BB steel shot.) A legally licensed trapper possessing a valid rifle permit may possess and use a .22 rifle and short rimfire cartridge only while tending his trap line.

1. Persons who are properly licensed may hunt for deer with a muzzleloading rifle during the [1985] **1986** six day firearm deer season and the special permit, muzzleloading rifle deer season.

2. Muzzleloading rifles used for hunting deer are restricted to single-shot single barreled weapons with flintlock or percussion actions, shall not be less than .44 caliber and shall fire a single missile or projectile. [No telescopic] **Only open iron sights and peep sights** shall be attached or affixed to the muzzleloading rifle while engaged in hunting for deer. Only one muzzleloading rifle may be possessed while hunting. Double

barrel and other types of muzzleloading rifles capable of firing more than one shot without reloading or holding more than one charge are prohibited. Persons who are properly licensed may hunt for deer with a smoothbore muzzleloader during the special permit muzzleloading rifle season. Smoothbore muzzleloaders are restricted to single-shot, single barreled weapons with flintlock or percussion actions, shall not be smaller than 20 gauge or larger than 10 gauge, and shall fire a single missile or projectile. No telescopic sights shall be attached or affixed to the smoothbore muzzleloader while engaged in hunting for deer. Only one muzzleloading rifle or smoothbore muzzleloader may be possessed while deer hunting. Double barrel and other types of smooth bore muzzleloaders capable of firing more than one shot without reloading or holding more than one charge are prohibited.

3. Properly licensed persons 14 years of age and older engaged in hunting with a muzzleloading rifle must have in possession a proper and valid rifle permit. Properly licensed persons 14 years of age or older, hunting during the muzzleloading rifle deer season with a smooth bore muzzleloader must also have in possession a proper and valid rifle permit. Rifle permits for 14 and 17-year olds will be valid for muzzleloader deer hunting, **muzzleloader squirrel hunting** and woodchuck hunting.

(g)-(o) (No change.)

7:25-5.24 Bow and arrow, general provisions

(a) (No change.)

(b) No person shall use a bow and arrow for hunting, on December [18 & 19 1985] **17 and 18, 1986** in those deer management zones in which a special regular shotgun deer season is authorized or on any extra Special Permit Deer Season Day is declared open, or between 1/2 hour after sunset and 1/2 hour before sunrise during the Fall Bow and Arrow Deer Seasons or during the 6-Day Firearm Deer Season, or between 1/2 hour after sunset and sunrise during other seasons. **Deer shall not be hunted for or taken on Sunday except on wholly enclosed preserves that are properly licensed for the propagation thereof.**

(c) During the Bow and Arrow Seasons for taking deer, September [28-November 8, 1985] **27-November 7, 1986** in most deer management zones; September [28-December 7, 1985] **27-December 6, 1986**, excluding November [28] **27**, in zones 2, 5, 6, 7, **8, 9, 10, 11, 12** 13, 14, 16, 17, 29, 35, 36, **41, 48**, 49, 50 and 51; and, January [4-18, 1986] **3-19, 1987**, or any other time bow and arrow deer or turkey hunting is permitted, all arrows used for taking deer or turkey must be fitted with an edged head of the following specifications:

1.-5. (No change.)

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

7:25-5.25 White-tailed deer (*Odocoileus virginianus*) fall bow and arrow exclusively (either sex)

(a) Deer of either sex and any age may be taken by bow and arrow exclusively from September [28] **27-November [8, 1985] 7, 1986**, inclusive; [except in zones 2, 5, 6, 9, 13, 16, 17, 35, 36, 49, 50 and 51 where the season shall be September 28-December 7, 1985, excluding November 28, 1985.] Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

(b) Bag Limit: One deer of either sex. Kill must be tagged immediately with completely filled in "transportation tag" and must be transported to a deer checking station before 8:00 p.m. EST on day killed. Nothing contained herein shall preclude a person who has legally killed and reported a deer from then procuring one valid and proper permit which will allow this person to continue hunting and take one additional deer of either sex during the [1985] **1986** fall bow and arrow deer season. This permit shall not be valid on the day of issuance.

1. (No change.)

[2. Deer taken during the period of November 9-December 7, 1985, in zones 2, 5, 6, 9, 13, 16, 17, 35, 36, 49, 50, 51 inclusive, must be transported to a designated deer checking station before 7:00 p.m. E.S.T. on the day killed.]

(c) This season shall be open only to holders of a valid [1985] **1986** bow and arrow hunting license which contains an attached fall bow and arrow deer "transportation tag". If the anticipated harvest of deer has not been accomplished during this season, additional days of bow and arrow deer hunting may be authorized by the Director. Such authorization and dates thereof shall be announced by press and radio. Handicapped individuals hunting with a modified bow must have a valid Special Bow Use Permit on their person while hunting in addition to a valid Bow and Arrow Hunting License.

(d) (No change.)

7:25-5.26 White-tailed deer (*Odocoileus virginianus*) winter bow and arrow, exclusively (either-sex)

(a) Deer of either sex and any age may be taken by bow and arrow exclusively from 1/2 hour before sunrise on January [4] **3** to 1/2 hour after sunset on January [18, 1986] **19, 1987**. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

(b) Bag Limit: One deer of either sex. Deer, must be tagged immediately with "transportation tag" appropriate for the season (special winter bow and arrow) completely filled in, and must be transported to a deer checking station before 7:00 p.m. EST on day killed. Any legally killed deer which is recovered too late to be brought to a check station by closing time must be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement district headquarters. Said deer must be brought to a checking station on the next open day to receive a legal "possession tag". If the season has concluded, said deer must be taken to a regular deer checking station on the following weekday to receive a legal "possession tag". Nothing contained herein shall preclude a person who has legally killed and reported a deer from then procuring one valid and proper permit which will allow this person to continue hunting and take additional deer of either sex during the [1986] **1987** winter bow season. This permit shall not be valid on the day of issuance.

(c) This season will be open only to holders of a valid [1986] **1987** bow and arrow hunting license which contains an attached winter bow season "transportation tag", in addition to the regular fall bow season "transportation tag". If the anticipated harvest of deer has not been accomplished during this season, additional days of special winter bow and arrow deer hunting may be authorized by the Director. Such authorization and dates thereof shall be announced by press and radio. Handicapped individuals hunting with a modified bow must have a valid Special Bow Use Permit on their person while hunting in addition to a valid Bow and Arrow Hunting License.

(d) (No change.)

7:25-5.27 White-tailed deer (*Odocoileus virginianus*) six day firearm

(a) Duration for this season will be December [9-14, 1985] **8-13, 1986** inclusive with shotgun or muzzleloading rifle, exclusively.

(b) Bag Limit: One deer, antlered only, except in those areas designated as "hunters choice" indicated in subsection (d) below. One deer for the season, with antler at least three inches in length. Kill must be tagged immediately with completed filled in "transportation tag" and must be transported to a deer checking station before 7:00 p.m. EST on day killed. Any legally killed deer which is recovered too late to be brought to the check station by closing time must be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement district headquarters. Said deer must be brought to a checking station on the next day to receive a legal "possession" tag". If the season has concluded, said deer must be taken to a regular deer checking station on the following weekday to receive a legal "possession tag". Nothing contained herein shall preclude a person who has legally killed and reported a deer from then procuring one valid and proper permit which will allow this person to continue hunting and take one additional, legal deer during the [1985] **1986** firearm deer season. This permit shall not be valid on the day of issuance.

(c) A person who has legally taken deer during the fall bow and arrow season can legally take an antlered deer with a shotgun or muzzle loading rifle during the interval of December [9-14, 1985] **8-13, 1986** if he possesses his valid firearm license. If the anticipated harvest of deer has not been accomplished during this season, additional days of deer hunting may be authorized by the Director, with the approval of the Council. Such authorization and dates thereof shall be announced by press and radio.

(d) (No change.)

(e) Hunting Hours: December [9-December 14, 1985] **8-December 13, 1986**, inclusive, 7:00 a.m. EST to 5:00 p.m. EST, with shotgun or muzzleloading rifle.

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

7:25-5.28 White-tailed deer (*Odocoileus virginianus*) special permit season, muzzleloading rifle, either sex

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

(c) One deer of either sex, and any age, may be taken with a special muzzleloading rifle deer permit. Nothing contained herein shall preclude a person who has legally killed and reported a deer from then procuring one valid and proper permit which will allow this person to continue hunting and take one additional deer of either sex during the [1985] **1986** special permit, muzzleloading rifle deer permit season. This permit shall not be valid on the day of issuance. It is unlawful to attempt to take or hunt for more than the number of deer permitted.

(d) Duration of special deer permit season for muzzleloading rifles

shall be from 7:00 a.m. EST to 5:00 p.m. EST on December 15, 16, [17], 20, [21] 22, 23, 26, 27, [28] 29 and 30, [1985] 1986 or any other time as determined by the Director.

(e)-(f) (No change.)

1. Special deer permits for muzzleloading rifles will be issued on an individual basis to holders of valid [1985] 1986 firearm licenses. Only one application per person may be submitted for the special either sex deer seasons for muzzleloading rifle or shotgun. Special farmer muzzleloader deer permits will be issued on an individual basis to owners or lessee of farms who reside thereon or to the immediate members of their families 14 years of age or older who also reside thereon, upon receipt of a notarized application form.

(g) Special permits for muzzleloading rifles consist of back display which includes a "special permit transportation tag" and [and a validated permit application stub]. The back display portion of the permit will be conspicuously displayed on the outer clothing in addition to the valid firearm license. [The validated application stub must be in the possession of permittee while hunting.] The "Deer Transportation Tag" portion of the permit must be completely filled out, [separated at the perforation] and affixed to the deer immediately upon killing. This completely filled in "special permit transportation tag" allows legal transportation of the deer of either sex to an authorized checking station only. Personnel at the checking station will issue a "possession tag". Any permit holder killing a deer of either sex on December 15, 16, [17], 20, [21] 22, 23, 26, 27, [28] 29 and 30, [1985] 1986 must transport this deer to an authorized checking station by 7:00 p.m. EST on the day killed to secure the legal "possession tag". The possession of a deer of either sex after 7:00 p.m. EST on the day killed without a legal "possession tag" shall be deemed illegal possession. Any legally killed deer which is recovered too late to be brought to the check station by closing time must be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement district headquarters. Said deer must be brought to a checking station on the next open day to receive a legal "possession tag". If the season has concluded said deer must be taken to a regular deer check station on the following weekday to receive a legal possession tag.

(h) Applying for a Special Muzzleloading Rifle Deer Permit:

1. Only holders of valid [1985] 1986 firearm hunting licenses may apply by detaching from their hunting license stub marked "Special Deer Season [1985] 1986 signing as provided on the back, and sending the stub, together with a [Special Muzzleloading Rifle Deer Season computer card] \$10.00 permit fee per applicant and an application form which has been properly completed in accordance with instructions. Application [cards] forms may be obtained from:

i.-iii. (No change.)

2. (No change.)

3. Only one application whether for special permit muzzleloading rifle season or the special permit shotgun season accompanied by the hunting license stub, may be submitted by any one individual. Duplicate applications will cause all applications by an individual to be void.

4. Fill in the application form to include: Name, address, [1985] 1986 firearm hunting license number, deer management zone applied for, and any other information requested. Only those applications will be accepted for participation in random selection [by card sorting machine] which are received in the Trenton office during the period of August [24] 25-September [9, 1985] 10, 1986 inclusive. Applications postmarked after the 10th will not be considered for the initial drawing. [DO NOT SEND FEE WITH THE APPLICATION.] Selection of permittees will be made [on the basis of a] by random selection [of computer cards].

5. Unsuccessful applicants will [not] be notified only by return of permit fees. Any permit obtained by fraud will be void.

6. Successful applicants will [be notified] receive their permits by mail. [The computer card and the permit fee of \$(0.00 in the form of a money order, made payable to "Division of Fish, Game and Wildlife" must be returned by mail before October 10, 1985. The Special Deer Permit will then be issued. Permits not claimed by October 10 will be immediately reallocated in the same random manner as the original selection and be returnable two weeks thereafter.] Unless otherwise indicated a permit fee of \$10.00 per applicant in the form of a check or money order, made payable to "Division of Fish, Game and Wildlife" must accompany the completed application form.

7. Nothing contained herein shall preclude the Division from issuing unfilled permits on a first come-first served basis to any properly licensed hunter.

(i) Applying for the Special Farmer Muzzleloading Rifle Deer Permit:

1.-2. (No change.)

3. Fill in the application form to include: Name, age, size of farm, address, and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of [September 1-17, 1985] August 25-September 10, 1986. There is no fee required, and all qualified applicants will receive a special farmer muzzleloading rifle deer permit, delivered by mail.

4. (No change.)

(j) (No change.)

(k) Deer Management Zone Map (on file at the Office of Administrative Law.)

[1985]1986 MUZZLELOADING RIFLE DEER SEASON PERMIT QUOTAS EITHER SEX

Deer Mgt. Zone No.	Anticipated Deer Harvest		Permit Quota	Portions of Counties Involved
	[1985]	1986		
1	[72]88	[385]435	Sussex	
2	[48]105	[340]301	Sussex	
3	[54]93	[490]465	Sussex, Passaic, Bergen	
4	[151]222	[975]1160	Sussex, Warren	
5	[158]278	[900]887	Sussex, Warren	
6	[73]114	[440]515	Sussex, Morris, Passaic, Essex	
7	[125]178	[545]560	Warren, Hunterdon	
8	[261]408	[1245]1275	Warren, Hunterdon, Morris, Somerset	
9	[77]86	[280]265	Morris, Somerset	
10	[176]233	[695]670	Warren, Hunterdon	
11	[68]127	[385]355	Hunterdon	
12	[175]271	[755]800	Mercer, Hunterdon, Somerset	
13	[22]27	[125]115	Morris, Somerset	
14	[55]78	[420]370	Mercer, Somerset, Middlesex, Burlington	
15	[39]36	[220]210	Mercer, Monmouth, Middlesex	
16	[26]64	[240]305	Ocean, Monmouth	
17	[25]46	[165]220	Ocean, Monmouth, Burlington	
18	[19]17	[170]150	Ocean	
19	[15]16	140	Camden, Burlington	
20	[13]21	[115]150	Burlington	
21	[59]64	[270]460	Burlington, Ocean	
22	[7]9	[45]60	Burlington, Ocean	
23	[50]72	[370]400	Burlington, Camden, Atlantic	
24	[51]57	[255]300	Burlington, Ocean	
25	[33]47	[300]235	Gloucester, Camden, Atlantic, Salem	
26	[58]80	[250]335	Atlantic	
27	[43]63	[230]275	Salem, Cumberland	
28	[24]45	[135]166	Salem, Cumberland, Gloucester	
29	[51]96	[325]360	Salem, Cumberland	
30	[15]11	[55]44	Cumberland	
31	[2]5	[20]25	Cumberland	
32	3	20	Cumberland	
33	12	[85]75	Cape May, Atlantic	
34	[31]68	[250]320	Cape May, Cumberland	
35	[18]37	[120]215	Gloucester, Salem	
41	[76]108	[285]326	Mercer, Hunterdon	
42	[4]11	35	Atlantic	
43	[8]16	[75]80	Cumberland	
44	[2]8	[15]21	Cumberland	
45	[15]25	[140]110	Cumberland, Atlantic, Cape May	
46	[15]28	[60]85	Atlantic	
47	[2]3	[20]30	Atlantic, Cumberland, Gloucester	
48	[13]12	120	Burlington	
49	0	0	Burlington, Camden, Gloucester	
50	[9]10	[80]83	Middlesex, Monmouth	
51	8	[70]80	Monmouth, Ocean	
Total	[2,261]3,406	[12,660]13,608		

(l) Muzzleloader, either-sex permits not applied for by September [9, 1985] 10, 1986 will be reallocated to shotgun either-sex season permit applicants.

(m) (No change.)

7:25-5:29 White-tailed deer (*Odocoileus virginianus*) special permit season, shotgun only, either sex

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

(d) Duration of the special permit shotgun deer season shall be from 7:00 a.m. EST to 5:00 p.m. EST on Wednesday, December [18, 1985] 17, 1986 except that in zones 2, 5, 6, 7, 8, 9, 10, [11], 12, 13, 14, [27], [29], 41, 50 and 51 the special permit shotgun season will also include December [19, 1985] 18, 1986; or at other times as determined by the Director.

(e)-(f) (No change.)

1. Special shotgun deer permits will be issued on an individual basis to holders of valid [1985] 1986 firearm licenses. Only one application per

person may be submitted for the special season whether as a farmer or a license holder. Farmer shotgun deer permits will be issued on an individual basis to owners or lessees of farms who reside thereon, or the immediate members of their families 10 years of age or older who also reside thereon, upon receipt of a notarized application form.

(g) Special permits consist of back display which includes a "special permit transportation tag" [and a validated permit application stub]. The back display portion of the permit will be conspicuously displayed on the outer clothing in addition to the valid firearm license in the case of a special deer permit, and without the license in the case of the farmer deer permit. [The validated application stub must be in the possession of permittee while hunting.] The "Deer Transportation Tag" portion of the permit must be completely filled out, [separated at the perforation] and affixed to the deer immediately upon killing. This completely filled in "special permit transportation tag" allows legal transportation of the deer of either sex to an authorized checking station only. Personnel at the checking station will issue a "possession tag." Any permit holder killing a deer of either sex during this season must transport this deer to an authorized checking station by 7:00 p.m. EST on date killed to secure the legal "possession tag." The possession of a deer of either sex after 7:00 p.m. EST on date killed without a legal "possession tag" shall be deemed illegal possession. Any legally killed deer which is recovered too late to be brought to the check station by closing time must be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement district headquarters. Said deer must be brought to a checking station on the next open day to receive a legal "possession tag." If the season has been concluded said deer must be taken to a regular deer checking station on the following weekday to receive a legal "possession tag." For deer management zones where the special permit shotgun season is more than one day and the bag limit is two deer, a second valid and proper "special permit transportation tag" will be issued upon registration of the first deer, provided the season is open on the following day(s). Said permit will allow this person to continue hunting and take one additional legal deer during the shotgun permit season. This permit shall not be valid on the day of issuance, and will only be available from check stations designated to be open for the extended shotgun permit deer season.

(h) Applying for a Special Shotgun Deer Permit:

1. Only holders of valid [1985] 1986 firearm hunting licenses including juvenile firearm license holders may apply by detaching from their hunting license stub marked "Special Deer Season [1985] 1986" signing as provided on the back, and sending in stub, together with a [computer card] \$10.00 permit fee per applicant and an application form which has been properly completed in accordance with instructions. Application cards may be obtained from:

i.iii (No change.)

2. (No change.)

3. Only one application whether for muzzleloading rifle deer season or for the regular shotgun deer season accompanied by the hunting license stub, may be submitted by any one individual. Duplicate applications will cause all applications by an individual to be void.

4. Fill in the application form to include: Name, address, [1985] 1986 firearm hunting license number, deer management zone applied for, and any other information requested. Only those applications will be accepted for participation in random selection [by card sorting machine] which are received in the Trenton office during the period of August [24] 25—September [9, 1985] 10, 1986. Applications post marked after the 10th will not be considered for the initial drawing. [DO NOT SEND FEE WITH THE APPLICATION.] Selection of permittees will be made [on the basis of a] by random selection [of computer cards].

5. Unsuccessful applicants will [not] be notified only by return of permit fees. Any permit obtained by fraud will be void.

6. Successful applicants will [be notified] receive their permits by mail. [The computer card and the permit fee of \$10.00 in the form of a money order, made payable to "Division of Fish, Game and Wildlife" must be returned by mail no later than October 10, 1985. The Special Shotgun Deer Permit will then be issued. Permits not claimed by October 10th will be immediately reallocated in the same random manner as the original selection and be returnable two weeks thereafter.] Unless otherwise indicated a permit fee of \$10.00 per applicant in the form of a check or money order made payable to "The Division of Fish, Game and Wildlife" must accompany the competed application form.

7. Nothing herein contained shall preclude the Division from issuing unfilled permits on a first come-first served basis to any properly licensed hunter.

(i) Applying for the Special Farmer Shotgun Deer Permit:

1.-2. (No change.)

3. Fill in the application form to include: Name, age, size of farm, address, and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of [September 1-17, 1985] August 25—September 10, 1986. There is no fee required, and all qualified applicants will receive a special farmer shotgun deer permit, delivered by mail.

4. (No change.)

(j) (No change.)

(k) Deer Management Zone Map (on file at the Office of Administrative Law).

[1985] 1986 SHOTGUN DEER SEASON PERMIT QUOTAS EITHER SEX

Deer Mgt. Zone No.	Anticipated Deer Harvest		Permit Quota		Portions of Counties Involved
	[1985]	1986	[1985]	1986	
1	[156]	225	[1040]	1222	Sussex
2†	[276]	254	[1296]	980	Sussex
3	[92]	91	[767]	794	Sussex, Passaic, Bergen
4	[200]	311	[1145]	1505	Sussex, Warren
5†	[766]	849	[2901]	2650	Sussex, Warren
6†	[230]	303	[1385]	1546	Sussex, Morris, Passaic, Essex
7†	[312]	418	[1160]	1323	Warren, Hunterdon
8†	[1264]	1167	[3425]	3647	Warren, Hunterdon, Morris, Somerset
9†	[239]	261	[1021]	1123	Morris, Somerset
10†	[654]	673	[1768]	1680	Warren, Hunterdon
11[†]	[435]	356	[1151]	1150	Hunterdon
12†	[577]	663	[2098]	1780	Mercer, Hunterdon, Somerset
13†	[147]	250	[794]	1152	Morris, Somerset
14†	[426]	464	[1684]	1740	Mercer, Somerset, Middlesex, Burlington
15	[65]	35	[488]	219	Mercer, Monmouth, Middlesex
16	[33]	59	[541]	477	Ocean Monmouth
17	[107]	103	[482]	400	Ocean, Monmouth, Burlington
18	[45]	41	[378]	277	Ocean
19	[34]	35	[212]	225	Camden, Burlington
20	[30]	32	[286]	278	Burlington
21	[13]	0	[144]	0	Burlington, Ocean
22	[18]	20	[170]	164	Burlington, Ocean
23	[9]	0	[127]	0	Burlington, Camden, Atlantic
24	[19]	0	[142]	0	Burlington, Ocean
25	[32]	46	[281]	334	Gloucester, Camden, Atlantic, Salem
26	[7]	0	[53]	0	Atlantic
27[†]	[85]	101	[313]	443	Salem, Cumberland
28	[20]	0	[156]	0	Salem, Cumberland, Gloucester
29[†]	[208]	218	[592]	730	Salem, Cumberland
30	[8]	14	[52]	81	Cumberland
31	[2]	0	[20]	0	Cumberland
32		0		0	Cumberland
33	[33]	27	[176]	169	Cape May, Atlantic
34	[30]	10	[109]	57	Cape May, Cumberland
35	[34]	59	[239]	278	Gloucester, Salem
41†	[371]	280	[742]	710	Mercer, Hunterdon
42	[5]	0	[22]	0	Atlantic
43		0		0	Cumberland
44	[7]	0	[44]	0	Cumberland
45		0		0	Cumberland, Atlantic, Cape May
46	[13]	0	[84]	0	Atlantic
47	[5]	0	[48]	0	Atlantic, Cumberland, Gloucester
48	[41]	69	[229]	260	Burlington
49		0		0	Burlington, Camden, Gloucester
50†	[27]	39	[270]	240	Middlesex, Monmouth
51†	[47]	30	[470]	300	Monmouth, Ocean
Total	[7,122]	7,503	[28,523]	27,934	

†Indicates two day zones (December [18] 17 and [19, 1985] 18, 1986) with provision for second deer tag.

10. (a) Shotgun, either-sex permits not applies for by September [9, 1984]

10, 1986 will be reallocated to muzzleloading rifle, permit applicants.

(m)-(n) (No change.)

7:25-5.30 White-tailed deer (*Odocoileus virginianus*) special permit season, bow and arrow, either sex

(a) The Director with the approval of the Council may authorize the issuance of special bow and arrow deer permits for the taking of deer anywhere within this State or at any State or federal installation.

(b) If the anticipated harvest of deer has not been accomplished during this season, one additional day of special permit deer hunting may be authorized by the Director. Such authorization and date thereof shall be announced by press and radio.

(c) One deer of either sex, any age, may be taken with a special bow

and arrow deer permit. Nothing contained herein shall preclude a person who has legally killed and reported a deer from then procuring one valid and proper permit which will allow this person to continue hunting and take one additional deer of either sex during the 1986 special bow and arrow deer permit season. This permit shall not be valid on the day of issuance. It is unlawful to attempt to take or hunt for more than the number of deer permitted.

(d) Duration of the special permit bow and arrow deer season shall be from November 8 to December 6, 1986, excluding November 27, 1986, in designated deer management zones or any other time as determined by the Director. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

(e) Special bow and arrow deer permits are valid only in the designated deer management zones or other designated areas and are not transferable.

(f) Method: The taking of one deer of either-sex with a bow and arrow under a special bow and arrow deer permit or a farmer bow and arrow deer permit, in addition to the legal antlered deer allowed under statewide antlered deer season and either-sex deer allowed under the statewide fall bow and arrow season and either-sex deer allowed during the winter bow season, will be permitted in designated deer management zones by holders of a special bow and arrow permit and on the farm occupied and designated in the application by holders of a farmer bow and arrow deer permit.

1. Special bow and arrow deer permits will be issued on an individual basis to holders of valid 1986 bow and arrow licenses. Only one application per person may be submitted for the special bow and arrow deer permit season whether as a farmer or a license holder. Farmer bow and arrow deer permits will be issued on an individual basis to owners or lessees of farms who reside thereon, or the immediate members of their families 10 years of age or older who also reside thereon, upon receipt of a notarized application form.

(g) Special permits consist of back display which includes a "special permit transportation tag." The back display portion of the permit will be conspicuously displayed on the outer clothing in addition to the valid bow and arrow license in the case of a special deer permit and without the license in the case of the farmer deer permit. The "Deer Transportation Tag" portion of the permit must be completely filled out and affixed to the deer immediately upon killing. This completely filled in "special permit transportation tag" allows legal transportation of the deer of either-sex to an authorized checking station only. Personnel at the checking station will issue a "possession tag." Any permit holder killing a deer of either-sex during this season must transport this deer to an authorized checking station by 7:00 p.m. EST on date killed to secure the legal "possession tag." The possession of a deer of either-sex after 7:00 p.m. EST on date killed without a legal "possession tag" shall be deemed illegal possession. Any legally killed deer which is recovered too late to be brought to the check station by closing time must be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement district headquarters. Such deer must be brought to a checking station on the next open day to receive a legal "possession tag." If the season has been concluded such deer must be taken to a regular deer checking station on the following weekday to receive a legal "possession tag."

(h) Applying for a Special Bow and Arrow Deer Permit:

1. Only holders of valid 1986 bow and arrow licenses including juvenile bow and arrow license holders may apply by sending a \$10.00 permit fee per applicant and an application form which has been properly completed in accordance with instructions. Application forms may be obtained from:

i. Division of Fish, Game and Wildlife

CN 400

Trenton, NJ 08625;

ii. License Issuing Agents; and

iii. Conservation Officers.

2. Application for a special bow and arrow deer permit shall not preclude an individual from applying for either the muzzleloading rifle or shotgun special season permits.

3. Only one application may be submitted by any one individual. Duplicate applications will cause all applications by an individual to be void.

4. The application form shall be filled in to include: Name, address, 1986 bow and arrow hunting license number, deer management zone applied for, and any other information requested. Only those applications will be accepted for participation in random selection which are received in the Trenton office during the period of August 25 to September 10, 1986. Applications postmarked after the September 10, 1986 will not be considered for the initial drawing. Selection of permittees will be made by random selection.

5. Unsuccessful applicants will be notified only by return of permit fees. Any permit obtained by fraud will be void.

6. Unless otherwise indicated, a permit fee of \$10.00 per applicant in the form of a check or money order made payable to "Division of Fish, Game and Wildlife" must accompany the completed application form.

7. Successful applicants will receive their permit by mail.

8. Nothing herein contained shall preclude the Division from issuing unfilled permits on a first-come, first-served basis to any properly licensed hunter.

(i) Applying for the Special Farmer Bow and Arrow Deer Permit:

1. Only the owner or lessee of a farm, who resides thereon, or the immediate members of his family 10 years of age or older who also reside thereon, may apply on forms provided for a special farmer deer permit. Under this section of a farm is an area of five acres or more and producing a gross income in excess of \$500.00 and is tax assessed as farmland. Special Bow and Arrow Farmers Permits will be issued only in those deer management zones where a special deer season is prescribed.

2. Application forms may be obtained from:

i. County Agricultural Agent;

ii. Division of Fish, Game and Wildlife

CN 400

Trenton, NJ 08625; and

iii. Conservation Officers.

3. The application form shall be filled in to include: Name, age, size of farm, address, and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of August 25 to September 10, 1986. There is no fee required, and all qualified applications will receive a special farmer bow and arrow deer permit, delivered by mail.

4. Only one application may be submitted per individual. Application for a special bow and arrow deer permit shall not preclude an individual from applying for either the muzzleloader rifle or shotgun special season permits.

(j) Use of Special Bow and Arrow Deer Permit and Special Farmer Bow and Arrow Deer Permit:

1986 BOW AND ARROW DEER SEASON PERMIT QUOTAS EITHER-SEX

Deer Mgt. Zone No.	Anticipated Deer Harvest 1986	Permit Quota 1986	Portions of Counties Involved
1	0	0	Sussex
2	71	710	Sussex
3	0	0	Sussex, Passaic, Bergen
4	0	0	Sussex, Warren
5	206	2,060	Sussex, Warren
6	114	1,140	Sussex, Morris, Passaic, Essex
7	225	2,250	Warren, Hunterdon
8	566	5,660	Warren, Hunterdon, Morris, Somerset
9	177	1,770	Morris, Somerset
10	253	2,530	Warren, Hunterdon
11	215	2,150	Hunterdon
12	189	1,890	Mercer, Hunterdon, Somerset
13	120	1,200	Morris, Somerset
14	181	1,810	Mercer, Somerset, Middlesex, Burlington
15	0	0	Mercer, Monmouth, Middlesex
16	47	470	Ocean, Monmouth
17	32	320	Ocean, Monmouth, Burlington
18	0	0	Ocean
19	0	0	Camden, Burlington
20	0	0	Burlington
21	0	0	Burlington, Ocean
22	0	0	Burlington, Ocean
23	0	0	Burlington, Camden, Atlantic
24	0	0	Burlington, Ocean
25	0	0	Gloucester, Camden, Atlantic, Salem
26	0	0	Atlantic
27	0	0	Salem, Cumberland
28	0	0	Salem, Cumberland, Gloucester
29	118	1,180	Salem, Cumberland
30	0	0	Cumberland
31	0	0	Cumberland
32	0	0	Cumberland
33	0	0	Cape May, Atlantic
34	0	0	Cape May, Cumberland
35	21	210	Gloucester, Salem
36	20	200	Bergen, Hudson, Essex, Morris, Union, Somerset and Middlesex
41	122	1,220	Mercer, Hunterdon
42	0	0	Atlantic
43	0	0	Cumberland
44	0	0	Cumberland
45	0	0	Cumberland, Atlantic, Cape May
46	0	0	Atlantic

47	0	0	Atlantic, Cumberland, Gloucester
48	32	320	Burlington
49	5	50	Burlington, Camden, Gloucester
50	20	200	Middlesex, Monmouth
51	25	250	Monmouth, Ocean
Total	2,759	27,590	

(k) Bow and arrow either-sex permits not applied for by September 10, 1986 may be reallocated to muzzleloading rifle or shotgun permit applicants.

[7:25-5.30] 7:25-5.31 White-tailed Deer (*Odocoileus virginianus*) Special Permit, Firearms Only, Either-sex, Great Swamp

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

(c) Duration of the Great Swamp Special Permit Season shall be from 7:00 a.m. EST to 5:00 p.m. EST on the following dates: December 11, 12, 13, [14, 19, 20 and 21, 1985] **January 8, 9 and 10, 1987** or as may otherwise be designated by the U.S. Fish and Wildlife Service.

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

[7:25-5.31] 7:25-5.32 (No change in text.)

[7:25-5.32] 7:25-5.33 Pheasant and Quail Stamp Designated Areas

(a) Designated wildlife management areas where the special "pheasant and quail" stamp is required.

1. (No change in text.)

2. Designated wildlife management areas:

Assunpink
 Berkshire Valley
 Black River
 Clinton
 Colliers Mills
 Dix
 Flatbrook-Roy
 Glassboro
 Greenwood (including Pasadena-Howardsville)
Heislerville
 Mad Horse
 Manahawkin
 Medford
 Bevan-Cedarville (Millville)
 Nantuxent
 Peaslee
 Pt. Republic
 Stafford Forge
 MacNamara (Tuckahoe-Corbin City)
 Walpack
 Winslow
 Whittingham
 Pequest
 Fort Dix
 Manasquan River [Reservoir]
 Delaware Water Gap Nat'l Recreation Area

3. (No change in text)

[7:25-5.33] 7:25-5.34 Controlled hunting wildlife management areas

(a) No wildlife management areas have been selected for limited hunter density for the [1985-86] **1986-87** season.

(b) (No change in text)

[7:25-5.34] 7:25-5.35 (No change in text.)

[7:25-5.35] 7:25-5.36 (No change in text.)

[7:25-5.36] 7:25-5.37 Fish and Game Law Enforcement [District] **Region** Headquarters

(a) North—No. [District] **Region** Office, R.R. 1, Box 383, Hampton, N.J. 08827 (201-735-8240)

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

[7:25-5.37] 7:25-5.38 (No change in text.)

DIVISION OF WASTE MANAGEMENT

The following proposals are authorized by Richard T. Dewling, Commissioner, Department of Environmental Protection.

(a)

Closure and Post-Closure Care of Sanitary Landfills Proposed Amendment: N.J.A.C. 7:26-2.9

Authority: N.J.S.A. 13:1E-6, 13:1E-9 and 13:1E-114.

DEP Docket No. 018-86-04.

Proposal Number: PRN 1986-190.

Submit comments by June 18, 1986 to:

Michael Caro
 Office of Regulatory Services
 Department of Environmental Protection
 CN 402
 Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 7:26-2.9 address the escrow agreements under which funds are set aside during a sanitary landfill's operational life for closure and post-closure care expenses. First, the definition of liquidity is added in order to clarify its meaning for purposes specifically related to the investment strategy for closure escrow accounts and the use of escrow funds consistent with closure expenditure and drawdown requirements. Second, the department intends to require that all closure escrow accounts are established under a standard escrow agreement provided by the department rather than one arrived at independently. The standard escrow agreement will serve as the contract between the escrow agent and the sanitary landfill owner or operator (depositor). This amendment is necessary in order to insure that the escrow agreements comply with all requirements of N.J.A.C. 7:26-2.9(g) and that such compliance is timely. A copy of the current standard escrow agreement provided by the department is available for inspection at:

Office of Administrative Law
 Quakerbridge Plaza
 Building 9
 CN 301
 Trenton, NJ 08625; or
 Office of Special Funds Administration
 New Jersey Department of Environmental Protection
 CN 402
 88 East State Street
 Trenton, NJ 08625

Flexibility is retained where circumstances would require it by allowing for revisions to the escrow agreement subject to approval by the department. These limited purposes are consistent with and in furtherance of the more general purpose behind N.J.S.A. 13:1E-100 et seq. and N.J.A.C. 7:26-2.9 to insure that adequate financial resources are set aside during landfill operation to prepare for a safe, planned closure and post-closure care of the landfill.

Social Impact

The adoption of these amendments will have no impact upon members of the general public. Its effect will fall predominantly upon those active sanitary landfill owners or operators (approximately forty) whose escrow account agreements have yet to be submitted for department approval as well as the accredited financial institutions that serve as their escrow agent. These amendments will also impact future sanitary landfills not operational at the time this amendment takes effect. This impact will be positive to the extent that it eliminates delays in arriving at an escrow agreement that complies with N.J.A.C. 7:26-2.9(g). The addition of a definition for "liquidity" has no social impact.

Economic Impact

By providing a standard escrow agreement, this amendment will save current and future sanitary landfill owners and operators in their role as depositors as well as accredited financial institutions acting as escrow agents those costs associated with developing escrow agreements independently. This amendment will also save the department those administrative costs incurred by having to review independent escrow agreements for compliance with the substantive requirements of N.J.A.C. 7:26-2.9.

The added definition of the term "liquidity" provides for an enhanced investment strategy of closure funds thereby increasing the total funds available for payment of closure costs.

Environmental Impact

No adverse environmental impact is expected by adoption of these amendments. It is anticipated that standardization of the closure account's escrow agreement will help insure that adequate financial resources are set aside and properly managed during the sanitary landfill's operational life to perform all closure and post-closure care necessary for the public and environmental safety of this state.

The addition of a definition for the term "liquidity" will have no environmental impact.

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

7:26-2.9 Closure and post-closure care of sanitary landfills

(a) (No change.)

(b) The following words and terms, when used in this section shall have the following meanings. Where words and terms are used which are not defined herein, the definitions of those words and terms will be the same as the definitions found in the department rules, N.J.A.C. 7:26-1.4:

"Escrow account" means an interest-bearing account with an accredited financial institution as escrow agent, wherein funds shall be deposited by the owner or operator of every sanitary landfill pursuant to N.J.S.A. 13:1E-100 et seq., and this section. This account shall be based upon [an escrow agreement executed] **the standard escrow agreement provided by the department for execution** by and between the escrow agent and the owner or operator of the sanitary landfill. There shall be only one escrow account for each sanitary landfill, unless otherwise authorized by the department.

"Liquidity" shall mean the availability of funds for drawdowns consistent with a landfill's approved closure plan, or, if there is no approved closure plan, consistent with the department's closure strategy for the landfill facility.

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

(g) Pursuant to N.J.S.A. 13:1E-100, et seq., the requirements for the escrow account are as follows:

1.-7. (No change.)

8. [The escrow agreement for every escrow account, and any revisions thereto, shall be approved by the department and filed by the department with the accredited financial institution as escrow agent.] **Every escrow account established pursuant to this section shall be based upon and governed by the standard escrow agreement provided for such purpose by the department. Any revision to an escrow agreement shall first be approved by the department and filed by the department with the accredited financial institution as escrow agent. A copy of the standard escrow agreement provided by the department may be obtained from the Office of Special Funds Administration, Department of Environmental Protection, CN 402, 88 East State Street, Trenton, N.J. 08625.**

9.-21. (No change.)

OAL NOTE: A copy of the Standard Escrow Agreement was submitted as part of this proposal but is not reproduced herein. The agreement may be reviewed at the location mentioned in the Summary.

(a)

Hazardous Waste Criteria, Identification and Listing Proposed Amendments: N.J.A.C. 7:26-8.14, 8.15 and 8.16

Authority: N.J.S.A. 13:1D-9, 13:1E-6.

DEP Docket No. 020-86-04.

Proposal Number: PRN 1986-192.

Submit comments by June 18, 1986 to:

Ann Zeloof
Department of Environmental Protection
Office of Regulatory Services
CN 402
Trenton, NJ 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection (Department) proposes to amend to N.J.A.C. 7:26-8.14, 8.15 and 8.16 by: (1) listing as hazardous six wastes from specific sources generated during the production of dinitrotoluene (DNT), toluenediamine (TDA), and toluene diisocyanate (TDI); (2) adding two compounds to the list of commercial chemical products which are hazardous wastes when discarded; and (3) including several toxicants in the hazardous constituents list. The amendments are proposed to maintain equivalency with the Federal United States Environmental Protection Agency (USEPA) regulations at 40 CFR 261.32 and 33(f) and Appendix VIII.

The proposed amendment at N.J.A.C. 7:26-8.14 concerning hazardous waste from specific sources lists as hazardous certain wastes generated during the production of DNT, TDA and TDI. These residual wastes are as follows:

K111—Product washwaters from the production of dinitrotoluene via nitration of toluene;

K112—Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene;

K113—Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.

K114—Vicinals (the process residuals resulting from the separation of the 2, 3- and 3, 4- isomers from the desired product (2, 4- and 2, 6- amino-substituted) isomers) from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene;

K115—Heavy ends from the purification of toluenediamine in production of toluenediamine via hydrogenation of dinitrotoluene; and

K116—Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine.

The list of hazardous wastes generated from specific sources has been amended by the USEPA several times and is published in 40 CFR 261.32. The USEPA listed a waste from the production of TDI (EPA Hazardous Waste No. K027, centrifuge and distillation residues from toluene diisocyanate production). On May 8, 1984, at 49 Federal Register 19608-19611, the USEPA proposed to amend this section to add another waste from the production of TDI as well as five wastes from the production of DNT and TDA, which compounds are intermediates in the production of TDI. These wastes are washwaters, light and heavy ends, vicinals and organic liquids from the production of DNT, TDA and TDI.

The hazardous constituents in these wastes include carcinogenic, mutagenic, teratogenic or otherwise chronically and acutely toxic compounds. The toxicants of concern for these wastes are: 2,4-dinitrotoluene, 2,4-toluenediamine, o-toluidine, p-toluidine, aniline, carbon tetrachloride, tetrachloroethylene, chloroform and phosgene. One or more of these toxicants are typically present in each waste at significant levels; in addition, the hazardous constituents are mobile and persistent and can reach environmental receptors in harmful concentrations if these wastes are mismanaged. After evaluating these wastes against the criteria for listing hazardous wastes (40 CFR 261.11(a)(3)), the USEPA determined that these wastes are hazardous.

The Department also proposes the addition of both toluidines to N.J.A.C. 7:26-8.15(f), pursuant to their addition by the USEPA to 40 CFR 261.33(f). (See 50 Federal Register 42936, October 23, 1985). The substance o-toluidine has been identified by the USEPA's Carcinogen Assessment Group as having evidence of carcinogenicity and p-toluidine exhibits other chronic toxicity effects, such as methemoglobinemia. As commercial chemical products, these isomers are present as sole active ingredients and generally are technical grade. Indeed, these chemicals could present a far greater hazard when disposed of in commercial form than they might when disposed of in lower concentrations in the waste streams proposed for listing here.

Finally, the proposed amendments add a number of hazardous constituents to N.J.A.C. 7:26-8.16, following their addition by the USEPA to Appendix VIII, including 2,4-, 2,6-, and 3,4-toluenediamine (already listed as toluenediamine. The proposed amendments identify these specific isomers of toluenediamine in the list of hazardous constituents) and o- and p-toluidine. The toxicology and environmental fate and transport of these compounds have been discussed by the USEPA at 49 Federal Register 19608-19611 as well as in their listing Background Document and the Health and Environmental Effects Profiles. This document may

be obtained from the USEPA, by writing to: United States Environmental Protection Agency, 401 M Street, SW, Washington D.C. 20460, or by calling (202) 382-5096.

Test methods used by the USEPA may be used, or alternative methods may be employed. The Office of Quality Assurance, in the Division of Waste Management, will evaluate the data and determine whether the test methodology is approved.

The Department agrees with the USEPA that these wastes are capable of posing a substantial threat to human health and the environment when improperly managed and should be listed as hazardous wastes. Based on this determination and the need to maintain equivalency with Federal Law, the Department proposes the amendments discussed above.

Social Impact

By adopting the proposed amendments, the Department is maintaining equivalency with Federal regulations concerning the listing of hazardous wastes. This action will have a positive social impact in that generators, transporters and disposers of hazardous waste would be subject to New Jersey (and not dual) regulations. The proposed amendments will aid in protecting the public health and the environment through the regulation of hazardous wastes.

Economic Impact

None of the wastes proposed for listing are currently being handled as hazardous and thus, they would be subject to hazardous waste rules for the first time. Therefore the facilities that are presently managing these materials as non-hazardous wastes would incur additional expenses. Moreover, the facilities would incur the additional costs associated with sampling and analysis. However, these costs would be far less than the potential cost of cleanup resulting from improper management of those wastes.

The proposed amendments are expected to have a positive environmental impact. Regulation of these materials as a hazardous waste would require that proper manifesting and disposal procedures be followed. These procedures help assure that the wastes are handled in an environmentally responsible manner.

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

7:26-8.14 Hazardous waste from specific sources

Industry	EPA Hazardous Waste Number	Hazardous Waste	Hazard Code
Organic Chemicals	K111	Product washwaters from the production of dinitrotoluene via nitration of toluene	(C,T)
	K112	Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene	(T)
	K113	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	(T)
	K114	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	(T)
	K115	Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	(T)
	K116	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine	(T)

7:26-8.15 Discarded commercial chemical products, off-specification species, containers, and spill residues thereof

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded:

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

(f) The following commercial chemical products or manufacturing chemical intermediates, referred to in (a), (b), and (d) above, are identified as toxic wastes (T) unless otherwise designated. These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous Waste Number	Substance
...	
U328	2-Amino-1-methylbenzene
U353	4-Amino-1-methylbenzene
U328	o-Toluidine
U353	p-Toluidine

7:26-8.16 Hazardous constituents

(a) The hazardous constituents criteria for listing hazard wastes (see N.J.A.C. 7:26-8.6) are listed below. Test methods approved by the Department shall be used in determining whether the waste in question contains a given hazardous constituent.

...	
C500	Benzene, 2-amino-1-methyl (o-Toluidine)
C501	Benzene, 4-amino-1-methyl (p-Toluidine)
...	
C502	2,4-Toluenediamine
C503	2,6-Toluenediamine
C504	3,4-Toluenediamine
C505	Toluenediamine N.O.S.
[C434	Toluene diamine]
...	

OAL NOTE: See related Notice of Proposal at 18 N.J.R. 792(a), which assigns Waste Code Numbers to the hazardous constituents.

HEALTH

(a)

**PUBLIC HEALTH COUNCIL
New Jersey State Sanitary Code—Chapter XI
Campgrounds**

Proposed New Rules: N.J.A.C. 8:22-1

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

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

Proposal Number: PRN 1986-197.

A public hearing concerning this proposal will be held on Monday, June 9, 1986 at 11:00 a.m. at:

N.J. State Department of Health
Health-Agriculture Building
Comissioner's Conference Room, Room 805
John Fitch Plaza
Trenton, N.J. 08625

Submit comments by June 18, 1986 to:

Arthur Verpent
Chief, Environmental Services
120 S. Stockton St.
Trenton, NJ 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 8:22-1.1 through 1.46 (Chapter XI New Jersey State Sanitary Code) expired May 4, 1986. The Department has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Since the text of the rules as they appear in the New Jersey Administrative Code at N.J.A.C. 8:22-1.1 through 1.46 has expired, that expired text is being proposed as new rules.

N.J.A.C. 8:22-1.1 through 1.46 contain rules and regulations pertaining to construction, expansion, and operation of all campgrounds. This subchapter, which was originally entitled "Recreational Sanitation," was filed and became effective in 1968. Revisions of the original subchapter were proposed and adopted January 26, 1977. The amendment made pertained to the occupancy limits of camping units. Revisions were again proposed and adopted June 4, 1981. Many areas of public health concern

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formerly under the jurisdiction of the State Health Department, such as water supplies, sewage disposal, plumbing, stream pollution, etc., were superseded by the transfer of duties, powers, and functions from the Commissioner of Health to the Commissioners of the Departments of Environmental Protection and Community Affairs when these agencies were created. The revisions made at this time were references to the regulations of these two departments.

N.J.A.C. 8:22-1.1 through 1.46 have functioned well in providing minimum regulations covering safety and sanitary aspects of campgrounds. These regulations have given the officials of local and state health departments a set of measures to determine agency compliance and have given the owners and operators of campgrounds a quantifiable basis for meeting departmental expectations regarding safety and sanitation. These regulations have also proved particularly helpful in reviewing plans for new and expanding campgrounds.

Following is a summary of the contents of the current text of N.J.S.A. 8:22-1.1 through 1.46.

N.J.S.A. 8:22-1.1 requires all owners of campgrounds to comply with the provisions of this code and applicable local or state codes.

N.J.S.A. 8:22-1.2 mandates that any person who constructs or expands a campground shall have prior approval of the water supply and sewage disposal facilities from the local health authority and the Department of Environmental Protection.

N.J.S.A. 8:22-1.3 addresses the responsibility of any person desiring to construct or expand a campground to submit plans to the local health authority for review and comment.

N.J.S.A. 8:22-1.4 outlines the various divisions within the Department of Environmental Protection which a campground owner must seek approval from to construct a water supply and/or a sewage disposal facility.

8:22-1.5 requires that all permanent structures of the campground conform to the provisions of the New Jersey Uniform Construction Code.

8:22-1.6 provides definitions of the technical terms used throughout the subchapter.

8:22-1.7 states that each campground shall provide convenient access from the public highway.

8:22-1.8 requires service roads to be located and constructed to permit safe movement of traffic.

8:22-1.9 mandates that service roads and parking areas be maintained in a safe condition.

8:22-1.10 requires that campsites shall be located 50 feet from a public highway and at least 10 feet from private property.

8:22-1.11 pertains to the density of campsites in a campground. The maximum number of campsites shall not exceed 20 per acre. The minimum size of a campsite is 900 square feet.

8:22-1.12 pertains to campsite layout with provisions that each campsite be well drained and that the natural features should be left intact, wherever practical.

8:22-1.13 relates to occupancy of campsites and limits the density to 200 persons per acre. Permanent or semipermanent huts or other living room additions to camping units shall not be permitted.

8:22-1.14 mandates that all advertising signs and lights shall be in compliance with the New Jersey Uniform Construction Code.

8:22-1.15 refers to the maximum occupancy of a campsite which shall not exceed 21 days during any 30 day period.

8:22-1.16 requires that fireplaces be located in a safe location.

8:22-1.17 pertains to the location, construction and, quality of the water supply.

8:22-1.18 specifies water sampling frequencies for the potable water supply.

8:22-1.19 provides sanitary requirements for construction of hand pumps on wells.

8:22-1.20 pertains to the sanitary connection between the camper and potable water supply.

8:22-1.21 refers to construction of drinking fountains.

8:22-1.22 provides requirements for the maintenance of toilet facilities.

8:22-1.23 provides that structural requirements for fixtures within toilet facilities conform to the New Jersey Uniform Construction Code.

8:22-1.24 includes sanitary requirements for construction and maintenance of privies and pit toilets.

8:22-1.25 refers to sanitary requirements for showers and water closets.

8:22-1.26 requires all plumbing to conform to the New Jersey Uniform Construction Code.

8:22-1.27 requires that the individual sewer connections for camping units conform to the New Jersey Uniform Construction Code.

8:22-1.28 requires that sewer lines conform to the rules and regulations of the Department of Environmental Protection.

8:22-1.29 refers to sanitary requirements for a holding tank emptying station.

8:22-1.30 refers to approval for the design and construction of sewage disposal facilities. Such facilities must conform to the rules and regulations of the Department of Environmental Protection.

8:22-1.31 requires that storm water sewers be separate from any sewage disposal system.

8:22-1.32 requires that solid waste storage, collection, and disposal be conducted in a sanitary manner.

8:22-1.33 refers to the standards for solid waste containers.

8:22-1.34 refers to the requirements for the location of solid waste containers within the campground.

8:22-1.35 refers to the adequate storage capacity for solid waste within the campground.

8:22-1.36 requires the cleaning and maintenance of solid waste containers in order to prevent odors and breeding of insects.

8:22-1.37 sets the minimum frequency for collection of solid waste at not less than twice a week.

8:22-1.38 requires that the disposal of solid waste conforms to the rules and regulations of the Department of Environmental Protection.

8:22-1.39 requires that the operation of food establishments conform to the provisions of Chapter XII of the State Sanitary Code N.J.A.C. 8:24-1.1 et seq. Also, structural aspects of all support buildings within the campground must conform to the New Jersey Uniform Construction Code.

8:22-1.40 contains general provisions for insect, rodent, and weed control. This rule also makes reference to Department of Environmental Protection regulations pertaining to use of pesticides.

8:22-1.41 specifies that all electrical systems must conform to the New Jersey Uniform Construction Code.

8:22-1.42 states that storage of flammable liquids conform to the standards of the New Jersey Uniform Construction Code.

8:22-1.43 states that rules and regulations pertaining to swimming and bathing conform to the latest edition of the Swimming Pool Code of New Jersey. Also, water quality standards for natural bathing waters are specified.

8:22-1.44 explains the responsibilities of the owner of the campground regarding maintenance and sanitation.

8:22-1.45 requires that a campground be under the supervision of a caretaker and specifies the responsibilities of the caretaker regarding maintenance and sanitation.

8:22-1.46 explains the responsibilities of the camper regarding sanitation, fire safety, control of pets, and personal regulations.

Social Impact

The new rules will continue to provide the state and local municipalities with reasonable standards to regulate the campground industry. Failure to adopt these regulations would jeopardize the safety and sanitary conditions of the campgrounds within the state. The local health departments who enforce these regulations would no longer be provided with a uniform code. Campers, both in and out of state, and the owners and operators of campgrounds would be subject to various municipal codes. The adoption of these regulations would ensure one code that would continue to serve everyone concerned.

Camping has become increasingly popular as a pastime in New Jersey and throughout the nation in the last several years. Properly maintained, New Jersey will continue to have clean and safe recreational areas that will protect the growing tourism industry in our state.

Economic Impact

The department foresees no change in the financial impact of having the present rules adopted as they exist. Failure to adopt these rules will result in the necessity for each local health department to adopt regulations of their own with the accompanying expenses. Having each municipality adopt their own regulations is not as efficient a management tool as having one central regulation with uniform enforcement.

The lack of a uniform standard will have an adverse impact on the industry as it may have to comply with conflicting requirements in the different municipalities in which they operate or to which they supply equipment.

Full text of the expired rules proposed as new appears in the New Jersey Administrative Code at N.J.A.C. 8:22-1.1 through 1.46.

(a)

**PUBLIC HEALTH COUNCIL
ENVIRONMENTAL HEALTH SERVICES**

**Chapter IX—State Sanitary Code
Public Recreational Bathing**

Proposed New Rule: N.J.A.C. 8:26

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

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

Proposal Number: PRN 1986-196.

A public hearing concerning this proposal will be held on Monday, June 9, 1986 at 9:30 A.M. at:

N.J. State Department of Health
Health-Agriculture Building
Commissioner's Conference Room, Room 805
John Fitch Plaza
Trenton, N.J. 08625

Submit comments by June 18, 1986 to:

Arthur Verpent
Chief, Environmental Services
120 S. Stockton St.
CN 364
Trenton, NJ 08625

The agency proposal follows:

Summary

The Public Health Council proposes to establish a new chapter of the State Sanitary Code governing recreational bathing places to preserve and improve the public health in this state as provided for in N.J.S.A. 26:1A-7. These proposed regulations shall govern all recreational bathing places in the state of New Jersey with the exception of private bathing places as defined in Subchapter 1.

These proposed regulations will upgrade, abolish and/or supersede the existing model code entitled, "Swimming Pool Code of New Jersey-1970" (for copies contact Arthur Verpent, Chief, Environmental Services, 120 South Stockton Street, Trenton, New Jersey 08625), and Lake Bathing Place Bacteriological, Sanitary and Safety guides. Modes codes are subject to adoption by reference by local boards of health and, therefore, may not be enforced statewide. Guidelines are recommendations and, thus, do not have the force and effect of law. These proposed regulations will address natural waters such as lakes, bays, rivers, and the like and are especially necessary along New Jersey's shoreline where recreational use based upon water quality has never before been established. These proposed regulations will also address hot tubs and spas which have become increasingly popular within the last several years. In view of the recent problem that occurred along New Jersey's shoreline during the summer of 1985, as well as illnesses associated with public hot tubs and spas, the Public Health Council felt it was necessary to establish a statewide uniform regulation to be enforced by all municipalities within the state that would govern all types of recreational bathing places to include swimming pools, hot tubs/spas, and natural waters.

The proposed bathing regulations cover definitions, approval of facilities, construction, filtration and disinfection, safety requirements, personnel, general sanitation and maintenance, water quality and analysis, and enforcement procedures.

The proposed regulation is based on national and/or industry standards and other state codes which were carefully reviewed. Five subcommittees were established in the areas of management, technical methods, environmental aspects, safety, and maintenance and sanitation, to address all aspects of recreational bathing. Representation on each subcommittee consisted of key personnel from industry, academia, local government, and other departments of the state.

Social Impact

These regulations, once adopted, will provide the state and local municipalities with a uniform standard code for all recreational bathing places to include swimming pools, hot tubs/spas, and natural waters. The enactment of these proposed regulations will enable the regulation of all recreational bathing facilities in a more efficient manner by providing a uniform code that will be enforced by all municipalities within the state. One uniform state code is a better management tool than 567 municipal

codes. Local governments will be provided for the first time with regulations, which many have requested, for hot tubs/spas, and natural waters.

Provisions within these regulations provide for the proper supervision and operation of these facilities. Public Health Officials will enforce these regulations. These regulations will ensure that the recreational bathing facilities in the state are protected by a uniform code that will protect the health and safety of the general public using these facilities. This should result in fewer accidents, less disease and illness among the general public, lower medical costs, and decreased time lost from work.

Those recreational bathing facilities being inspected by Public Health Officials under the proposed regulations will now be regulated by one code. Those recreational bathing places that were not previously being regulated, will now have to comply.

Properly enforced, the end result will be safer, cleaner, and healthier recreational bathing places within the state. The overall effect will be to upgrade the recreational bathing places within the state, increase the public's confidence in the same and thus help ensure the public's health and safety at the same time.

Economic Impact

It is felt that with the enactment of these regulations, the provisions for sampling and required personnel may result in an increased cost to some recreational bathing facilities, however, the safety provisions provided within these regulations should have the resulting effect of lowering medical claims for accidents and illnesses. The increase in public health and safety that will result with the enforcement of these regulations could serve as an inducement to insurance companies to lower their rates. For the laboratories that will be analyzing the required sampling and organizations such as the Y.M.C.A.'s and the American Red Cross chapters who will train the required personnel, they can expect an increase in income as a result of these proposed regulations.

It is anticipated that for the first couple of years after the enactment of these proposed regulations, the state will incur a cost to standardize and train local health departments throughout the state. For the local health departments, it is projected that more time and manpower will be needed to enforce these proposed regulations. The cost to them that will be incurred can be offset in part or whole by a municipal ordinance to license these recreational bathing places.

In order for the owner and/or operator of a recreational bathing place to cover the increased costs such as sampling and personnel, the general public may be required to pay an increase in fees, dues, and/or admission fees. The general public should, however, realize a decrease in their medical bills and less lost time from work associated with illness and accidents as a result of the public health and safety requirements of these proposed regulations.

The increased monitoring of the state's waters as provided for in these regulations will allow advance warning of potential problems thus major recreational bathing beach closings may be averted. New Jersey should experience an enhancement of its tourism industry with its accompanying economic benefits due to safer and more esthetically pleasing bathing facilities.

Full text of the proposed new rule follows:

**CHAPTER 26
RECREATIONAL BATHING**

SUBCHAPTER 1. PURPOSE, SCOPE AND DEFINITIONS

8:26-1.1 Purpose

The purpose of this chapter shall be to set reasonable sanitary and safety regulations for recreational bathing places and to preserve and improve the public health in this state as provided for in N.J.S.A. 26:1A-7.

8:26-1.2 Scope

These regulations shall govern all recreational bathing places in the State of New Jersey with the exception of a private bathing place as defined in 8:26-1.3. The provisions of the State Sanitary Code have the force and effect of law. The provisions are enforceable by the State Department of Health, local departments of health, local police authorities, and other enforcement agencies.

8:26-1.3 Definitions

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

"Adult" means a person aged 18 years or older.

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"Alter" means and includes any modification, or relocation of any structure or equipment, or diversion and change of water flow patterns in an existing recreational bathing place such that the design, configuration and/or operating characteristics are different from the original design, configuration and/or operating characteristics. The term does not include normal maintenance, repair or replacement of equipment previously approved.

"Approved" means acceptable to the State Department of Health or the local health authority based on its determination as to conformance with appropriate standards and good public health practices.

"Authorized agent" means a licensed health officer, sanitary inspector, or any other properly qualified and licensed person who is delegated to function within specified limits as the agent of the local health authority or the department.

"Bathing beach" means the designated area of a natural or artificially constructed pond, lake, stream, river, bay, tidal waters, ocean or other body of fresh or salt water, which is used for bathing and swimming purposes together with buildings, equipment, and appurtenances, if any, and the land areas used in connection therewith.

"Certified laboratory" means a water laboratory certified by the New Jersey Department of Environmental Protection.

"Construct" means and includes building or installing a new recreational bathing place or altering an existing recreational bathing place or any of its facilities.

"Diving" means entering a body of water head first.

"Department" means the State Department of Health.

"Health authority" means the agent of the Local Board of Health and/or State Department of Health duly licensed to act in the enforcement of its ordinances and the sanitary laws of the state.

"Hot tub or spa" means any pool having a maximum depth of 48 inches (1.2 meters) used in conjunction with high velocity water recirculation systems, utilizing hot, cold, or ambient temperature water either mineral or nonmineral in nature, which is not emptied after each individual use. (Industry terminology for a hot tub or spa includes, but is not limited to, therapeutic pool, whirlpool, and hydrotherapy pool.)

"Lifeguard" means a person at least 16 years of age who holds a lifesaving/lifeguarding certificate issued from an organization recognized by the New Jersey State Department of Health, as listed in the Appendix at the end of this chapter.

"Locate" means designating the site or place of a recreational bathing place.

"Nephelometric Turbidity Unit (NTU)" means the turbidity of a specified concentration of formazin suspension used when measuring water clarity.

"Operate" means to conduct, maintain, or otherwise provide facilities for recreational bathing.

"Person" means any corporations, companies, associations, societies, clubs, firms, partnerships, joint stock companies, governmental agencies as well as individuals.

"Private bathing place" means a body of water, natural or modified by man, used for swimming, diving, and recreational bathing by an individual, family, or living unit member(s) and their guests which shall not serve any type of cooperative housing or joint tenancy of three or more living units.

"Public bathing place" means any recreational bathing place that is not defined as private.

"Recreational bathing place" means any bathing beach, hot tub or spa, swimming pool, and wading pool as defined in this subchapter.

"Sanitary survey" means a comprehensive evaluation of the environmental factors affecting the quality of the waters of a bathing beach. This includes, but is not limited to, sewage and industrial wastewater discharges, storm-water overflows, bird and animal populations, commercial and agricultural drainage, and their relationship to the bathing beach, as well as the location and volume of the pollution, and its chemical, bacterial and physical characteristics.

"Swimming pool" means a watertight structure of concrete, masonry, or other approved materials, located either indoors or outdoors, used for bathing or swimming and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection therewith. A swimming pool shall mean a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee, and includes, but is not limited to, pools operated by or serving camps, clubs, churches, cities, counties, day care centers, group home facilities for 6 or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living type projects of

three or more living units, such as apartments, boarding houses, condominiums, hotels, mobile home parks, motels, recreational vehicle parks, townhouses, and trailer parks.

"Turnover" means the period of time (usually in hours) required to circulate a volume of water equal to the pool capacity.

"Wading pool" means a pool that may range in water depth from 2 feet down to zero for wading.

SUBCHAPTER 2. ADMINISTRATION

8:26-2.1 Review of plans

Whenever a public swimming pool, hot tub or spa is constructed or altered, or when a pond, lake, stream, river, ocean or other body of fresh or salt water is converted to use as a public recreational bathing place, specifications, plans and reports shall be submitted to the health authority for review and approval before construction, alteration or conversion is begun.

8:26-2.2 Procedure for obtaining written approval to locate and construct

(a) Approvals shall be issued when the health authority has received and approved a letter or application which has been approved by the planning and zoning agencies. Final plans, specifications and reports shall be prepared by the appropriate licensed or certified professional fully describing and setting forth all data as required in (b), or as may otherwise be required by the health authority.

(b) Plans, specifications, and reports shall include but are not to be limited to:

1. Proposed site of the recreational bathing place;
2. Nature and extent of the area to be served by the recreational bathing place, including type (for example, general public, club) and estimated daily patronage;
3. Basic design factors, including water capacities, source(s) of water, and volume of water;
4. Recreational bathing place layout, including dimensions, bath-houses, water closet facilities, food service facilities, first aid facilities, and other recreational facilities associated with the recreational bathing place;
5. Details of on-site filter wastewater, shower wastes, and sanitary sewage disposal, if a municipal sewer is not available or if a municipal sewer is available, details of the connection thereto;
6. Proposed operation and maintenance procedures, including manufacturer's specifications for equipment;
7. Details on water well construction, if applicable;
8. Compliance with other federal, state and/or local agency requirements;
9. Compliance with the barrier free design requirements promulgated by the New Jersey Department of Community Affairs, Bureau of Construction Code Enforcement, pursuant to N.J.S.A. 52:32 and N.J.S.A. 52:27D-123 (Uniform Construction Code) and N.J.A.C. 5:23-3.2 and 5:23-3.14; the rules shall apply to the construction, remodeling, substantial repairs, alterations and additions of buildings, structures, and facilities used by the public. Included in the regulations are requirements for site development, buildings, residential occupancy and recreation sites and facilities.
 - i. Additionally, existing facilities which receive or will receive Federal funds must comply with the 1973 Rehabilitation Act (Section 504).
10. Safety by design as specified in this code;
11. A comprehensive sanitary survey of the bathing beach and surrounding area. The survey shall include a plot map drawn to scale, indicating the location and type of all known sources of potential contamination.

(c) Upon compliance with all provisions of (a) and (b) above and acceptance of the final plans, specifications, and reports, together with the data contained therein, the health authority shall review and either approve or disapprove in writing within 30 days of the date of submission.

8:26-2.3 Denial of approval

Persons denied approval shall be notified accordingly in writing by the health authority. Such notice shall specify the reason(s) for the action, and shall give the person(s) denied approval the opportunity to be heard within a reasonable time, not to exceed 15 days.

8:26-2.4 Procedure for obtaining approval to alter recreational bathing facilities

(a) Approvals to alter shall not be issued until the health authority has received a letter of application together with such plans, specifications, or reports as may be requested by the health authority to fully describe the proposed alteration. The health authority shall issue its decision within 30 days.

(b) Upon compliance with (a) above, an approval of the requested alteration or proposal may be issued.

8:26-2.5 Existing swimming pools

N.J.A.C. 8:26-3.1 to 8:26-3.16 inclusive, relating to location and construction shall not apply to those swimming pools that were constructed prior to the effective date of this chapter. Any alterations of any unit or units of such swimming pools shall be made in accordance with the applicable provisions of these rules.

8:26-2.6 Existing hot tubs and spas

N.J.A.C. 8:26-4.1 through 8:26-4.13 relating to location and construction shall not apply to hot tubs and spas that were constructed prior to the effective date of this chapter except that any alterations of any unit or units of such hot tubs and spas shall be made in accordance with the applicable provisions of these rules. The provisions for heater and temperature requirements at N.J.A.C. 8:26-4.4 and disinfectant and chemical feeders at N.J.A.C. 8:26-4.10 shall apply to all hot tubs and spas.

8:26-2.7 Pre-operational inspection

Whenever plans, specifications and reports, as required by N.J.A.C. 8:26-2.1, are submitted to the health authority for review and approval, the health authority shall inspect the recreational bathing place prior to opening for public use, to determine compliance with the requirements of this chapter.

8:26-2.8 Approval to operate

A recreational bathing place shall not be opened for public use until the health authority has given formal approval by issuance of an appropriate approval, license or permit. This approval, license or permit shall be displayed in a conspicuous place on the premises where it may be readily observed by all patrons. No person shall operate a recreational bathing place whose approval, license or permit has been suspended.

8:26-2.9 Modification and waiver of standard

(a) Any person or authorized agent, confronted with practical difficulties in carrying out the strict compliance with any rule in this chapter, may apply to the health authority in writing for a modification thereof. Only a modification that will not constitute a definite hazard to life or property will be considered. The decision of the health authority, including the particulars of the application, shall be entered upon the records of the health authority and a copy thereof sent to the applicant.

(b) The health authority may waive temporarily any rule to allow for experimentation and a demonstration of new and innovative approaches relating to the operation, construction, and maintenance of a recreational bathing place. Only waivers that will not constitute a definite hazard to life or property will be considered.

SUBCHAPTER 3. SWIMMING POOLS

8:26-3.1 General layout and design

(a) The location of all proposed pools shall be such that a safe and adequate water supply and sanitary disposal facilities will be available.

(b) The layout of the pool facility shall be such that bathers leaving the dressing rooms will have access to toilets and then shower facilities. Exits and entrances to the pool enclosure shall be located at the shallow end of the pool.

8:26-3.2 Construction materials

(a) Swimming pools and all appurtenances thereto shall be constructed of materials which are: nontoxic, which are impervious and enduring, can withstand design stresses, and which will provide a watertight structure with a smooth and easily cleaned surface without cracks or joints, excluding structural joints, or to which a smooth, easily cleaned surface finish can be applied or attached.

(b) Sand or earth shall not be permitted as an interior finish in a swimming pool.

(c) The surfaces within a swimming pool intended to provide footing for bathers shall be designed to provide a slip-resisting surface. The roughness or irregularity of such surfaces shall not cause injury or discomfort to the feet during normal use.

(d) The color, pattern or finish of the pool interior shall not obscure the existence or presence of objects or surfaces within the pool.

(e) All construction materials shall be in conformance with the regulations set forth in the New Jersey Uniform Construction Code at N.J.A.C. 5:23.

8:26-3.3 Dimensional design

(a) No specific limits are required for the shape of swimming pools except that consideration shall be given to shape from the standpoint of safety and circulation of the swimming pool water. There shall be no

protrusions, extensions, means of entanglement, or other obstructions in the swimming area of the pool which can cause the entrapment or injury of the bather.

(b) The pool capacity shall be based on the following criteria:

1. Pools with deck areas less than the water area:
 - i. Fifteen square feet (1.4 square meters) of shallow, instructional and/or wading areas for each bather.
 - ii. Twenty square feet (1.9 square meters) of deep area (not counting that area considered as diving area) for each bather.
 - iii. Three hundred square feet (27.9 square meters) of diving area per diving board for each bather.
2. Pools with deck areas at least equal to the water area:
 - i. Twelve square feet (1.1 square meters) of shallow, instructional and/or wading areas for each bather.
 - ii. Fifteen square feet (1.4 square meters) of deep area (not counting that area figured as diving area) for each bather.
 - iii. Three hundred square feet (27.9 square meters) of diving area per diving board for each bather.
3. Pools with deck areas at least equal to twice the water area:
 - i. Eight square feet (.7 square meters) of shallow, instructional and/or wading areas for each bather.
 - ii. Ten square feet (.9 square meters) of deep area (not counting that area figured as diving area) for each bather.
 - iii. Three hundred square feet (27.9 square meters) of diving area per diving board for each bather.

	Shallow Instructional or Wading Areas	Deep Area (not including the diving area)	Diving Area (per each diving board)
Pools With Deck Area Less Than Water Area	15 square feet per bather	20 square feet per bather	300 square feet per bather
Pools With Deck Area At Least Equal to Water Surface Area	12 square feet per bather	15 square feet per bather	300 square feet per bather
Pools With Deck Area At Least Twice The Water Surface Area	8 square feet per bather	10 square feet per bather	300 square feet per bather

8:26-3.4 Diving area design of the pool

The water depths and dimensions of swimming pool diving areas shall be in accordance with the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

8:26-3.5 Bottom slope of the pool

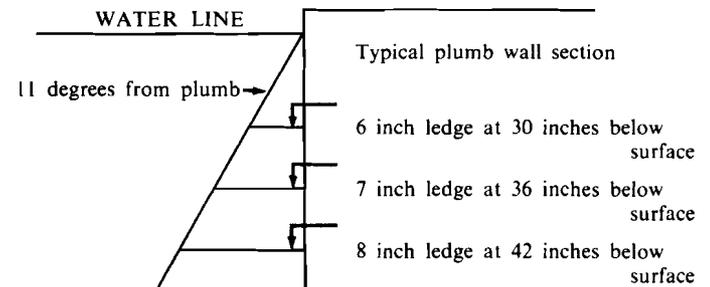
The bottom slope of the pool shall be in accordance with the requirements of New Jersey Uniform Construction Code, N.J.A.C. 5:23.

8:26-3.6 Walls of the pool

The walls of the pool shall be in accordance with the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

8:26-3.7 Offset ledges

When provided, offset ledges shall fall within 11 degrees from plumb starting at the junction of the pool wall and waterline, and shall have a slip-resisting surface. Maximum width shall be 8 inches. The typical allowable dimensions are based on the depths shown below:



8:26-3.8 Markings

(a) Depth of water in feet shall be plainly and conspicuously marked at or above the water surface on the vertical pool wall and on the top of coping or edge of the deck or walk next to the pool.

(b) Depth markers shall be placed at maximum and minimum points and at all points of slope change and at no more than 2 feet of intermediate increments of water depth.

(c) Depth markings shall be horizontally spaced at no more than 25 foot intervals and shall be arranged to be uniformly located on both sides of the pool as well as both ends.

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(d) In the case of irregularly shaped pools, such markings shall designate depths at all major deviations in shape as well as conforming to the foregoing where possible.

(e) The depth marking numbers shall be at least 4 inches (10 centimeters) minimum height, of a contrasting color to the background and of a permanent nature.

(f) Markings on the vertical pool wall shall be in the uppermost portion of the wall and be positioned to be read from the water side.

(g) Markings on the deck shall be within 18 inches (46 centimeters) of the water's edge and positioned to be read while standing on the deck facing the water.

(h) Deck markings shall be slip-resistant.

8:26-3.9 Overflow collection system

(a) An overflow gutter, automatic skimmer(s) or other satisfactory cleaning device approved by the Health Authority be provided for all swimming pools.

(b) Overflow gutters shall be provided in accordance with the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

(c) The overflow system shall be designed and constructed so that the water level of the pool is maintained at the operating level of the rim or weir device. Perimeter type overflow systems, when used as the only overflow system on a pool, shall extend around a minimum of 50 percent of the perimeter of the pool. Perimeter overflow systems shall be connected to the circulation system with a system surge capacity of not less than 1 gallon for each square foot (41 liters per square meter) of pool surface. The perimeter overflow system in combination with the upper rim of the pool shall constitute a handhold. The hydraulic capacity of the perimeter overflow system shall be capable of handling 100 percent of the circulation flow. Nothing in this subsection shall preclude the use of roll out or deck level type swimming pools but in the case of competitive pools, the ends of the pool must provide a visual barrier that can be seen by swimmers.

(d) Skimmers shall be provided in accordance with the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

(e) A surface skimming system shall be provided on all public swimming pools, and shall be designed and constructed to skim the pool surface when the water level is maintained within the operational parameters of the system's rim or weir device. Skimming devices shall be designed and installed so as not to constitute a hazard to the bather.

(f) When a perimeter-type surface skimming system is used as the sole surface skimming system, the system shall extend around a minimum of 50 percent of the perimeter of the pool. Perimeter surface skimming systems shall be connected to the circulation system with a system surge capacity of not less than 1 gallon for each square foot of pool surface.

(g) The hydraulic capacity of the overflow system shall be capable of handling 100 percent of the circulation flow.

8:26-3.10 Decks and walkways

(a) Decks and walkways shall be provided and constructed in accordance with the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

(b) The maximum slope of decks shall be 1/2 inch per foot (1/2": 1'). Decks shall be sloped to effectively drain either to perimeter areas or to deck drains. Drainage shall remove pool splash water, deck water and rain water. Site drainage shall be provided away from all deck work so as to direct all perimeter deck drainage as well as general site drainage away from such work. When required, yard drains shall be installed to prevent the accumulation of puddling of site water in the general area of the decking work and related improvements. Gutters and downspouts shall be provided or relocated as necessary to adequately carry roof water away from pool and decking areas.

8:26-3.11 Ladders and stairs

(a) Ladders and stairs shall be provided and constructed in accordance with requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23 et seq.

(b) Where water depths are 24 inches (60 centimeters) or less at the pool wall, such areas shall be considered as providing their own natural mode for entry/exit.

(c) Below the water level, there shall be a clearance of not more than 6 inches nor less than 3 inches between any ladder tread edge, measured from the pool wall side of the tread, and the pool wall.

(d) Recessed treads shall have a minimum tread of 5 inches and a minimum width of 12 inches. Recessed treads shall drain into the pool to prevent the accumulation of dirt thereon and shall be slip resistant.

8:26-3.12 Enclosure

(a) Pools shall meet the fencing and enclosure requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

NOTE: A 10 foot high fence for public swimming pools is recommended.

8:26-3.13 Electrical, illumination and ventilation requirements

(a) All electrical wiring, illumination and ventilation shall be in conformance with the regulations set forth in the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

(b) Illumination shall be such that a black disk six inches (15.2 centimeters) in diameter, superimposed upon a white field placed at the bottom of the deepest end of the pool shall be clearly visible from the pool sidewalk, at all distances up to 10 yards, measured in a horizontal distance from the project of the disk onto the pool surface.

8:26-3.14 Diving stands, boards, slides and floats

(a) Diving stands, boards, slides and floats shall be constructed in accordance with the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

(b) For indoor pools, at least 16 feet of headroom above the highest board must be provided.

(c) Water depth and distance based on board height shall be as follows:

1. Minimum water depth and distances for diving boards for all public pools based on board height shall equal or exceed the minimum requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

2. Diving equipment for use by the general public shall not be more than 10 feet (3 meters) above the water level.

(d) Foot contact surfaces of diving equipment shall be slip-resistant.

8:26-3.15 Recirculation system

(a) The recirculation system equipment shall be of adequate size to turn over the entire pool water capacity at least once every 8 hours. Water clarity shall be maintained. (Clarity is a function of proper filtration and maintenance of proper chemical operational parameters.) When standing at the pool's edge at the deep end, the deepest portion of the pool floor shall be clearly visible.

(b) A pump and motor shall be provided for circulation of the pool water. Performance of all pumps shall meet or exceed the conditions of flow required for filtering and cleaning (if applicable) the filters against the "total dynamic head" developed by the complete system).

1. Pumps shall be selected to perform the functions for which they were designed the manufacturer. Pumps and motors must be accessible for inspection and service.

2. When the pump is below the water level of the pool, valves shall be installed on permanently connected suction and discharge lines, located in an accessible place outside the walls of the pool, where they will be readily and easily accessible for maintenance and removal.

3. The design and construction of the pump and component parts shall provide safe operation that is not hazardous to the operator or maintenance personnel.

4. All motors shall have thermal or current overload protection, either built in, or in the line starter, to provide locked motor and running protection.

5. The motor frame shall contain adequate provisions for proper grounding, as specified in N.J.A.C. 5:23.

(c) Protection of potable water supply shall comply with the Uniform Construction Code N.J.A.C. 5:23-3.5.

1. Physical connections between potable water systems and pool circulation systems shall not be permitted.

2. Potable water for make-up purposes shall be added by way of an over-the-rim spout properly shielded which does not create a safety hazard. The open end of the spout shall have no sharp edges and protrude no more than 2 inches (5.1 centimeters) beyond the edge of the spa.

NOTE: It is recommended that the spout be located adjacent to the ladder.

3. An alternate method of adding make-up water may be employed, with the approval of the health authority.

(d) Hair and lint catchers shall be provided with all pressure filter systems, and shall contain a removable strainer upstream of the circulation pump(s) to remove solids, debris, hair, lint, etc. Water entering the pump shall pass through the removable strainer.

(e) Inlets and outlets shall be constructed in the following manner:

1. Pool inlet(s) and outlet(s) for circulated water shall be located to produce uniform circulation of water and to facilitate the maintenance of a uniform disinfectant residual throughout the entire pool. Inlet(s) from the circulation system shall be designed so as not to constitute a hazard to the bather.

i. Where skimmers are used, the inlet(s) shall be located so as to help bring floating particles within range of the skimmers.

2. All pools shall be provided with a main drain in the lowest point of the pool floor. The spacing of the main drains for pool pump suction shall not be greater than 20 feet on centers nor more than 15 feet from each side wall.

3. The main drain pumps shall be covered with suitable protective covers or grates. Outlet drains covers and grates shall be installed in such a way that they cannot be removed without the use of tools. The total velocity through grate openings shall not exceed 2 feet per second.

4. The grate opening shall not exceed ½ inch and be designed to prevent physical entrapment of fingers, toes, etc.

5. The system shall provide at least 1 antivortex outlet drain.

6. In depths 4 feet 6 inches (4'6") or less, the antivortex drain shall not provide a tripping or stubbing hazard to the feet.

7. Where only 1 main drain is provided, it shall be of the antivortex design, and velocity shall not exceed 6 feet per second.

(f) Filters shall be designed so that after cleaning per manufacturer's instructions, the system can provide the water clarity noted in N.J.A.C. 8:26-7.10.

1. Filters shall be designed so that filtration surfaces can be inspected and serviced.

2. Loss of head gauges shall be installed on all filters. Gauges tapped into the influent and effluent lines of the filter shall be located together at the same elevation.

3. Rate of flow meters shall be installed and located so that both the rate of circulation and backwashing will be registered in gallons per minute.

i. Flow meters shall have a range between 10 percent below the established filtration rate and 10 percent above the established backwash rate.

ii. Flow meters shall be installed on a straight length of pipe at a distance equal to at least 6 times the diameter of the pipe from any valve, elbow or other source of turbulence. This requirement may be waived for meters not affected by pipeline turbulence.

4. Pressure filters shall be provided with sight glasses installed on the waste discharge line in order that filter washing progress may be determined. Such sight glass shall be readily removable for cleaning purposes.

5. On pressure-type filters, a means shall be provided to permit the release of air which enters the filter tank. Any filter incorporating an automatic internal air release as its principal means of air release must have lids which provide a slow and safe release of pressure as a part of its design. Any separation tank used in conjunction with any filter tank must have a manual means of air release or a lid which provides a slow and safe release of pressure as it is opened.

(h) Sumps shall be provided and constructed in accordance with the requirements of the New Jersey Uniform Construction Code N.J.A.C. 5:23.

8:26-3.16 Wading pools

(a) Wading pools shall be separate and physically set apart from beginning or shallow areas of swimming pools by at least 6 feet of deck. Where a wading pool is adjacent to any deep water area, a minimum 4 foot high barrier shall be installed separating the two pools with a self closing and self latching gate.

(b) Walls shall be vertical or within 11 degrees of vertical except for the lower 6 inches which shall be radiused to the floor. Walls shall not extend more than 6 inches above the water line at any point.

(c) Floors shall be uniformly sloped to drain with a maximum slope of 1 foot in 12 feet (1':12").

(d) Wading pools shall have a maximum depth of 24 inches. The water depth at the perimeter shall not exceed 18 inches. Water depths may be reduced from above maximums and brought to zero at the most shallow point.

(e) Wading pools shall have a separate circulation system of adequate size to turn over the entire pool water capacity at least once every 2 hours.

8:26-3.17 Water slides

(a) Water slides may be permitted with special approval of the local health authority, provided the construction and supervision at the slide conforms to the requirements of the United States Consumer Products Safety Commission standard for swimming pool slides as published in the Federal Register, December 18, 1978, Vol. 43, No. 243.

(b) Water slides exceeding 15 feet (4.57 meters) in height and which carry or convey passengers along, around or over a fixed or restricted

route or course for the purpose of giving its passengers amusement, pleasure, thrills or excitement shall be in conformance with Department of Labor and Industry Standard N.J.S.A. 5:3-31 through 54.

8:26-3.18 Rope drops

Rope drops shall not be permitted in a pool.

8:26-3.19 Floats

Floats and fixed platforms shall not be permitted in a pool.

8:26-3.20 Disinfection

(a) The swimming and wading pool water shall be continuously disinfected by a disinfecting agent that imparts an easily measured residual.

1. The disinfecting agent used shall be subject to field testing procedures that are simple and accurate. (Chlorine or chlorine compounds are most frequently used for this purpose but other bacteriological agents or apparatus shall be acceptable if registered for said use by the United States Environmental Protection Agency.)

(b) Disinfecting equipment shall conform to the following:

1. Adequate and appropriate feeding and regulating equipment for introducing a disinfectant into the recirculating system of the pools shall be provided.

2. The disinfecting equipment shall be of sufficient capacity to maintain consistently, in the pool the disinfectant residual cited at N.J.A.C. 8:26-7.9.

3. The disinfecting equipment shall be capable of withstanding wear in the course of normal use.

(c) Gas chlorination shall conform to the following:

The chlorinator, cylinders of chlorine and associated equipment shall be housed in a reasonably gas-tight and corrosion-resisting housing having a floor area adequate for the purpose. Cylinders shall always be stored in an upright position and properly secured.

1. Enclosures may be located at ground or above-ground level. If installation below-ground is necessary, the enclosure shall be provided with air-tight ducts from the bottom of the enclosure to atmosphere in an unrestricted area, a motor drive exhaust fan capable of producing at least one air change per minute and automatic louvers of good design near the top of the enclosure for admitting fresh air.

2. Electrical switches for the control of artificial lighting and ventilation shall be on the outside of the enclosure adjacent to the door.

3. An automatic chlorine leak detector and alarm shall be installed in the chlorinator room.

4. Respirators approved by the National Institute for Occupational Safety and Health shall be provided for protection against chlorine. At least one approved self-contained breathing apparatus shall be provided. Respiratory equipment shall be mounted outside the chlorine enclosure.

NOTE: OSHA regulations require training and maintenance programs for respirators.

5. A warning sign stating "CAUTION chlorine hazard area, unauthorized persons keep out, causes burns, severe eye hazard, may be fatal if inhaled," or words of similar meaning shall be affixed in a readily visible location at or on entrances to areas in which chlorine is present in containers or systems. It is recommended that a statement giving specific location(s) of protective mask(s) for chlorine be included.

NOTE: Facilities shall include a scale suitable for weighing chlorine cylinders. Changing cylinder(s) shall be accomplished only after weighing proves contents of cylinder to be exhausted. NOTE: Care must be taken to prevent water suck-back into cylinder when empty by closing the cylinder valve.

8. Valve protection caps and valve outlet caps shall be in place at all times except when the cylinder is connected for use. Cylinders must not be dropped and shall be protected from falling objects. Cylinders should be used on a first-in, first-out basis. New, approved washers shall be used each time a cylinder is connected.

(d) Chemical feeders installation and use shall conform to the following:

1. When using chemical feeders, they shall be installed downstream from the filter and heater. The only exception to this would be erosion-type chlorinators which feed their solution to the solution side of the pump.

2. If the chemical feeder is equipped with its own pump, it shall be installed so it introduces the gas or solution downstream from the heater and, if possible, at a position lower than the heater outlet fitting.

3. Chemical feed pumps shall be wired so they cannot operate unless the filter pump is running. If the chemical feeder has an independent timer, the chemical feed pump timers shall be interlocked.

(e) Electrolytic chlorine generators, when used for producing chlorine for disinfection, shall conform to the following:

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1. Electrolytic chlorine generators shall be able to insure adequate feed to meet the chlorine residual specified in N.J.A.C. 8:26-7.9.

2. A sodium-chloride test kit shall be provided to monitor the salt concentration of the pool water.

(f) Bromination, when used for disinfection, shall conform to the following rules:

1. A bromine test kit shall be provided to monitor the bromine concentration of the pool water.

2. Brominator equipment rooms shall be constructed and ventilated as required in N.J.A.C. 8:26-3.20(c).

(g) Slurry feeders for the addition of pre-coat material, pH adjustment, coagulants and corrosion control chemicals may be used, provided they are approved by the National Sanitation Foundation or its equivalent.

(h) Other disinfecting materials or methods maybe accepted by the health authority when they have been adequately demonstrated to provide a satisfactory residual effort which is easily measured and equally as effective in conditions of use as the chlorine concentration specified in N.J.A.C. 8:26-7.9 and not dangerous to public health, not creating objectionable physiological effects, and not imparting toxic properties to the water. (See N.J.A.C. 8:26-7.)

(i) Combustible chemicals shall be stored away from water, cleaning solutions, and organic materials which may cause fire or explosion. "No smoking" signs shall be posted in areas where these chemicals are stored.

SUBCHAPTER 4. HOT TUBS AND SPAS

8:26-4.1 General provisions

(a) Hot tubs, spas, whirlpools and hydrotherapy pools shall be constructed, maintained, and operated in accordance with the applicable provisions found within this Subchapter and as indicated in N.J.A.C. 8:26-3.

8:26-4.2 General construction and design

(a) The maximum water depth of the hot tub or spa shall be 4 feet (1.22 meters) measured from the water line. Exceptions may be made for pools designed for special purpose, such as, instruction, treatment and therapy.

(b) The maximum depth of any seat or sitting bench in the spa shall be 2 feet (61 centimeters) measured from the water line.

(c) Hot tubs and spas shall be provided with a suitable handhold around their perimeter in areas where the water depth exceeds 3 feet 6 inches (1.07 meters). Handholds shall be provided no further apart than 4 feet (1.22 meters) and may consist of any one or a combination of the following:

1. Coping, ledges, radiused flanges, or decks along the immediate top edge of the pool providing a suitable slip-resistant handhold located not over 12 inches (30 centimeters) above the water line.

2. Ladders, steps or seat ledges.

3. A railing placed at or not over 12 inches (30 centimeters) above the water line fastened to the wall.

(d) The slope of the hot tub or spa floor shall not exceed 1 foot (30 centimeters) of fall in 12 feet (3.6 meters).

(e) There shall be no protrusions, extensions, means of entanglement of other obstructions which can cause entrapment or injury to the bather.

(f) Steps, ladders or recessed treads shall be provided where pool depths are greater than 24 inches (61 centimeters).

(g) Hot tubs and spas shall be equipped with at least one handrail (or ladder equivalent) for each 50 feet (15.2 meters) of perimeter, or portion thereof, to designate the point of entry and exit.

(h) The design and construction of hot tub and spa steps (including recessed steps) when required, shall conform to the following:

1. Step treads shall have a minimum unobstructed tread depth of 10 inches (25 centimeters) for a minimum width of 12 inches (30 centimeters).

2. Riser heights shall not be less than 7 inches (18 centimeters), nor greater than 12 inches (30 centimeters). When the bottom tread serves as a bench or seat, the bottom riser may be a maximum of 14 inches (35 centimeters).

3. The first and the last risers need not be uniform but must comply with riser height requirements as noted in N.J.A.C. 8:26-4.2h2 above. The first (top) riser is measured from the finished deck.

4. Intermediate risers, those between the first and last risers, shall be uniform in height.

5. Step treads shall have slip-resistant tread surfaces.

6. Each set of steps shall be provided with at least one handrail to fully serve all treads and risers.

7. Seats or benches may be provided as part of the steps.

(i) Handrails shall be anchored in such a way that they can only be removed with tools.

1. The leading edge of handrails facilitating spa exit shall be located within 18 inches (45.7 centimeters) plus or minus 3 inches (7.6 centimeters), horizontally measured from the vertical plane of the bottom riser.

(j) The design and construction of spa ladders, when required, shall conform to the following:

1. Ladders shall be made entirely of corrosion-resistant materials.

2. Ladder treads shall have slip-resistant tread surfaces.

3. Ladder designs shall provide two handholds or handrails to fully serve all treads.

4. The maximum outside diameter of handrails shall be 1.9 inches (4.8 centimeters) and a minimum of 1 inches (2.5 centimeters).

5. There shall be a clearance of not more than 6 inches (15 centimeters) nor less than 3 inches (7.6 centimeters) between any ladder and the tub or spa wall.

(k) The design and construction of recessed treads, when provided, shall conform to the following:

1. Stepholes at the centerline shall have a uniform vertical spacing of 12 inches (30 centimeters) maximum and 7 inches (17.5 centimeters) minimum.

2. Maximum vertical distance between the coping edge and the uppermost recessed tread shall be 12 inches (30 centimeters).

3. Stepholes shall have a minimum tread depth of 5 inches (13 centimeters) and a minimum tread width of 12 inches (30 centimeters).

4. Step hole treads shall drain into the tub or spa to prevent the accumulation of dirt thereon.

5. Each set of recessed treads shall be provided with two handrails to fully serve all treads and risers.

8:26-4.3 Decks: construction and design

(a) Decks shall be in conformance with the requirements for swimming pool decks and found at N.J.A.C. 8:26-3.10, and as follows:

1. Decks, ramps, and similar surfaces, including step treads and coping, shall be slip-resistant. The roughness or irregularity of such surfaces shall not cause injury or discomfort under intended use.

2. A 4 foot wide minimum continuous unobstructed deck, which may include the coping, shall be provided around 50 percent or more of the hot tub or spa.

3. Decks shall be edged, radiused or otherwise relieved so as not to present exposed sharp corners.

8:26-4.4 Heater and temperature requirements

(a) The maximum temperature of the hot tub or spa water shall be 104 degrees Fahrenheit (40 degrees centigrade).

(b) A thermostatic control for the water temperature shall be installed and maintained in good operating condition.

(c) An audible alarm to warn users and management and an automatic safety to shut off heater when the temperature exceeds 104 degrees Fahrenheit (40 degrees C) shall be provided.

(d) A thermometer visible to the public shall be provided.

8:26-4.5 Electrical, illumination and ventilation requirements

All electrical wiring, illumination and ventilation shall comply with the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

8:26-4.6 Protection of potable water

(a) Physical connections between potable water systems and pool circulation systems shall not be permitted.

(b) Potable water for hot tub or spa make-up purposes shall be added by way of an over-the-rim spout properly shielded which does not create a safety hazard. The open end of the spout shall have no sharp edges and protrude no more than 2 inches (5.1 centimeters) beyond the edge of the hot tub or spa.

(c) An alternate method of adding make-up water may be employed, with the approval of the health authority.

8:26-4.7 Inlets and outlets

(a) Inlets and outlets shall be provided and arranged to produce a uniform circulation of water so as to maintain a uniform disinfectant residual throughout the spa.

(b) A means shall be provided to drain hot tub or spa which may include: bottom drains, circulatory drains, or any other approved drain.

(c) Grates shall conform to the following rules:

1. The total velocity through grate openings shall not exceed 2 feet per second (61 centimeters/second).

2. The open area in the grates shall be of such design as to prevent physical entrapment of fingers, toes, etc.

3. Outlets, except skimmers, shall be covered with suitable protective grates that cannot be removed except with tools.

(d) Water velocity in the pool piping shall not exceed 10 feet per second (3.05 meters/second) for discharge piping, except for copper pipe, where the velocity for piping shall not exceed 8 feet per second (2.44 meters/second).

1. Suction velocity for all piping shall not exceed 6 feet per second (1.83 meters/second).

2. Water velocity in asbestos cement pipe shall not exceed 6 feet per second (1.83 meters/second).

(e) Spa outlets shall be designed so that each pumping system (filter system(s) or booster system(s)), if so equipped, provides one of the following:

1. Two outlets whose pipe diameter sizes are equal, (This may be two outlet drains or an outlet drain and a skimmer. The system shall be designed so that neither one of the two outlets can be cut out of the suction line by a valve or other means) or;

2. One antivortex drain, (in depths 4 feet 6 inches (137 meters) and less, the antivortex drain shall not provide a tripping or stubbing hazard to the feet.); or

3. A 12 inch x 12 inch (30 centimeters x 30 centimeters) or larger square grate, or;

4. Other approved means that guard against outlet entrapment.

8:26-4.8 Circulation systems

(a) The circulation equipment shall be sized to turn over the entire pool water capacity at least once every 30 minutes and shall be capable of returning the pool water to a turbidity of 0.50 NTU's or equivalent within 4 hours following the peak bather load.

(b) An influent pressure gauge with an appropriate range shall be provided on all filters.

(c) A flow meter shall be provided which meets the requirements outlined in N.J.A.C. 8:26-3.15(g).

(d) Filters shall be designated to maintain hot tub or spa water under anticipated operating conditions in accordance with (a) above.

1. All separation tanks must have a cautionary statement warning the user not to start up the filter pump without first opening the air release. The statement must be visible and noticeable within the area of the air release.

2. Piping furnished with the filter shall be of suitable material capable of withstanding three times the working pressure. The suction piping shall not collapse when there is a complete shut-off of flow on the suction side of the pump.

3. Filter components which require servicing shall be accessible and available for inspection and repair when installed according to the manufacturer's instructions.

4. Filters shall meet such safety and performance standards as will provide safe operation which is not hazardous to the operator or maintenance personnel. The National Swimming Pool Institute (NSPI) and/or National Sanitation Foundation (NSF) standards covering filters are recommended. (Information concerning these standards can be obtained from NSPI, 2111 Eisenhower Avenue, Alexandria, Virginia 22314 and/or NSF, National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106.)

5. A means shall be provided to permit release of air which enters the filter tank. This may be automatic or manual, as air must be expelled from the filter tank. Any filters and/or separation tanks incorporating an automatic internal air release as its principal means of air release shall have a means to provide a slow and safe release of pressure as a part of its design.

6. Filter backwash shall be disposed of in accordance with N.J.A.C. 8:26-6.5.

8:26-4.9 Pumps and strainers

(a) A pump and motor shall be provided for circulation of the hot tub or spa water and sized to meet the requirements of N.J.A.C. 8:26-4.8(a).

(b) Pumps shall be designed to perform the functions for which they are intended. Units must be accessible for inspection and service. Replacement parts must fit with existing parts in the pump without the need for redrilling mounting holes or otherwise altering the replacement part of the pump.

(c) The design and construction of the pump and component parts shall provide safe operation.

(d) Where a mechanical seal is provided, components of the seal must be corrosion-resistant and capable of operating under conditions normally encountered in hot tub or spa operation.

(e) Proper direction of rotation for the pump shall be clearly indicated on the pump.

(f) Motors shall have as a minimum, an open drip-proof enclosure (as defined by National Electrical Manufacturers Association Standards), constructed electrically and mechanically so it will perform satisfactorily and safely under the conditions of load and environment normally encountered in the hot tub or spa installation.

1. Motors shall be capable of operating the pump under full load with a voltage variation of at least 10 percent from nameplate rating. If the maximum service factor of the motor is exceeded (at full voltage), the manufacturer shall indicate this on the pump curve.

2. All motors shall have thermal overload protection, or equivalent, either built in or in the line starter, to provide locked rotor and running protection.

3. The motor frame shall contain adequate provisions for proper grounding.

(g) Strainers shall be provided on all filter systems. Strainers shall be removable and shall be up stream from all circulation pumps (a) to remove solids, debris, hair, lint, etc.

1. Water entering the pump shall pass through the strainer.

(h) Valves shall be located where they will be readily and easily accessible for maintenance and removal.

1. Multiport valves shall comply with the joint National Swimming Pool Institute-National Sanitation Foundation Standard covering multi-port valves.

2. When the pump is below the overflow rim of the hot tub or spa, valves shall be installed on permanently connected suction and discharge lines and located in an accessible place outside the walls of the hot tub or spa.

8:26-4.10 Disinfectant and chemical feeders

(a) A means of disinfecting the hot tub or spa water shall be employed which provides a disinfecting residual in the hot tub or spa water. (Chlorine or chlorine compounds are most frequently used for this purpose but other bactericidal agents shall be acceptable if registered by the U.S. Environmental Protection Agency.)

(b) Adequate and appropriate procedures for continuously introducing a disinfectant into the recirculation system for hot tubs or spas shall be used. The means of introducing approved disinfecting agents shall be sufficient to maintain the appropriate disinfectant residual as required in 8:26-7.13.

8:26-4.11 Air induction systems

(a) An air induction system, when provided, shall totally prevent water back-up. NOTE: Water back-up can cause electrical shock hazards.

(b) Inducted air shall not introduce contaminants (such as deck water, dirt, etc.) into the hot tub or spa.

8:26-4.12 Overflow systems

(a) An overflow system shall be provided. The overflow system shall be designed and constructed so that the water level of the hot tub or spa is maintained at the operating level of the overflow device.

(b) When surface skimmers are used as the sole overflow system, one surface skimmer shall be provided for each 100 square feet (9.3 square meters) or fraction thereof of the hot tub or spa surface area. When two or more skimmers are used in a hot tub or spa, they shall be located to maintained effective skimming action over the entire surface area of the hot tub or spa.

8:26-4.13 Enclosure of hot tubs and spas

Hot tubs and spas shall meet the fencing and enclosure requirements for swimming pools found in the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

SUBCHAPTER 5. WATERFRONT SAFETY

8:26-5.1 Swimming pool supervision

(a) A swimming pool, when open for public use shall be under the management of a designated adult supervisor who is knowledgeable of these regulations and who shall be responsible for all phases of the operation.

(b) At least one person currently certified in standard first aid and cardiopulmonary resuscitation (CPR) shall be present at all times when the swimming pool is open for use. These certifications shall be from an organization recognized by the New Jersey State Department of Health. (See Appendix)

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(c) Within three years of the enactment of this chapter, a swimming pool, when open for use, shall be under the supervision of a certified pool operator. The certification of a pool operator shall be from an organization recognized by the New Jersey State Department of Health. (See Appendix)

(d) At least one lifeguard shall be on duty for 60 or less swimmers or 2,000 square feet of surface area in use at all times when the pool is in use. Additional lifeguards shall be required depending on bather load, size and configuration of the swimming pool, amount of surface area for shallow and deep water areas, emergencies, and lifeguard's ability to see bathers.

1. Each facility shall establish a written aquatics supervision plan to be implemented at the facility. This plan shall be maintained on site and will serve as the minimum standards for location and number of aquatic guards.

(e) All lifeguards, when on duty, shall be identified by distinguishing apparel, or emblems.

(f) Lifeguards assigned to supervision of the pool shall not be subject to duties that would distract or intrude their attention from proper observation of person(s) in the pool area, or that prevent immediate assistance to person(s) in distress in the water.

(g) Each lifeguard shall be equipped with a whistle or other signaling device.

(h) Management shall establish, rehearse, and become proficient in carrying out their written emergency plan to cover such items as pool evacuation in the event of an emergency.

(i) Lifeguard platforms or stands shall be provided for swimming pools having an area of more than 2,000 square feet of water surface. These lifeguard platform(s) or stand(s) shall be elevated and located at the water's edge so as to provide a clear unobstructed view of the pool surface and bottom.

8:26-5.2 Emergency equipment for swimming pools

(a) Swimming pools shall be provided with the following equipment, which shall be properly stored and readily accessible.

1. At least two assist poles or life hooks.

2. At least two life rings or rescue buoys or rescue tubes which are United States Coastguard and/or Red Cross approved. Each life ring shall be firmly attached with sufficient line (at least 1/4 inch in circumference) to reach 2/3 of the swimming area, and positioned so that in aggregate 100 percent of the swimming pool area is covered.

3. A 24 unit first aid kit (see Appendix) shall be available at all times during bathing periods and shall be fully restocked within 24 hours of use.

4. A full spine board complete with ties and/or straps that meets the design requirements of the American Red Cross or Emergency Medical Services.

5. Every swimming pool capable of accommodating 500 patrons or more shall have readily accessible a room or area designated and equipped for emergency care. A telephone or other approved means of communication shall be provided as close as possible to the lifeguard station for emergency use. Emergency numbers for the nearest rescue squad, physician, ambulance, police department, hospital, clinic, or other appropriate entity shall be posted in a weather resistant display, adjacent to the telephone.

8:26-5.3 Bather rules for swimming pools, wading pools, and hot tubs and spas

(a) Bather rules covering admission, bathing and conduct of patrons shall be conspicuously posted and shall include the following:

1. Any person showing evidence of skin disease, sore or inflamed eyes, cold, nasal or ear discharges or any communicable disease shall be refused admission.

2. Persons with excessive sunburn, open blisters, cuts or bandages shall be refused admission.

3. No dogs, except seeing eye dogs, or other animals shall be allowed in the pool hot tub or spa area, dressing rooms, or other parts of the enclosure.

4. Where food and drinks are permitted, no containers made of glass shall be used.

5. All persons shall shower before entering the water.

6. Expectoration, roughness, rowdyism, running or other conduct affecting the safety and comfort of others shall not be permitted.

7. Bathing shall be prohibited during an electrical storm.

8. Persons suspected of being under the influence of drugs or alcohol shall be prohibited from entering the water.

(b) The following policies shall be established and enforced by the supervisor of a pool, hot tub or spa in addition to (a) above.

1. Policies and procedures concerning toys and floating devices shall be established to assure a safe environment for the participating public.

2. Diving rules shall be established and conspicuously posted in words and symbols in the pool area.

3. Diving shall be prohibited in 5 feet of water or less. Diving and non-diving areas shall be conspicuously posted with signs and symbols.

8:26-5.4 Wading pool supervision

(a) A responsible individual, knowledgeable and trained in a program developed by the designated adult supervisor, shall be present when the wading pool is in operation.

(b) A wading pool operating independently and not in conjunction with a swimming pool shall have a person certified in standard first aid and basic life support present when the wading pool is in operation.

8:26-5.5 Water slides

(a) Supervision of the waterfront area of water slides shall be protected by a lifeguard as specified in N.J.A.C. 8:26-5.1 and as follows:

1. At least one person shall supervise the activities of the water slide. Additional supervision of the slide will be required based on the size and configuration of the slide and pool entry area.

(b) Water slides shall be used in accordance with the following:

1. Only feet first entries will be permitted on all water slides.

2. The landing area in front of the slide shall be prohibited for use by other individuals.

(c) Water slides shall not exit into the landing area more than 6 inches above the water surface, if the slide is located in the shallow end of the pool.

1. A slide shall not enter into less than 3 feet of water.

8:26-5.6 Hot tubs and spas

(a) Supervision of a hot tub or spa, when open for use, shall be provided by a designated adult supervisor, who is knowledgeable of these rules and shall be responsible for all phases of the operation, and as follows:

1. At least one adult currently certified in standard first aid and cardiopulmonary resuscitation (CPR) shall be present at all times when the spa is in use. These certifications shall be from an organization recognized by the New Jersey State Department of Health. (see Appendix).

2. Within 3 years of the promulgation of this chapter a hot tub or spa when open for use shall be under the supervision of a certified pool operator. The certification of a pool operator shall be from an organization acceptable to the New Jersey State Department of Health. (see Appendix).

(b) A precaution sign is to be mounted adjacent to the entrance to hot tub/spa and shall state the following:

CAUTION

—Pregnant women, elderly persons, those suffering from heart disease, diabetes, high or low blood pressure, or those using prescription medications should not enter this hot tub or spa without prior medical consultation and permission from their doctor.

—Unsupervised use by children is prohibited.

—Do not use while under the influence of alcohol, anticoagulants, antihistamines, vasoconstrictors, vasodilators, stimulants, hypnotics, narcotics, or tranquilizers.

—Do not use alone.

—Shower before entering the pool.

—Observe a 15 minute time limit, then shower, cool down and, if you wish, return for another brief stay. Long exposures may result in nausea, dizziness, or fainting.

(c) Depth markings in spas shall be plainly and conspicuously posted and located as follows:

1. Spas shall have the maximum water depth clearly marked.

2. Depth markings shall be positioned within 18 inches (46 centimeters) of the water edge.

3. Depth markings shall be positioned to be read while standing on the deck facing the water.

4. There shall be a minimum of two depth markings per spa, regardless of spa size or shape.

5. Depth markings, shall be spaced at no more than 25 foot (7.6 meters) intervals and shall be uniformly located around the perimeter of the spa.

6. Depth markings in deck surfaces shall be slip-resistant.

(d) Emergency equipment shall be provided by means of a 24 unit first aid kit (see Appendix), available at all times the hot tub or spa is open for use and shall be fully restocked within 24 hours of use.

(e) A clock readable from the hot tub or spa shall be provided. NOTE: A time with an audible signal is recommended, in addition to (e) above.

8:26-5.7 Bathing beaches

(a) Swimming areas shall be maintained in a clean and safe condition, free from rocks, holes, and hidden dangers. Any known hazard in the vicinity shall be properly safeguarded and posted.

(b) Each bathing beach shall be designated by means of water buoys. A neutral zone of 200 feet between the bathing area and watercraft activities, such as motorboats and sailboats, shall be maintained.

(c) A bathing beach open for use shall establish and post hours of operation and shall be under the direct supervision of a designated adult supervisor who is familiar with these regulations and who shall be responsible for all phases of the operation, during said hours which shall include a reasonable time period, such as 9:00 a.m. to 5:00 p.m., or similar time period, reflecting hours of maximum use.

1. A lifeguard training program, certified by the United States Life-saving Association, P.O. Box 366, Huntington Beach, California 92648, shall be established by the owner or operator for ocean and tidal waters.

2. At least one lifeguard for every 300 feet of visible shoreline shall be on duty at all times when the bathing beach is in operation. Additional lifeguards will be required depending on bather load, currents, tides, lifeguard's ability to see patrons, contour or slope of the beach or any other conditions that can cause changes in depth or condition of water.

3. Each bathing beach shall establish a written aquatics supervision plan. This plan shall be maintained on site and will serve as the minimum standards for number of aquatics guards necessary to supervise a designated bathing beach.

4. At least one person currently certified in standard first aid and cardiopulmonary resuscitation (CPR) shall be present at all times when the bathing beach is open for use. These certifications, shall be from an organization recognized by the New Jersey State Department of Health. (see Appendix).

5. All lifeguards, when on duty, shall be identified by distinguishing apparel or emblems.

6. Lifeguards assigned to supervise the bathing beach shall not be subject to duties that would distract or intrude their attention from proper observation of persons in the waterfront area, or that prevent immediate assistance to persons in distress in the water.

7. Each lifeguard shall be equipped with a whistle or other signaling device.

8. Management shall establish, and become proficient in carrying out their emergency plan to cover items as evacuation in the event of an emergency.

(d) Lifeguard stations shall be located as close as practical to the bathing shoreline and at least within 30 feet (9 meters) of the shoreline. Lifeguards shall be isolated from the beach crowds by occupying elevated slats or stands, high enough to give them a complete and unobstructed view of the bathing area for which they are responsible.

8:26-5.8 Bather rules for bathing beaches

Bather rules and policies shall be provided as specified in the regulations governing swimming pools at N.J.A.C. 8:26-5.3(a) 1, 2, 3, 4, 6, 7, 8.

8:26-5.9 Lifesaving equipment

(a) Lifesaving equipment shall be provided at each lifeguard station in case of an emergency. The equipment shall include, but not be limited to:

1. One ring buoy 18 inches (45 centimeters) in diameter or, a rescue tube or torpedo buoy, or similar device, to which shall be attached a 75 foot (23 meters) length of 1/4 inch (6 millimeter) rope.

2. A reach pole with blunted ends with a minimum length of 12 feet (3.7 meters).

3. A full spine board complete with ties and/or straps that meets the design requirements of the American Red Cross or Emergency Medical Services.

4. At 24 unit first aid kit (see Appendix) shall be available at all times during bathing periods and shall be fully restocked within 24 hours of use.

5. A telephone or other approved means of communication shall be provided as close as possible to the lifeguard station for emergency use. Emergency numbers for the nearest rescue squad, physician, ambulance, police department, hospital, clinic or other appropriate entity shall be posted in a weather resistant display adjacent to the telephone.

6. Every bathing beach capable of accommodating 500 swimmers and bathers shall have readily accessible a room or area designated and equipped for emergency care.

8:26-5.10 Diving stands and boards

(a) Diving stands and boards shall conform to the bather rules as specified in N.J.A.C. 8:26-5.3 governing swimming pools.

(b) Fixed platforms and floats may be permitted if constructed with a visible 1 foot (30.5 centimeters) air space below the platform or float. There shall be as little underwater construction as is consistent with strength and all braces and struts shall be designated to prevent entanglement or trapping of the bathers.

1. Fixed platforms and floats are not permitted for ocean, bay, or tidal waters.

2. The minimum water depth surrounding a diving platform without a diving board or similar device shall be at 8 feet (2.4 meters) for a distance of 12 feet (3.7 meters) from the platform. For a diving board or other device 3 or more feet (0.9 meters) above the water, the depth at the end of the board shall be at least 12 feet (3.7 meters) for a distance of 12 feet (3.7 meters) beyond the end of the board.

8:26-5.11 Waterfront restrictions

(a) Waterfront restrictions pertaining to swimming, boating, and safe limits for bathing shall be posted and include the following:

1. No motorized vehicles except emergency and maintenance vehicles shall be permitted in the bathing area during its use.

2. No boating, water skiing, sailboating, windsurfing, scuba diving or surfboarding shall be permitted in the swimming and bathing area while in use.

3. Rope drops shall not be permitted.

SUBCHAPTER 6. GENERAL SANITATION AND MAINTENANCE

8:26-6.1 General provisions

(a) A swimming pool, hot tub, spa or bathing beach shall be maintained in a clean, sanitary, and safe condition. The health authority may require a recreational bathing place to correct or eliminate any specific condition not described in these regulations but which it deems necessary for proper sanitation, safety, or fire protection at a recreational bathing place.

(b) Adequate dressing and sanitary facilities shall be provided for all bathing facilities unless the facilities are provided in connection with the general development for other purposes and are of adequate capacity and number and in close proximity to the swimming pool, hot tub, or spa. Beaches in existence at the time of the promulgation of these rules are exempt from this requirement; however, newly constructed bathing beaches shall be in compliance with this requirement.

8:26-6.2 Dressing rooms and bathhouses

(a) Dressing rooms and bathhouses shall be in conformance with the regulations set forth in the New Jersey Uniform Construction Code N.J.A.C. 5:23.

(b) Separate dressing and sanitary facilities shall be provided for each sex with no interconnection. Line of sight shall be broken at entrances and exits of dressing rooms. The rooms shall be well-lighted, drained, ventilated, and of good construction with impervious materials. These facilities shall be developed and planned so that good sanitation can be maintained throughout the building at all times.

(c) Floors shall have a slip-resisting surface that shall be relatively smooth to insure complete cleaning and ease in cleaning. Floor drains shall be provided, and floors shall be sloped not less than 1/4 inch per foot toward the drains to insure positive drainage.

(d) Walls and partitions of the dressing room area, screen partitions, shower, toilet, and dressing room booths shall be of durable material not subject to damage by water and shall be designed so that a waterway is provided between partitions and floor to permit thorough cleaning of the walls and floor areas with hoses and brooms.

8:26-6.3 Showers

(a) Showers shall be in conformance with the regulations set forth in the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

(b) Raised curbs or raised sills shall not be permitted between showers and walkways or at the entrance to shower stalls.

(c) Shower stall floors located adjacent to walkways shall be depressed below the level of the walkways.

(d) Floor drains shall be provided in the shower rooms or stalls and shall be at least twice the cross sectional area of the outlet pipe.

(e) Wood slats or floor material and slopes conducive to slipping shall not be permitted.

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8:26-6.4 Water closets and lavatories

(a) Water closets and lavatories shall be in conformance with the regulations set forth in the New Jersey Uniform Construction Code, N.J.A.C. 5:23

(b) Water closets shall be enclosed with noncorrosive partitions. There shall be sufficient space between the floor and partitions to permit washing.

(c) Fixtures shall conform to the following requirements.

1. Toilet tissue holders, supplied with tissues shall be provided at each toilet.

2. Suitable receptacles shall be provided for paper towels and waste materials. Such receptacles in toilet rooms for women shall be covered.

3. Common towels shall not be permitted.

4. Sanitary napkins dispensers shall be installed in toilet areas for use by females.

5. Soap dispensers for providing either liquid or powdered soap shall be provided at each lavatory. The dispenser must be of all metal or plastic type with no glass permitted in these units.

6. Only unbreakable mirrors shall be provided.

8:26-6.5 Wastewater disposal

(a) The system for wastewater disposal shall be adequate to serve the facility including bathhouse, locker room, and related accommodations.

(b) Sanitary sewage and filter backwash waters shall be disposed of without creating nuisances or sources of foulness.

(c) Over-flow water shall be returned to the filter system or discharged to a waste system.

(d) Backwash water shall be discharged into a waste water disposal system.

(e) All wastewaters shall be disposed of by one of the following approved methods.

1. Sanitary sewer: The discharge of any wastewater into a sanitary sewer shall have the approval of the appropriate sewer authority or the municipality that owns and/or operates the treatment system.

2. Natural waters: This discharge of any wastewater into the natural waters of the state shall not be allowed without a NJPDES permit issued by the State Department of Environmental Protection, Division of Water Resources, Bureau of Industrial Waste Management, CN 029, Trenton, New Jersey 08625.

3. Subsurface sewage disposal facilities: The location and construction of a subsurface sewage disposal system shall be in accordance with N.J.A.C. 7:9-2 (Standards for the Construction of Individual Subsurface Sewage Disposal Systems), the New Jersey Water Pollution Control Act Regulations (N.J.A.C. 7:14) and local laws, ordinances and regulations.

8:26-6.6 Solid waste disposal

(a) Solid waste shall be disposed of in accordance with the rules of the Solid Waste Administration (N.J.A.C. 7:26) promulgated by the Department of Environmental Protection, and any other applicable rules and regulations.

(b) All garbage and rubbish shall be stored in durable, fly tight, watertight containers, with a tight fitting lid unless the refuse is collected daily, whereby other suitable containers may be utilized.

(c) There shall be a sufficient number of containers to hold all of the garbage and rubbish which accumulates between periods of removal from the premises.

(d) Bulk storage facilities shall be sized adequately for the storage of all garbage and rubbish.

(e) Storage areas shall be clean, and shall not constitute a nuisance.

(f) All garbage and rubbish shall be disposed of at least twice a week, or at greater frequencies and in such a manner as to prevent a public health nuisance.

8:26-6.7 Potable water supply

The water supply used for drinking or culinary purposes shall be adequate as to quantity; of a safe, sanitary quality; and from a water system which is constructed, protected, operated, and maintained in conformance with the New Jersey Safe Drinking Water Act (N.J.S.A. 58:12A-1 through 12A-11 and N.J.A.C. 7:10) and local laws, ordinances and regulations. Copies of the Safe Drinking Water Act can be obtained by writing to the Department of Environmental Protection, Bureau of Potable Water, CN 029, Trenton, New Jersey 08625.

8:26-6.8 Drinking fountains

Drinking water fountains shall be constructed according to the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

8:26-6.9 Food service

All food service, and milk supplies shall comply with Chapter XII of the New Jersey State Sanitary Code, N.J.A.C. 8:24.

8:26-6.10 Plumbing

The installation, maintenance, repair and control of plumbing shall be in conformance with the regulations set forth in the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

8:26-6.11 Insect, rodent and weed control

(a) The application of pesticides shall be in accordance with the provisions of the New Jersey Pesticide Control Regulations (N.J.A.C. 7:30-1) promulgated by the Department of Environmental Protection.

(b) Effective control measures shall be utilized to minimize and/or eliminate the presence of rodents, flies, roaches, and other vermin on the premises. The recreational bathing place shall be kept in such condition as to prevent the harborage or breeding of vermin.

(c) All buildings shall be rodent and insect proofed. Storage areas shall be maintained in such a manner as to minimize the possibility of rodent harborage.

(d) Poison ivy, poison oak, poison sumac and ragweed shall be controlled at all times.

8:26-6.12 Recreational equipment

Recreation equipment, including playground devices, shall be inspected not less than once per week during the use season for defects and a permanent record of the inspections shall be maintained for a minimum period of 1 year. Equipment shall be maintained in safe operating condition at all times.

SUBCHAPTER 7. SAMPLING AND WATER QUALITY
CRITERIA

8:26-7.1 Water source

(a) Fresh water for swimming pool, wading pool, hot tub or spa use shall be taken from a potable water source, approved by the New Jersey Department of Environmental Protection, Division of Water Resources, the New Jersey State Department of Health, Division and Local and Community Health Services, Environmental Health Services or the Local Health Department.

(b) Salt water for use in salt water pools shall be from a source which meets the water quality criteria for a salt water bathing beach found in N.J.A.C. 8:26-7.19 and 7.21.

8:26-7.2 Microbiological sampling for recreational bathing facilities.

(a) All microbial analyses for recreational bathing facilities shall be performed by a laboratory certified by the New Jersey Department of Environmental Protection, pursuant to the Regulations Governing Laboratory Certification and Standards of Performance, N.J.A.C. 7:18. (Information concerning laboratory certification may be obtained from New Jersey Department of Environmental Protection, Division of Fiscal and Support Services, Bureau of Collections and Licensing, CN 402, Trenton, New Jersey 08625.)

8:26-7.3 Sample containers

(a) A 125 milliliter sample shall be used for microbiological sampling. The container shall be filled with a minimum of 100 milliliters of water to allow adequate space for mixing of the water sample. All sample containers must be sterilized and treated with sodium thiosulfate to reduce the chlorine (or other halogen) present in the water at the time the sample is collected.

8:26-7.4 Collection of samples for swimming pools, wading pools, hot tubs, and spas.

(a) Time of collection of samples shall be collected only when the swimming pool, wading pool, hot tub, or spa is in use and preferably during periods of heaviest use. The hour of the day and the day of the week shall be varied to obtain, over a period of time, a representative sampling of the sanitary quality of the swimming pool, wading pool, hot tub, or spa.

(b) Sampling frequency shall be at least once every week during periods of heavy bathing load.

1. For swimming pools using disinfection and filtration, sampling frequency may be changed to biweekly (every other week), based on three months of consecutive satisfactory samples.

(c) The place of collection shall be in the vicinity of groups of bathers and between return water inlets.

(d) The following technique shall be followed when taking a water sample: Carefully open the container without touching the inner surfaces. Hold the sterile container near its base and downward at a 45 degree angle. Fill in one slow sweep down through the water with the mouth of the container always ahead of the hand. Care shall be taken to avoid

contaminations of the sample by floating debris. Close the container without touching the inner surfaces. The container must not be rinsed in the swimming pool or the sodium thiosulfate will be removed.

8:26-7.5 Disposition of water samples from recreational bathing facilities

The sample shall be taken to a certified laboratory within 30 hours for processing, preferably within 6 to 12 hours. The sample shall be refrigerated immediately upon collection or kept in an ice chest and hold at least than 50 degrees Fahrenheit (10 degrees Centigrade) while being transported. Information documenting the sampling time, date and location of sample, sampler's identification, and desired analysis shall accompany the sample.

8:26-7.6 Microbiological water quality standards for swimming pools and wading pools

(a) Heterotrophic plate (standard plate count):

1. Standard: The number of colony forming units (CFU) shall not exceed 200 colonies per one milliliter.

i. Method: The heterotrophic plate count test shall be conducted in accordance with procedures set forth in Method 907, heterotrophic plate count, as set forth in "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, 16th Edition. Said text may be obtained from The American Public Health Association, 1015-18th Street N.W. Washington, D.C. 20036.

(b) Total coliform densities:

1. Standard: If the multiple-tube fermentation method is used, none of the 5 standard 10 milliliter portions shall show the presence of organisms of the coliform group at any time. None of the confirmed 5 portions shall show the presence of the coliform group.

i. Method: Total coliform tests shall be conducted in accordance with procedures set forth in Method 908, a multiple-tube fermentation technique for members of the coliform group, as set forth in "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, 16th Edition.

2. Standard: If the Membrane Filtration Technique is used, the number of coliform organisms shall be less than 1 colony per 100 milliliter sample.

i. Method: Total coliform test shall be conducted in accordance with the procedures set forth in Method 909A, a membrane filter technique for members of the coliform group as set forth in "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, 16th Edition.

8:26-7.7 Samples not meeting standards

(a) The certified laboratory having determined that a sample(s) does not meet the microbiological standards established in N.J.A.C. 8:26-7.6, 7.12, 7.19, shall notify the swimming pool, hot tub, spa, or bathing beach operator by telephone on the same day and have the swimming pool, wading pool, hot tub, spa, or bathing beach, resampled. The verbal communication must be subsequently confirmed by a written report within 5 days.

(b) The swimming pool, wading pool, hot tub, spa, or bathing beach operator, upon verbal notification of an unsatisfactory sample result, shall notify the health authority immediately.

(c) The health authority or its authorized agent shall then require the swimming pool, wading pool, hot tub, spa, or bathing beach operator to have additional sample(s) taken and analyzed.

8:26-7.8 Chemical and physical water quality analyses for swimming pools and wading pools

(a) The pool shall be monitored for disinfectant level and pH at a 2 hour frequency throughout operating hours and in conjunction with each microbial sample. These results shall be recorded on the sample slip and become part of the permanent microbial test record.

(b) When testing for free chlorine, combined chlorine, and pH, the following test methodologies shall be used:

1. Free and combined chlorine residual: Method 408D, DPD ferrous titrimetric method or Method 408E, DPD colorimetric (using a color comparator), as set forth in "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, 16th Edition.

(c) When testing for pH, Method 423, electrometric, as set forth in "Standard Methods for the Examination of Water and Wastewater," or phenol red indicator shall be used.

(d) If color comparators are used for measuring disinfectant residuals or pH using the methods specified above they shall be available at the pool for inspections.

(e) A bound log shall be maintained by the swimming pool operator on the premises which shall contain the time and date of the chemical tests performed, results of those tests and initials of the person who performed the necessary testing. The log shall also contain such information as bather load, water clarity, water temperature, and weather conditions as applicable. This log shall be available at all times for review by the health authority.

8:26-7.9 Chemical water quality standards for swimming pools and wading pools

(a) Free chlorine, combined chlorine, free bromine and pH values shall be continuously maintained within the following ranges:

	Minimum	Ideal	Maximum
Free chlorine residual			
parts per million (ppm)	1.0	1.0-1.5	2.5
Combined chlorine (ppm)	None	None	0.2†
Bromine (ppm)	2.0	2.0-4.0	4.0
pH	7.2	7.4-7.8	7.8

†Remedial action shall be taken if combined chlorine exceeds 0.2 as it will result in reduced chlorine efficacy.

(b) If pool water disinfectants other than those in (a) above are used, residuals of equivalent disinfecting strength shall be maintained.

(c) If stabilized chlorines are used as pool water disinfectants, the cyanuric acid levels shall be maintained within the following ranges:

	Minimum	Ideal	Maximum
Cyanuric Acid (ppm)	10	30-50	100

1. Stabilized chlorines shall be prohibited in indoor pools.

8:26-7.10 Physical water quality standards for swimming pools and wading pools

(a) The pool operator shall monitor the water clarity of each pool daily.

(b) When in use, the pool water shall be sufficiently clear to permit a black disk 6 inches (15.2 centimeters) in diameter, superimposed upon a white field placed at the bottom of the deepest end of the pool to be clearly visible from the pool sidewalk, at all distances up to 10 yards, measured in a horizontal distance from the projection of the disk onto the pool surface.

8:26-7.11 Saltwater swimming and wading pools utilizing ocean and/or bay water

(a) Salt water pools utilizing ocean and/or bay water typically having a total dissolved solids level between 18,000 and 35,000 parts per million shall be regulated as follows:

1. Fill and draw salt water pools shall be treated as a swimming pool and shall meet all of the microbiological, chemical, and physical standards for pools.

2. Flow through pools shall be treated as recreational bathing water and shall meet the microbiological and physical standards for recreational waters when sampled at the time and point where the water is discharged.

3. Sodium chloride added to pool waters when used in conjunction with electrolytic chlorine generators shall not constitute a salt water swimming pool.

(b) Saltwater pools shall be posted as such.

8:26-7.12 Microbiological water quality standards for hot tubs and spas

(a) Heterotrophic plate count:

1. Standard: The number of colony forming units (CFU) shall not exceed 200 colonies per 100 milliliter sample.

i. Method: Heterotrophic plate count shall be conducted in accordance with the procedures set forth in Method 907 heterotrophic plate count, found in, "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, 16th Edition.

(b) Pseudomonas aeruginosa:

1. Standard: If the membrane filtration technique is used, the number of pseudomonas aeruginosa organisms shall be less than 1 colony per 100 milliliter sample.

i. Method: The membrane filtration technique for pseudomonas aeruginosa shall be conducted in accordance with procedures set forth in Method 914C found in, "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, 16th Edition.

2. Standard: If the multiple-tube fermentation technique is used no more than 1 portion of all 5 standard 10 milliliter portions shall show

the presence of pseudomonas aeruginosa organisms at any time. None of the confirmed 5 portions shall show the presence of pseudomonas aeruginosa.

i. Method: The multiple-tube technique for pseudomonas aeruginosa shall be conducted in accordance with procedures set forth in Method 914D found in, "Standard Methods for the Examination for Water and Wastewater," American Public Health Association, 16th Edition.

8:26-7.13 Chemical water quality standards for hot tubs and spas.

(a) Hot tubs and spas shall be monitored at a two hour frequency for disinfectant levels and pH according to the methodologies specified in N.J.A.C. 8:26-7.8.

(b) A bound log shall be maintained as specified in N.J.A.C. 8:26-7.8(e).

(c) The following disinfectant levels and chemical values shall be continuously maintained within the following ranges.

	Minimum	Ideal	Maximum
Free chlorine residual			
parts per million (ppm)	1.0	1.0-1.5	2.5
Combined Chloride (ppm)	None	None	0.2†
Bromine (ppm)	2.0	2.0-4.0	4.0
Combined Bromine (ppm)	None	None	0.2†
pH	7.2	7.5	7.8

†Remedial action shall be taken if combined chlorine or combined bromine residuals exceed 0.2 ppm as it will result in reduced disinfectant efficacy.

(d) If other pool water disinfectants are used, residuals of equivalent disinfecting strength will be maintained.

(e) If stabilized chlorines are used as disinfectants in hot tubs and spas, the cyanuric acid level shall be maintained within the following range:

	Minimum	Ideal	Maximum
Cyanuric Acid	10	30-50	100

1. Stabilized chlorines shall be prohibited in indoor hot tubs and spas.

8:26-7.14 Other biological factors (algae)

All hot tubs and spas shall be maintained free of objectionable algae whereby the water quality becomes effected.

8:26-7.15 Physical water quality

The operator of each hot tub or spa shall monitor the water clarity as specified in N.J.A.C. 8:26-7.10.

8:26-7.16 Sanitary survey criteria for bathing beaches

Before a bathing beach opens each year, a sanitary survey as defined in N.J.A.C. 8:26-1.3 shall be conducted of that bathing beach and surrounding areas by the owner or operator.

NOTE: It is recommended that the health authority be consulted for guidance in conducting the sanitary survey. Records of the survey shall be maintained as part of the permanent file.

8:26-7.17 Collection of samples at bathing beaches

(a) Bathing beach water, with the exception of ocean waters, sample(s) shall be obtained 1 week prior to the opening of the beach and at intervals of no longer than 1 week during the bathing season. Sample(s) shall be obtained whenever possible during peak bathing loads at a depth representative of the water being used for bathing.

1. Ocean waters shall be sampled in accordance with the cooperative coastal monitoring program administered by the New Jersey Department of Environmental Protection.

2. The samples shall be obtained during different hours of the day, and days of the week over a period of time to obtain a representative sampling of the sanitary quality of the natural waters.

3. All pertinent field data including, but not limited to water temperatures, air temperature, wind direction, bathing load, and recent precipitation shall be documented and made part of the sampling record.

(b) One sample shall be taken for the first 300 linear feet of beach front. Oceans under the cooperative coastal monitoring program are not included.

1. Additional samples shall be required as follows:

i. 300 linear feet to 500 linear feet—2 samples.

ii. In excess of 500 linear feet—3 samples.

8:26-7.18 Technique of sampling

Technique of sampling shall be as specified in N.J.A.C. 8:26-7.4(d).

8:26-7.19 Microbial water quality standards

(a) Microbiological water quality standards for bathing beaches shall be determined on the basis of fecal coliform densities, sanitary survey results, and/or epidemiological evidence.

(b) Fecal coliform count standards shall be as follows:

1. If the multiple-tube fermentation method is used, the arithmetic average of a set of samples at any particular time shall not exceed 200 fecal coliform per 100 milliliters.

2. If the membrane filtration method is used, the number of colony forming units shall not exceed 200 fecal coliform organisms per 100 milliliters.

(c) The following methods shall be used in accordance with procedures set forth in, "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, 16th Edition.

1. 909C Fecal Coliform Membrane Filter Procedure.

2. 908C-1 Fecal Coliform MPN Procedure (E.C. medium)

3. 908C-2 Fecal Coliform MPN Procedure (A-1 medium).

(d) All analyses shall be conducted in accordance with the standards set forth in N.J.A.C. 7:18 and in accordance with the methodologies set forth in N.J.A.C. 7:18-3.5(b).

8:26-7.20 Samples not meeting standards for bathing beaches

(a) The certified laboratory having determined that a sample(s) does not meet the standards established in N.J.A.C. 8:26-7.1 et seq. shall notify the health authority by telephone on the same day.

(b) The verbal communication must be subsequently confirmed with a written report within 5 days.

(c) The health authority or its authorized agent shall then notify and require the operators to have an additional sample(s) taken and analyzed as needed.

8:26-7.21 Chemical water quality standards of natural waters

(a) Chemical water quality standards of natural waters shall be monitored by the bathing beach operator and judged on the following basis:

1. Chemicals used to control aquatic vegetation shall not be capable of creating toxic reactions, or skin or membrane irritations, to bathers when the bathing place is in operation and shall be applied in accordance with N.J.A.C. 8:26-6.11(a).

2. The recommended pH of bathing waters should be within the range of 6.5 to 8.3 where possible.

3. Where toxic substances are suspected or known to be present, analysis of the bathing beach water shall be conducted by a laboratory certified by the New Jersey Department of Environmental Protection to determine the identity and amount of toxic substances present. The New Jersey Department of Environmental Protection Water Quality Standards for Surface Water Quality shall be used N.J.A.C. 7:9-4.1 et seq.

8:26-7.22 Physical water quality standards of natural waters

(a) Physical water quality standards of natural waters shall be monitored by the bathing beach operator and judged on the following basis:

1. Visual observations and/or physical determinations shall be made to demonstrate the water to be free of deposits, aquatic vegetation, growths, oils, greases, or other substances having the potential to cause a health or safety hazard.

SUBCHAPTER 8. ENFORCEMENT PROCEDURES

8:26-8.1 Legal authority

All public swimming pools, wading pools, hot tubs, spas, or bathing beaches shall be operated in compliance with the provisions of this Chapter and Title 26, Revised Statutes of New Jersey.

8:26-8.2 Inspection of public swimming pools, hot tubs, spas or bathing beaches.

(a) The health authority shall inspect every swimming pool, wading pool, hot tub, spa, or bathing beach as often as the health authority deems necessary.

(b) The person operating a swimming pool, wading pool, hot tub, spa, or bathing beach shall permit access to all parts of the establishment.

8:26-8.3 Report of inspections

(a) Whenever an inspection of a swimming pool, hot tub, spa, or bathing beach is made, the finding(s) shall be recorded on an inspection report form approved by the State Department of Health.

(b) The inspection report form shall identify in a narrative form any violations of this Chapter and shall be cross referenced to the section of the Chapter being violated.

(c) The health authority, upon anticipating a closure of a bathing beach shall immediately notify via telephonic communication the State Department of Environmental Protection, State Department of Health, and adjacent local health authorities of the intended action.

8:26-8.4 Public availability of inspection records

Records of inspections of swimming pools, hot tubs, spas, or bathing beaches shall be made available to the public upon request.

8:26-8.5 Criteria for closure of public recreational bathing facilities.

(a) The approval, license or permit of any person to operate a swimming pool, hot tub, spa or bathing beach may be suspended at any time, when in the opinion of the health authority or its authorized agent, such action is necessary to abate a present or threatened menace to public health.

(b) The health authority shall order the owner or operator of a swimming pool, hot tub, spa, or bathing beach to physically sequester the bathing area and to prohibit any bathing until the violation is abated.

(c) The following shall be reason(s) for closure.

1. Failure or lack of properly functioning equipment, structure, area or enclosure such as to jeopardize the health or safety of the persons using or operating it.

2. Lack of required supervisory personnel or required lifeguards.

3. Failure to meet specific water quality standard(s).

4. Any other condition which poses an immediate health hazard.

(d) Such orders may be verbal but shall be followed-up by a written confirmation within 24 hours.

1. In the event remedial action is not taken immediately, the health authority may cause an order to be issued requiring the facility to be closed in order to protect the public health. Such order shall be sent by certified mail, return receipt requested or hand delivered.

i. The order shall given the alleged violator an opportunity to be heard within a reasonable time, not to exceed 15 days, while the order remains in effect.

8:26-8.6 Swimming pools and wading pools

(a) Whenever a sample of pool water exceeds the bacteriological standards set forth in N.J.A.C. 8:26-7.6 and 7.11, the water shall be resampled immediately and the health authority shall be verbally notified immediately, upon gaining knowledge of all unsatisfactory laboratory analyses.

(b) If the resample exceeds the bacteriological standards, the pool shall be immediately closed and shall not be opened until a satisfactory bacteriological sample is received.

(c) A written copy of all laboratory analyses shall be transmitted to the health authority within 5 days of analyses.

(d) The swimming pool shall not be operated for bathing if the disinfectant residual is below or above that set forth in N.J.A.C. 8:26-7.9 or if the physical water quality is not in conformance with 8:26-7.8.

8:26-8.7 Hot tubs or spas

(a) Whenever a hot tub or spa water sample exceeds the bacteriological standards set forth in N.J.A.C. 8:26-7.12, the hot tub or spa shall be closed, drained, disinfected, refilled, and resampled and the health authority shall be immediately notified.

(b) The hot tub or spa may be reopened after taking the required actions in (a) above and while awaiting laboratory results of the resampling.

(c) If the resample is unsatisfactory the hot tub or spa must again be closed, drained, disinfected, refilled, resampled, and the health authority shall be immediately notified. The hot tub or spa shall not be reopened until a satisfactory sample result is received and the health authority gives its approval.

(d) The hot tub or spa shall not be operated for bathing if the disinfectant residual is not within the range set forth in N.J.A.C. 8:26-7.13.

(e) A written copy of all laboratory analyses shall be transmitted to the health authority within 5 days of the analyses.

8:26-8.8 Natural bathing waters (oceans, bays, lakes, rivers, etc.)

(a) If a sample of bathing beach water exceeds the bacteriological standards set forth in N.J.A.C. 8:26-7.19 the following action shall be taken:

1. Immediately resample and immediately notify the health authority.

i. Sampling points for resamples shall be clustered around the area from which the unsatisfactory sample was obtained. Said sampling points shall be approved by the health authority.

2. A sanitary survey of the area shall be conducted by the health authority and the operator of the bathing beach to attempt to identify the source(s) of pollution which shall include, but not be limited to, nearby point sources of pollution.

3. If the resample is unsatisfactory, or if the sanitary survey uncovers any condition which may present an imminent hazard to public health, the bathing beach shall be closed to bathing.

4. If the overall water quality data indicates that an area exceeds the bathing water bacteriological quality standards as a consequence of certain environmental conditions, that bathing area shall be kept closed for a period of time following those environmental conditions as indicated by past sampling data.

5. A bathing beach shall not be opened until the sanitary survey and, if necessary, appropriate sampling, shows the water to be acceptable.

8:26-8.9 Record keeping

(a) Accurate and complete records on the following items shall be kept on the premises and be available upon request of the authorized agent or the health authority. Such records shall be kept for a minimum period of one year.

1. Water analyses results in conformance with N.J.A.C. 8:26-7.

2. Sanitary survey records in conformance with N.J.A.C. 8:26-7.

3. Daily number of bathers.

4. Copies of all necessary credentials of personnel associated with the recreational bathing operation(s).

5. Accidents requiring external emergency services—patients name, time, date, description of occurrence, treatment, action taken, and name of person on duty supervising pool.

6. Deaths and/or drownings. The record shall include the name of the person, the date, and a description of the occurrence.

7. Inspection logs of playground equipment.

8:26-8.10 Deaths and/or serious injuries

All deaths, head, neck, spinal cord injuries and any injury which render a person unconscious shall be reported to the health authority within 24 hours of occurrence. The health authority shall report such injuries to the State Health Department in January of each year for the injuries of the previous year.

8:26-8.11 Penalties

Any person who shall violate any provision of this Chapter or who shall refuse to comply with a lawful order or directive of the health authority, shall be liable for penalties as provided by law, or an injunctive action as provided by law, or both.

8:26-8.12 Separability

If any provision or application of any provision of this Chapter is held invalid, that invalidity shall not affect other provisions or applications of this regulation.

APPENDIX

The following organizations are currently recognized by the New Jersey State Department of Health to certify the personnel required in Subchapter 5 of these regulations.

First Aid Certification

American Red Cross

CPR Certification

American Red Cross

American Heart Association

Lifesaving/Lifeguarding Certification

Swimming Pools and Lake Bathing

American Red Cross—Advanced lifesaving certificate

Lifeguarding certificate

YMCA—

Advanced lifesaving certificate

Lifeguarding certificate

Ocean and Tidal Waters

United States Lifesaving Association

P.O. Box 366

Huntington Beach, CA 92648

Certified Pool Operators Certification

YMCA

National Swimming Pool Foundation

10803 Gulfdale

Suite 300

San Antonio, Texas 78216

24 UNIT FIRST AID KIT CONTENTS

- 2 Units—1 inch Adhesive Compress
- 2 Units—2 inch Bandage Compress
- 2 Units—3 inch Bandage Compress
- 2 Units—4 inch Bandage Compress
- 1 Unit—3 inches by 3 inches Plain Gauze Pads
- 2 Units—Gauze Roller Bandage
- 1 Unit—Eye Dressing Packet
- 4 Units—Plain Absorbent Gauze—1/2 square yard
- 3 Units—Plain Absorbent Gauze—24 inches by 72 inches
- 4 Units—Triangular Bandages
- 1 Unit—Tourniquet—Scissors—Tweezers

HUMAN SERVICES

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

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

For proposals numbered PRN 1986-179, 181 and 183, submit comments by June 18, 1986 to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN-712
Trenton, NJ 08625

(a)

Independent Clinic Services Manual Fees for Transportation Services

Proposed Amendment: N.J.A.C. 10:66-3

Authority: N.J.S.A. 30:4D-6b(3)(15), 7, 7a, 8b; 42 CFR 431.53, 42 CFR 440.170(a).

Proposal Number: PRN 1986-181.

The agency proposal follows:

Summary

The proposed amendment concerns transportation services provided by independent clinics who own their own vehicles to transport Medicaid patients to and from providers of medical services.

The Division currently uses the HCPCS (Health Care Financing Administration Common Procedure Coding System) Procedure Codes to reimburse fee-for-service providers. The HCPCS procedure codes for independent clinics are referenced, but not reproduced at N.J.A.C. 10:66-3. The specific procedure codes affected by this proposal are Z0330 and Z0335 as indicated by the text below.

The current reimbursement rate for a one-way trip is \$3.75 per Medicaid patient, the round trip rate is \$7.25 per Medicaid patient. The proposed amendment is intended to increase the one-way trip to \$4.50 and the round trip to \$9.00 per Medicaid patient. Reimbursement is limited to one round trip per day for the same patient when the ride(s) is provided by the same provider. Only those independent clinics which have been specifically approved by the New Jersey Medicaid Program to provide transportation services may be reimbursed for transportation.

The proposed increase is designed to be comparable with the fee increase that was granted to providers of ambulance and invalid coach. The rule was adopted by the Department of Health at 17 N.J.R. 1637(a), with an effective date of September 16, 1985.

It should be noted that the federal regulations cited above require that states provide transportation (when necessary) for Medicaid patients in order for them to obtain medical examinations and treatment.

Social Impact

The amendment impacts upon those independent clinics that have been approved to provide transportation services.

The amendment will enable Medicaid patients who require clinic services to receive necessary transportation.

Economic Impact

The proposed fee increase will cost the Division an additional \$200,000.00 (approximately) per calendar year. This figure includes both federal and state monies.

The proposal will impact on clinic-based transportation providers, who will receive a fee increase. The impact on an individual provider will vary, depending on the number of Medicaid patients being transported.

There is no cost to the Medicaid patient for this service.

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

OFFICE OF ADMINISTRATIVE LAW NOTE: The full text of HCFA Common Procedures Coding System as it appears in the Independent Clinic Services Manual has not been printed in the New Jersey Register, but is available from the Administrative Practice Officer (listed above) and at each Medicaid District Office.

10:66-3.2 [HCPCS CODES FOR INDEPENDENT CLINIC SERVICES] HCPCS CODE NUMBERS AND MAXIMUM FEE SCHEDULE

HCPCS IND CODE MOD	FOLLOW UP DAYS	MEDICAID DOLLAR VALUE		
		S	\$	NS
(a) through (l) (No change.)				
(m) Other Services				
L Z0330			[3.75]	[3.75]
			4.50	4.50
L Z0335			[7.25]	[7.25]
			9.00	9.00

APPENDIX A

INDEPENDENT CLINIC SERVICES

Codes and Narratives Not Found in CPT-4 (Level II and Level III Codes)

HCPCS IND CODE MOD	DESCRIPTION	FOLLOW UP DAYS	MEDICAID DOLLAR VALUE		
			S	\$	NS
(a) through (l) (No change.)					
(m) Other Services					
Z0330	Transportation, one way (One way applicable when clinic transports the recipient either to or from the clinic in any one day.)			[3.75]	[3.75]
				4.50	4.50
Z0335	Transportation, round trip (Reimbursement is limited to one round trip per day for the same recipient by the same provider.)			[7.25]	[7.25]
				9.00	9.00

(b)

Chiropractic Manual Chiropractic Services; Chiropractor Billing Procedures

Proposed Readoption: N.J.A.C. 10:68

Proposed Amendments: N.J.A.C. 10:68-2.2, 2.5, 2.6, 2.7

Authority: N.J.S.A. 30:4D-6b(a), 7, 7a, 7b.

Proposal Number: PRN 1986-183.

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 10:68, entitled Manual for Chiropractic Services, expires on July 9, 1986. This proposal is designed to readopt both the Service Subchapter (One) and the Billing Procedures Subchapter (Two) of the Manual for Chiropractic Services.

Chiropractic services are those services which are limited to manual manipulation of the spine and provided personally by the chiropractor, who must be licensed by the New Jersey State Board of Medical Examiners. Chiropractors practicing in states other than New Jersey are not eligible to participate in the New Jersey Medicaid Program.

Subchapter One contains definitions and describes the scope of services that are available to New Jersey Medicaid patients, which includes physical medicine and rehabilitation services, such as physical therapy, occupational therapy, and speech-language therapy and other restorative services provided for the purpose of attaining maximum reduction of physical or mental disability and restoration of the patient to his or her best possible functional level. Subchapter One also describes record keeping policies, basis of payment, and prescription policies. There is no change proposed in the text of Subchapter One associated with this readoption.

Subchapter Two describes the billing procedures that must be followed by chiropractors when submitting a claim to the New Jersey Medicaid Program. There are some amendments to Subchapter Two associated with this readoption.

The current text of the rule indicates that claims are submitted on the HCFA-1500 claim form. This amendment was effective on July 9, 1981 as R.1981 d.249. Sections 2.5 and 2.7 are being amended to indicate that the claim form is now labeled 1500 N.J. Ed. 11-82. The rule also informs chiropractors to check the patient's validation stub when services are rendered to insure current eligibility, to obtain prior authorization when appropriate, and to submit claims timely.

The current text of Section 2.2 indicates that chiropractors must submit claims within 90 days from date of service. This section is being amended to refer the reader to a central source, N.J.A.C. 10:49-1.12. However, there is no change in the filing requirement. Follow-up inquiries must be made within 180 days. The list of Medicaid District Offices (MDOs) in Section 2.6 is being amended to refer the reader to N.J.A.C. 10:49-1, Appendix A, which is the current list of MDOs. The first two digits and their respective counties is being retained. Addresses listed in Section 2.7 and Section 2.8 have been updated.

An administrative review has been conducted and a determination made that the rules should be continued because both Subchapters are necessary, adequate, reasonable, efficient, understandable and responsive for the purpose for which they were intended. The rules describe the services that are available and the proper method for chiropractors to bill Medicaid.

Social Impact

The rules apply to all Medicaid patients who need chiropractic services. The rules also apply to chiropractors who need to know the proper method of submitting a claim when treating a Medicaid patient.

The rules should be continued so Medicaid patients can receive chiropractic services, and the chiropractors can be reimbursed accordingly.

Economic Impact

The Division spent approximately \$250,000 (federal-state share combined) in State Fiscal Year 1984 and again in State Fiscal Year 1985 for chiropractic services.

Chiropractors are reimbursed on a fee-for-service basis.

There is no cost to the Medicaid patient.

Full text of the proposed readoption may be found at N.J.A.C. 10:68.

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

10:68-2.2 General policy

[Billing should be done on a monthly basis. Claims for payments of services must be received not later than 90 days following the last date of service as indicated on the claim.]

(a) **Claims for payment of services and follow-up inquiries must be made within the time periods for non-institutional providers as specified in N.J.A.C. 10:49-1.12.**

(b) [For purposes of this time limitation,] A claim is a submission in writing which indicates a request for reimbursement in connection with medical services of a specified nature furnished to an eligible recipient. If a claim, as defined above, is received within the time limit specified in N.J.A.C. 10:49-1.12, the claim is considered to be filed timely, even though additional information is supplied after the time limitations.

10:68-2.5 Combination Medicare/Medicaid claims

Services covered under Medicare rendered by noninstitutional providers to a Medicare/Medicaid eligible person shall be billed on the Health Insurance Claim Form [HCFA-1500] **1500 N.J.**, and the claims sent directly to the Medicare [intermediary] **Carrier**, Prudential, Medicare B Division, [Post Office Box 6500, Millville,] **P.O. Box 2222, Linwood, New Jersey [08332] 08221.** The provider must record the medical in-

surance claim number in item 6 and the [New Jersey Health Services] **Health Services Program (HSP) (Medicaid)** case and person number in item 8 on the [Form HCFA-1500] **claim form.**

10:68-2.6 Directory of [Local] Medicaid District Offices (MDO)

(a) The following is a list of [local medicaid assistance units] **Medicaid District Offices**, their county of location, and their county(ies) of jurisdiction[, their addresses and telephone numbers]. It should be noted the first two digits of the patient's Health Services Program case number indicates which MDO has jurisdiction in processing prior authorization requests. **The complete address and telephone number of each MDO appears at N.J.A.C. 10:49-1, Appendix A.**

1st Two Digits on HSP Case	County
01	Atlantic
02	Bergen
03	Burlington
04	Camden
05	Cape May
06	Cumberland
07	Essex
08	Gloucester
09	Hudson
10	Hunterdon
11	Mercer
12	Middlesex
13	Monmouth
14	Morris
15	Ocean
16	Passaic
17	Salem
18	Somerset
19	Sussex
20	Union
21	Warren

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

10:68-2.7 Health Insurance Claim Form [HCFA-1500] **1500—N.J.**

(a) This form is used for the purpose of billing for covered services of physicians, podiatrists, optometrists, psychologists, and chiropractors. [Billing should be done on a monthly basis and submitted for payment as soon after the end of the month as is possible. (See N.J.A.C. 10:49-1.12.)]

(b) Mail the original copy (contractor's copy) together with authorization form (when appropriate) to:

The Prudential Insurance Company of America
P.O. Box 471
Data Base Systems Division
Millville, New Jersey 08332

NOTE: Forms were included with the text of the adopted rules above but are not reproduced herein. Information concerning these forms may be obtained by contacting the Division of Medical Assistance and Health Services, CN 712, Trenton, New Jersey 08625.

(a)

Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual Renewal Applications

Proposed Amendment: N.J.A.C. 10:69A-5.3

Authority: N.J.S.A. 30:4D-20, 21, 24.

Proposal Number: PRN 1986-179.

The agency proposal follows:

Summary

This proposal concerns renewal applications for a PAAD (Pharmaceutical Assistance to the Aged and Disabled) "beneficiary", who is defined as an individual who has been found eligible for PAAD benefits (see N.J.A.C. 10:69A-2.1, Definitions).

The present rule requires beneficiaries to submit their renewal applications 45 days prior to their renewal date to insure continued receipt of PAAD benefits. This rule created a hardship on those beneficiaries who were otherwise eligible but who failed to submit their renewal appli-

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cation on a timely basis. This proposal is designed to remove this technicality by allowing for continued coverage for beneficiaries who submit a renewal application late but within 90 days after their expiration date. Beneficiaries whose applications are submitted after the 90-day expiration date will not be declared eligible until their application has been processed.

There are two conditions governing all renewal applications, regardless of when they are filed. The first condition is that the renewal application be valid and complete. If the information on the renewal application submitted by the beneficiary indicates ineligibility for PAAD, then the application will be denied.

In summation, this proposal is designed to protect those PAAD beneficiaries who are otherwise eligible but who fail to submit their renewal applications in a timely fashion.

Social Impact

The proposal impacts on PAAD beneficiaries who are filing renewal applications for continued receipt of PAAD benefits. PAAD beneficiaries should submit their renewal applications timely to avoid interruptions in coverage. However, if a beneficiary submits a valid and complete renewal application within the prescribed time frames (90 days after the expiration date), and is otherwise eligible, PAAD benefits will continue uninterrupted.

The proposal impacts upon pharmaceutical providers who dispense "prescription drugs" to PAAD beneficiaries. These providers will have their claims processed while the beneficiaries remain eligible for PAAD.

The rule also impacts Blue Cross and Blue Shield of New Jersey, Inc., who are responsible for processing PAAD claims.

Economic Impact

There should be minimal economic impact associated with this proposal. Administratively, it will be easier to allow eligible beneficiaries to remain on active status rather than declare them technically ineligible and subsequently reinstate them.

There is no change in reimbursement to pharmaceutical providers associated with this proposal. However, processing of claims will be continued for beneficiaries whose coverage is continued during the renewal application process.

PAAD beneficiaries are required to by law to pay a \$2.00 co-payment for each prescription.

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

10:69A-5.3 Eligibility effective date

(a) (No change.)

(b) (No change.)

1. (No change.)

2. Those beneficiaries required to renew annually or biennially must submit a valid renewal application 45 days prior to their **expiration [renewal] date to insure that their [in order for] PAAD benefits [to] continue uninterrupted; however, if beneficiaries are late in submitting their renewal applications, but apply within 90 days after the expiration date, their PAAD benefits will continue uninterrupted.** If the renewal application is [not] submitted **more than 90 days after the expiration date** [prior to the renewal date], the eligibility effective date will be the date when [processing of a valid and complete renewal application is completed by the PAAD bureau.] **a valid and completed renewal application is processed by the PAAD Bureau.**

DIVISION OF PUBLIC WELFARE

For proposals numbered PRN 1986-172, 173, 174 and 194, submit comments by June 18, 1986 to:

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

(a)

Public Assistance Manual Agreement to Repay Assistance

Proposed Amendment: N.J.A.C. 10:81-3.40 and 3.41

Authority: N.J.S.A. 44:7-6, 44:10-3 and 44:10-4(a).

Proposal Number: PRN 1986-173.

The agency proposal follows:

Summary

The enactment of Assembly Bill No. 1612, now known as Chapter 12, Laws of 1985, revised the section of the Aid to Families with Dependent Children (AFDC) recovery statute, N.J.S.A. 44:10-4(a), so as to exempt those personal injury awards made to children as a source of repayment of assistance. The amendment at N.J.A.C. 10:81-3.40 serves to incorporate that exemption into regulation. It does so by specifying that potential entitlement to such an award does not trigger the requirement for the signing of an Agreement to Repay (Form PA-10D) by the parent(s) of the child.

Language at N.J.A.C. 10:81-3.41 is amended for consistency with N.J.A.C. 10:81-3.40(c). Among several editorial changes included in this proposal is the sentence deleted at N.J.A.C. 10:81-3.40(d)3, which refers to the completion of the Child Support and Paternity (CSP) referral document. This information is located more appropriately at N.J.A.C. 10:81-11.4(d)1.

Social Impact

When a child who is a recipient of AFDC is injured and files suit for damages sustained as a result of that personal injury, there will no longer be any need for pursuit of repayment. Other than that, little social impact is expected during the time that the matter is pending. Some children will, upon reaching age 18, have the benefit of a trust fund or a larger trust fund than they would have had otherwise.

Economic Impact

For the children involved, the funds will probably be placed in trust and will become available upon the child's attainment of age 18. The size of the funds or the increase in size is not predictable, nor is it possible to identify in advance who the beneficiaries will be. The cost to the public treasury of the proposed amendment is not subject to calculation because available fiscal information on collections is not separately broken out for this category of collection. The total of collections under the entire statute is about \$1 million per year. The bulk of those collections are from recoveries by adults. The part attributable to collection from personal injury awards to children is by far the smaller part.

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

10:81-3.40 Repayment

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

(c) Rules when Agreement to Repay (Form PA-10D) is required:

1. The receipt by the CWA of a signed Agreement to Repay is required as a condition of eligibility whenever, and only whenever, there appears to be entitlement to a specifically identified payment other than public assistance to any persons for whom cash assistance in AFDC is being requested or granted, except as indicated in [subsection (d)2 of this section] **(d) below.** For this purpose, a parent's potential entitlement is considered to include potential entitlement by that parent's minor children who live in the same home even though the parent may not be included in the eligible unit. Applicable situations include but are not limited to:

i.-ix. (No change.)

2.-3. (No change.)

(d) Rules when Agreement to Repay is not required:

1. Assistance other than AFDC money payments:

i. (No change.)

[ii. Parents or parent-persons who make application for AFDC in cases where the requirement is applicable but are not themselves eligible for AFDC money payments must sign and deliver the agreement on behalf of the AFDC recipient(s) specifically and particularly identified as the individuals for whom repayment is sought.]

2. Benefits protected by law: The Agreement to Repay is not to be used when the pending payment arises from potential entitlement to:

i. RSDI, SSI, Railroad Retirement, Veteran's benefits, Workers' Compensation, Temporary Disability through the N.J. Department of Labor [and Industry], or term life insurance.

ii. Payment to a child and only to a child for personal injury to the child.

3. Assignment of Support: Upon signing an application for AFDC (PA-1J), the applicant or recipient automatically assigns all support rights (whether for past due or future support) to the CWA. The signing of an Agreement to Repay is therefore not required when the pending payment arises from potential entitlement to payment of support from a relative. [The IM worker shall, at the time of application for AFDC-C, complete the appropriate parts of the CSP referral document and forward the document to the CWA/CSP unit (see N.J.A.C. 10:81-11.4(d)1).]

(e) (No change.)

10:81-3.41 Action by CWA upon liquidation

(a) **Valid agreement to repay exists:** Upon liquidation of a [resource] claim or interest for which a valid Agreement to Repay exists (see N.J.A.C. 10:81-3.40(e)), regardless of whether or not the persons involved are receiving assistance at the time, the CWA will evaluate the situation. Upon a showing that, by release of the funds and only by release of the funds, the household can reasonably be expected to remain off the assistance rolls indefinitely, the CWA may, with approval of the State office, release the funds to the household. In all other instances the CWA will, subject to the special provisions below, pursue recovery of the lesser of the following amounts:

1.-2. (No change.)

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

(a)

**Assistance Standards Handbook
Determination of Income from Tips**

Proposed Amendment: N.J.A.C. 10:82-4.2

Authority: N.J.S.A. 44:7-6 and 44:10-3; CFR 233.31(b)2.

Proposal Number: PRN 1986-172.

The agency proposal follows:

Summary

This amendment is proposed pursuant to policy developed by the United States Department of Health and Human Services regarding the recognition of earned income received as tips. The proposal stipulates that, for purposes of calculating grant entitlement in the Aid to Families with Dependent Children (AFDC) program, income from tips shall be counted as received, as stipulated at 45 CFR 233.31(b)2, and not based on an estimate of gratuities reflected on Form W-2 provided to the Internal Revenue Service by employers. The estimated amount recorded on such employees' W-2 forms may reflect more income than they actually received and could result in an inappropriate determination of assistance benefits.

Social Impact

The proposed amendment will ensure that the determination of income from tips will be based on a fair and uniform policy. This will ensure equal treatment for all recipients who are employed in positions where gratuities are a normal part of earnings received.

Economic Impact

A small increase in some grant entitlements may result, since determination of income from tips will not be based on Form W-2 estimates of gratuities, but rather on tips received.

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

10:82-4.2 Definition of earned income

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

(c) **When an individual is employed in a position where tipping is customary, a daily log or other acceptable documentation of tips received shall be used for income calculation. Tips income calculation shall not be based on estimated information as reported on W-2 forms.**

(b)

**General Assistance Manual
Determination of Income from Tips**

Proposed Amendment: N.J.A.C. 10:85-3.3

Authority: N.J.S.A. 44:8-111(d).

Proposal Number: PRN 1986-174.

The agency proposal follows:

Summary

The proposed amendment will align General Assistance (GA) program rules with those of the Aid to Families with Dependent Children (AFDC) program regarding the recognition of earned income received as tips. The proposal stipulates that for purposes of calculating grant entitlement, income from tips shall be counted as received, and not be based on an estimate of gratuities reflected on Form W-2 provided to the Internal Revenue Service by employers. The estimated amount recorded on Form W-2 may reflect more income than the employee actually received and could result in an inappropriate determination of assistance benefits.

Social Impact

The proposed amendment will ensure that the determination of income from tips will be based on a fair and uniform policy. This will ensure equal treatment for all GA recipients who are employed in positions where gratuities are a normal part of earnings received.

Economic Impact

A small increase in some grant entitlements may result, since determination of income from tips will not be based on Form W-2 estimates of gratuities, but rather on tips received.

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

10:85-3.3 Financial eligibility

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

(c) Rules concerning earned income are as follows[.]:

1.-8. (No change.)

9. Income from tips: When the client is employed in a position where tipping is customary, a daily log or other acceptable documentation of tips received shall be used for income calculation. Tip income calculation shall not be based on the estimated tips information as reported on W-2 forms.

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

(c)

**General Assistance Manual
Fiscal and Statistical Reporting Requirements**

Proposed Amendment: N.J.A.C. 10:85-6.4

Authority: N.J.S.A. 44:8-111(d).

Proposal Number: PRN 1986-194.

The agency proposal follows:

Summary

The proposed amendment eliminates reference to Form GA-6C, Hospitalization Report for Assistance Month. This form is now obsolete because of the advent of Diagnosis Related Group rates which are based on the nature of the illness or injury and are therefore predetermined. Accordingly, the information conveyed by Form GA-6C, which includes justification of the costs and treatment involved during the hospitalization of a General Assistance recipient, is no longer required.

Social Impact

The proposed amendment has no social impact since it has no direct or indirect impact on General Assistance recipients or the public.

Economic Impact

The sole intent of the proposed amendment is to eliminate an obsolete administrative procedure from the text of the N.J.A.C. 10:85 and has no economic impact.

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

10:85-6.4 Fiscal and statistical reporting requirements

(a) General completion and submittal requirements: Forms described below shall be completed and either submitted to the Division of Public Welfare, as indicated, or retained by each municipality approved to receive State aid in the General Assistance Program. Use of the forms described herein is required.

1.-3. (No change.)

[4. Hospitalization Report for Assistance Month (Form GA-6C): The record of payment for inpatient hospital care (payable upon receipt of patient's bill) for cases as listed on Form GA-6 (see (a)2 above) shall be summarized on Form GA-6C, prepared in triplicate and distributed as follows (record only after payment has been made by the MWD):

i. The original is submitted to DPW/BBS monthly and must accompany the commitment report Form GA-6;

ii. The duplicate copy is retained for municipal welfare department files;

iii. An additional copy(ies) is forwarded to the hospital(s) providing service.]

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Manual of Standards for Adoption Agencies

Proposed Readoption: N.J.A.C. 10:121A

Authority: N.J.S.A. 9:3-37 et seq.

Proposal Number: PRN 1986-182.

Submit comments by June 18, 1986 to:

J. Patrick Byrne, Chief
Bureau of Licensing
Division of Youth and Family Services
One South Montgomery Street
CN 717
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 10:121A expires on August 6, 1986. The Department has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated.

The Division of Youth and Family Services, through its Bureau of Licensing, currently certifies some 54 public and private child adoption agencies—24 based in New Jersey and 30 located in other states but providing adoption services in New Jersey. These rules constitute minimum baseline requirements to ensure that the basic programmatic and administrative needs of these adoption agencies and the social service needs of the families and children they serve are met.

The regulations cover such areas as: procedures governing the application for and issuance of a certificate of approval to operate, along with procedures for the denial, suspension or revocation of a certificate of approval; organization and administrative requirements, including reporting and record keeping requirements; staff qualifications and the number and duties of adoption agency staff; and programs and social services provided by adoption agencies to their constituencies.

The Division of Youth and Family Services proposes to readopt these rules for a period of one year following the date of readoption. Meanwhile, the Division is currently working in cooperation with representatives from the child adoption and advocacy community to develop comprehensive revisions to these adoption agency certification regulations that are aimed at updating and improving them and at enhancing their effectiveness. An Ad Hoc Advisory Committee on Adoption Agency Certification Standards, which was appointed recently, is assisting the Division in developing these proposed revisions. The Committee consists of: directors and staff of several New Jersey-certified private adoption agencies; representatives of adoptive parent, adoptee, birth parent and child advocacy organizations; child placement review board representatives; other child welfare professionals; and DYFS staff engaged in adoption certification or service activities.

Once the Committee has completed its work, the Division anticipates proposing revisions through publication in the "New Jersey Register" by the Fall of 1986; at that time, the Division will notify all of its constituent adoption agencies directly of any proposed amendments.

Social Impact

The readoption of N.J.A.C. 10:121A for a maximum period of one year would have a positive social impact, since it would ensure that agencies providing adoption services in New Jersey continue to meet minimum certification standards aimed at ensuring that the basic social service needs of the families and children served by these agencies are met. Meantime, the Division intends to propose before the end of this year revisions to these regulations that will update and improve them so they more effectively meet the needs of these agencies and their constituencies.

Economic Impact

Since these rules are being readopted without change, there will be no economic impact on certified adoption agencies, since these agencies have been meeting these requirements over the past several years. Further, the economic costs to these agencies in meeting these rules are not excessive or burdensome, and have been accommodated in their budgets.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:121A.

CORRECTIONS

THE COMMISSIONER

The following proposals are authorized by William H. Fauver, Commissioner, Department of Corrections.

A public hearing concerning the proposals will be held on June 10, 1986 at 10:00 A.M. in the Correction Officers Training Academy (C.O.T.A.), Stuyvesant Avenue and Whittlesey Road, Trenton, New Jersey.

Submit comments by June 18, 1986 to:

Elaine W. Ballai, Esq.
Special Assistant for Legal Affairs
Department of Corrections
P.O. Box 7387
Trenton, NJ 08625

(b)

SECURITY AND CONTROL

Proposed New Rules: N.J.A.C. 10A:3

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Proposal Number: PRN 1986-187.

The agency proposal follows:

Summary

The proposed new rules are intended to provide guidelines for the maintenance of security and control of inmates assigned to facilities within the Department of Corrections. These proposed new rules establish the guidelines for assigning male and female correction officers, using force by correction officers while on-duty and off-duty, searching inmates and facilities, seizing and disposing contraband, using polygraph examinations, fingerprinting and photographing juveniles and transporting inmates outside of correctional facilities.

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 existing Standards into rules. These rules serve to implement procedures for maintaining security and control of inmates assigned to facilities within correctional facilities.

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 guidelines and no additional costs are necessary to implement or maintain them.

Full text of the proposed new rules follows.

CHAPTER 3
SECURITY AND CONTROL

SUBCHAPTER 1. INTRODUCTION

10A:3-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish policies regarding the assignment of male and female correction officers;
2. Establish policies and procedures regarding the use of force by correction officers, both on-duty and off-duty;
3. Establish policies and procedures for searching inmates and facilities in order to control and deter contraband;
4. Define contraband and establish procedures for its seizure and disposal;
5. Establish procedures for the use of polygraph examinations to insure that they are used only under limited and appropriate circumstances;
6. Establish procedures for fingerprinting and photographing juvenile inmates; and
7. Establish policies and procedures regarding the transportation of inmates outside the correctional facility and from one jurisdiction to another.

10A:3-1.2 Scope

(a) Subchapters 2, 3 and 5 shall be applicable to the Division of Adult Institutions and the Division of Juvenile Services.

(b) Subchapter 4 shall be applicable to the Department of Corrections.

(c) Subchapters 6 and 7 shall be applicable to the Prison Complex; the Youth Correctional Institution Complex; the Correctional Institution for Women, Clinton; the Adult Diagnostic and Treatment Center; the Training School for Boys and Girls, Jamesburg, and the Training School for Boys, Skillman.

(d) Subchapter 8 shall be applicable to inmates with Juvenile Delinquency Commitments and the Division of Juvenile Services.

(e) Subchapter 9 shall be applicable to all Department of Corrections facilities and the Bureau of Interstate Services.

10A:3-1.3 Definitions

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

"Central Control" means the unit which coordinates the security and communication functions within a correctional facility.

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

"Contact visit" means a visit between an inmate and a visitor where there is no barrier (that is, window, wall) between them.

"Deadly force" means force which an officer uses with the purpose of or which he or she knows will create a substantial risk of causing death or serious harm.

"Department" means the Department of Corrections.

"Housing unit" means a cell, dormitory or other type of sleeping area within a correctional facility.

"Internal Affairs Unit" means the unit responsible for conducting investigations at the direction of the Commissioner.

"Non-deadly force" means actions or conduct, with or without weapons or chemical agents, which is not likely to cause death or serious injury.

"Pat frisk" is synonymous with "frisk search" and means a thorough search of a fully-clothed inmate, including the clothing and personal property in the inmate's possession.

"Roving patrol" means observation of a facility by making rounds, on foot or in a vehicle, of the outer perimeter at specific intervals.

"Shift supervisor" means the correction officer responsible for the maintenance of security during a tour of duty in a correctional facility.

"Strip frisk" is synonymous with "strip search" and means a thorough search of an unclothed inmate's body and orifices, including visual inspection of external genital and anal areas, as well as the inmate's clothing and personal possessions.

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

10A:3-1.4 Forms

(a) The following forms related to Security and Control shall be reproduced by each facility from originals that are available by contacting the Standards Development Unit:

1. 156-I Oath of Office
2. 172-I Continuity of Evidence—Urine Specimen
3. 171-I Seizure of Contraband Report
4. 171-II Inmate Receipt, Contraband Seizure

5. 171-III Notice of Decision on Appeal, Contraband Seizure (Non-Disciplinary)

6. 285-1 Request for Polygraph Examination

SUBCHAPTER 2. ASSIGNMENT OF CORRECTION OFFICERS
BY SEX

10A:3-2.1 Post assignments

(a) Except as provided in (c) and (d) below, male correction officers shall not be assigned to work in female housing units and female correction officers shall not be assigned to work in male housing units.

(b) Post orders for housing units shall specify whether a male or female correction officer is required.

(c) Male correction officers may be utilized in female housing units and female correction officers may be utilized in male housing units during an emergency, where an imminent threat to life or property is clearly demonstrable.

(d) Male correction officers may be assigned to work in the cage area or to unlock and lock hallway doors leading to female housing units at the Correctional Institution for Women at Clinton. Female correction officers may be assigned to work in housing units at the Training School for Boys, Skillman.

10A:3-2.2 Pat frisks and strip frisks of inmates

Except during an emergency, where an imminent threat to life or property is clearly demonstrable, and personnel of the same sex are not available, male correction officers shall not be assigned to pat frisk or strip frisk female inmates, nor shall female correction officers be assigned to perform pat frisks or strip frisks of male inmates.

10A:3-2.3 Metal detector searches

Metal detector searches may be conducted by a male or female officer regardless of the sex of the inmate provided there is no physical contact between the inmate and officer and the metal detector search is not conducted during a strip search.

10A:3-2.4 Visitor searches

(a) Male or female officers may be assigned to conduct metal detector searches of visitors regardless of the sex of the visitors, provided no physical contact is required.

(b) A pat frisk of a visitor shall be conducted only by a correction officer of the same sex as the visitor.

10A:3-2.5 Other assignments

Except for searches and assignment to housing units, male and female correction officers shall be treated equally with respect to all other assignments or functions.

SUBCHAPTER 3. USE OF FORCE WHILE ON-DUTY

10A:3-3.1 Use of force; minimum force possible required

In any case when a correction officer uses force to control inmates while on-duty, the minimum force possible under the circumstances shall be used, consistent with correctional facility objectives.

10A:3-3.2 Non-deadly force; when authorized

(a) Non-deadly force may be used only under the following circumstances:

1. To defend one's self or others against any physical assault;
2. To prevent serious damage to property;
3. To prevent escape;
4. To prevent or quell a riot or disturbance;
5. To prevent a suicide or attempted suicide; or
6. To enforce correctional facility regulations where expressly permitted by Department of Corrections regulation or in situations where an officer with the rank of Sergeant or above believes that the inmate's failure to comply constitutes an immediate threat to correctional facility security or personal safety.

(b) Non-deadly force may include the use of slapsticks, chemical agents (mace), batons, stun guns and other weapons which are not likely to cause death or serious injury.

(b) Non-deadly force may include the use of slapsticks, chemical agents (mace), batons, stun guns and other weapons which are not likely to cause death or serious injury.

10A:3-3.3 Deadly force; when authorized

(a) Deadly force shall be used only on order of the following:

1. Commissioner;
2. Deputy Commissioner;
3. Assistant Commissioner, Division of Adult Institutions;
4. Deputy Director, Division of Adult Institutions;
5. Administrator (Superintendent);
6. Associate Administrator (Assistant Superintendent).

(b) Deadly force may be ordered only in the following situations:

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1. To prevent escape, where the staff member, by reason of his or her experience and best judgment, believes that a lesser degree of force will be ineffective; or,

2. In those situations where an inmate or inmates have created or present an immediate threat of death or serious bodily harm, and the staff member, by reason of his or her experience and best judgment, believes that a lesser degree of force will be ineffective.

(c) Deadly force includes, but is not limited to, the use of shotguns, handguns, rifles, and other lethal weapons.

(d) Whenever firearms are used, the officer must first sound a verbal warning and then shoot to stop the inmate. Warning shots shall not be authorized by the Department of Corrections.

(e) Written post orders shall govern the use of deadly force by correction officers.

10A:3-3.4 Use of force against persons other than inmates; duties outside security perimeter

(a) While engaged in roving patrol or other duty outside the correctional facility's security perimeter, appropriate force may be used against persons other than prison inmates when a correction officer observes what appears to be a violation of the law and there is also imminent peril of bodily harm to any individual or destruction of property.

(b) Whenever possible, the correction officer should contact his or her Central Control to request assistance before engaging in any degree of force.

(c) In situations where a violation of law is suspected, but no imminent danger is present, the officer should immediately contact the local police and his or her Central Control.

10A:3-3.5 Reports

(a) Immediately following any incident in which force has been used, each staff member who participated in or witnessed the event shall write a special report to the Shift Supervisor. The report shall contain:

1. A description of the events leading up to the use of force;
2. A description of the incident, type of force used and reasons for employing force;
3. A list of all participants and witnesses to the incident;
4. A description of the injuries suffered, if any, and medical treatment given; and
5. Other relevant facts or comments about the incident or conduct of employees or inmates.

(b) The Shift Supervisor shall forward all special reports to the Internal Affairs Unit of the correctional facility and the Director of Custody Operations for review. The Director of Custody Operations shall forward all reports to the Superintendent. The Superintendent shall then report the incident in accordance with N.J.A.C. 10A:21, Reports.

10A:3-3.6 Use of mechanical restraints

(a) On authorization of the Shift Supervisor, mechanical restraints may be used in the following instances:

1. When transporting an inmate from place to place;
2. When the inmate's history, disciplinary record, behavior or present emotional state creates the likelihood that bodily injury to any person, damage to property or escape by the inmate will occur; or
3. On medical advice, to prevent the inmate from attempting suicide or inflicting serious physical injury upon himself or herself.

(b) Mechanical restraints shall not be used as punishment, or in any way that causes undue physical discomfort, inflicts physical pain or restricts the blood circulation or breathing of the inmate.

(c) Mechanical restraints shall be removed promptly when the reason for their initial use has ceased to exist or has sufficiently abated.

10A:3-3.7 Use of chemical agents; storage

(a) Tear gas, mace and related chemical agents shall be used only where all other means of control (that is, talking, use of protective equipment, use of force, etc.) are not effective or feasible. Chemical agents may be used only for the protection of life, limb or property or to maintain correctional facility security.

(b) Whenever chemical agents are used as a means of control, staff members shall comply with the reporting procedure in N.J.A.C. 10A:3-3.5.

(c) No member of the custodial staff may carry or use chemical agents unless he or she has received appropriate training in its use and effects.

(d) After each instance of use, all individuals who have been exposed to chemical agents shall receive prompt medical examination and treatment.

(e) Chemical agents shall be safely stored and proper inventory kept, to insure security and adequate supply.

10A:3-3.8 Training

All security and custodial personnel shall receive training in proper methods and techniques of using force to effectively control inmates. Such training shall be provided as part of the State Basic Correction Training at the Correctional Officers Training Academy (COTA) and, in addition, shall be repeated at periodic intervals by each correctional facility.

10A:3-3.9 Correctional facility procedures

(a) Each correctional facility shall prepare suitable written post orders and procedures to govern the use of force and storage of chemical agents, consistent with these rules.

(b) Those correctional facilities which house juvenile commitments may promulgate written post orders and procedures which are more restrictive than these rules regarding use of chemical agents, mechanical restraints or force.

(c) All written post orders and procedures shall be forwarded to the Office of the Deputy Commissioner for review and approval on or before February 15 of each year.

SUBCHAPTER 4. USE OF PERSONAL FIREARMS AND USE OF FORCE WHILE OFF-DUTY

10A:3-4.1 Who may carry firearms while off-duty

(a) Firearms may be carried off-duty only by Department personnel holding the rank of Senior Correction Officer and higher who also meet the following requirements:

1. Have passed the firearms training course approved by the New Jersey State Police Training Commission, as set forth in N.J.S.A. 2C:39-6(j);
2. Qualify in the use and handling of approved off-duty firearms; and
3. Have been sworn as peace officers by taking the Oath of Office and completing Form 156-I (Oath of Office).

(b) The following Department of Corrections titles may be sworn as peace officers:

Commissioner
Deputy Commissioner
Assistant Commissioner—Division of Adult Institutions
Deputy Director—Division of Adult Institutions
Administrator (Superintendent)—State Prison, Trenton
Associate Administrator (Assistant Superintendent)—State Prison, Trenton
Assistant to the Superintendent—State Prison, Trenton
Administrator (Superintendent)—State Prison, Rahway
Associate Administrator (Assistant Superintendent)—State Prison, Rahway
Assistant to the Superintendent—State Prison, Rahway
Administrator (Superintendent)—State Prison, Leesburg
Associate Administrator (Assistant Superintendent)—State Prison, Leesburg
Assistant to the Superintendent—State Prison, Leesburg
Superintendent—Mid-State Correctional Facility
Assistant Superintendent—Mid-State Correctional Facility
Assistant to the Superintendent—Mid-State Correctional Facility
Superintendent—Correctional Institution for Women, Clinton
Assistant Superintendent—Correctional Institution for Women, Clinton
Assistant to the Superintendent—Correctional Institution for Women, Clinton
Superintendent—State Prison, Riverfront
Assistant Superintendent—State Prison, Riverfront
Administrator (Superintendent)—Youth Reception and Correction Center, Yardville
Associate Administrator (Assistant Superintendent)—Youth Reception and Correction Center, Yardville
Assistant to the Superintendent—Youth Reception and Correction Center, Yardville
Superintendent—Youth Correctional Institution, Bordentown
Assistant Superintendent—Youth Correctional Institution, Bordentown
Assistant to the Superintendent—Youth Correctional Institution, Bordentown
Superintendent—Youth Correctional Institution, Annandale
Assistant Superintendent—Youth Correctional Institution, Annandale
Assistant to the Superintendent—Youth Correctional Institution, Annandale

Superintendent—Adult Diagnostic and Treatment Center
Assistant Superintendent—Adult Diagnostic and Treatment Center
Assistant to the Superintendent—Adult Diagnostic and Treatment Center

Superintendent—Southern State Correctional Facility
Assistant Superintendent—Southern State Correctional Facility
Assistant to the Superintendent—Southern State Correctional Facility
Superintendent—Juvenile Medium Security Unit
Assistant Superintendent—Juvenile Medium Security Unit
Director—Vroom Readjustment Unit
Director of Custody Operations I
Director of Custody Operations II
Director of Custody Operations III
Correction Captain
Correction Lieutenant
Correction Sergeant
Senior Correction Officer
Chief Investigator
Assistant Chief Investigator
Principal Investigator
Senior Investigator
Investigator

Interstate Transportation Officers—Office of Interstate Services

(c) Correction Officer Recruits are excluded and may not carry firearms while off-duty.

10A:3-4.2 Authorized off-duty firearms, ammunition and holsters

(a) Eligible employees who are trained and meet qualification specifications shall be permitted only one firearm authorized for off-duty use.

(b) A firearm intended for use as an off-duty weapon must have been obtained and registered pursuant to State and local laws of the State in which the employee lives. Employees may not loan or improperly transfer personal firearms.

(c) Authorized weapons to be carried off-duty are Smith and Wesson, Colt or Ruger, .38 or .357 caliber with a minimum barrel length of two inches and a maximum barrel length of four inches.

(d) Authorized ammunition for the four inch barrel firearm is the Winchester, Remington, Federal or Speer 125 grain Semi-Jacketed Hollow Point Plus P. 38 caliber round. The 158 grain, round, lead nosed .38 caliber round or the 110 grain, Semi-Jacketed Hollow Point .38 caliber round may be used for the two inch barrel firearm only if manufactured by Winchester, Remington, Federal or Speer.

(e) Speed loaders are approved equipment for off-duty weapons qualifications.

(f) Only shoulder, waist and ankle holsters shall be used for off-duty use. The waist holster is the only holster approved for use while qualifying with the weapon. Holsters must hold the weapon firmly when inverted and have no internal clips. Off-duty firearms shall be carried in the approved holsters on the body. No purse holsters or holstered firearms in purses are approved.

(g) The employee shall be responsible for assuming the cost of weapons, ammunition, holsters and for maintaining his or her firearm in a safe and serviceable condition.

10A:3-4.3 Firearm instructors

Only those persons who have successfully completed the Police Training Commission Approved Training School's firearm instruction course and are certified as Firearms Instructors shall instruct in the Department of Corrections Firearms Training Program.

10A:3-4.4 Annual weapons training and re-qualification

(a) All correction officers and custody supervisors must be initially trained and qualify in the use and handling of approved off-duty firearms as provided in N.J.A.C. 10A:3.4-1(a). On an annual basis these employees must re-qualify in the same training course. Only those persons who achieve and maintain the required level of proficiency shall be authorized to use personal firearms while off-duty.

(b) Once an individual has qualified on his or her approved personal firearm, he or she shall receive the official Department off-duty weapons card. The off-duty firearm he or she carries must be the same one identified on the off-duty weapons card. Authorized personnel shall be required to carry their off-duty weapons card and the official Department identification card at all times while carrying their off-duty firearm.

(c) Should a personal firearm become unusable, stolen or unserviceable and the employee selects a personal firearm different from the one originally qualified for use, he or she must re-qualify on the different firearm before it can be used. This qualification may be completed prior to the

next annual qualification period. If an employee merely wishes to change his or her authorized personal firearm as a matter of preference, he or she must wait until the next annual qualification period.

10A:3-4.5 Storage of personal firearms while on-duty

(a) An employee entering a correctional facility grounds while armed with an off-duty firearm must proceed directly to the facility's weapons collection station. The off-duty firearm shall be turned in fully loaded, in its holster, attached to the off-duty weapons identification card. No loose or additional ammunition shall be brought into the correctional facility or carried onto Department property.

(b) The employee must present his or her official Department identification card when checking the firearm out of the weapons collection station.

(c) Employees are prohibited from storing off-duty weapons or ammunition in their personal vehicles while on Department property.

(d) Employees assigned to satellite units or other Department residential facilities must store their firearms at the main correctional facility or an approved authorized weapons storage unit.

(e) Personal firearms shall be checked in and out on the employee's own time. It is the employee's responsibility to allow sufficient time for this procedure so that he or she will be on time to work.

(f) Under no circumstances may an employee carry a personally owned firearm into the correctional facility beyond the weapons collection station. Personally owned firearms shall not be carried or used while on-duty except when authorized by the Superintendent and approved by the Assistant Commissioner. In those instances, only Department-approved firearms may be used by qualified officers.

(g) Each correctional facility shall be responsible for preparing and maintaining a current master list of each employee authorized to carry an off-duty firearm.

1. The master list shall be maintained by the weapons collector to indicate qualification dates (new or expired), model numbers and serial numbers of authorized off-duty firearms.

2. Each time the employee registers his or her firearm, the weapons collector is responsible for comparing the qualification date, model and serial number contained on the master list against the weapons qualifications card accompanying the personal firearm.

10A:3-4.6 Use of force while off-duty

(a) Although N.J.S.A. 3A:154-4 authorizes peace officers to exercise law enforcement powers, no correction officer is required to exercise those powers or to carry arms during off-duty hours.

(b) Corrections officers, while off-duty, should not become involved with routine law enforcement duties as they apply to local police departments and the State Police. When an officer observes what he or she believes to be a violation of the law, he or she should take note of vehicle description, license plate numbers, identifying characteristics of persons involved and other relevant information. Such violations should, whenever possible, be reported to the local law enforcement agency having jurisdiction or to Central Control. Officers should avoid stopping or detaining vehicles or persons, or become involved in high speed chases whenever possible.

(c) In cases where officers have passed the qualifying examination and do elect to carry a weapon off-duty, the utmost discretion must be exercised by the officer to determine when and under what conditions to use force. Whenever he or she believes that possible criminal action is taking place and that a reasonable alternative to use force exists, the officer may take the action which is calculated to be least dangerous or harmful to persons or property.

(d) Any use of force while off-duty shall be in accordance with the requirements of this Subchapter.

(e) A correctional employee shall be deemed to have acted within the scope of his or her employment or in the law and enforcement interest of the State of New Jersey if he or she exercises police powers in accordance with the provisions of this Subchapter and post orders promulgated in connection therewith.

10A:3-4.7 Use of non-deadly force

(a) Whenever non-deadly force is used off-duty, the minimum force possible under the circumstances shall be used.

(b) Non-deadly force may be used off-duty by authorized persons when it is believed to be immediately necessary to:

1. Defend one's self or others against any physical assault;
2. Prevent a suicide or the infliction of serious bodily harm;
3. Thwart the commission of a crime involving or threatening bodily harm, damage to or loss of property or a breach of the peace;
4. Prevent an escape;

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5. Subject to (c) below, effect an arrest for any offense or crime under the laws of the State of New Jersey.

(c) The use of non-deadly force to effect an arrest is only justifiable if:

1. The officer makes known his or her identity and the purpose of the arrest or reasonably believes that his or her identity and purpose are otherwise known by or cannot reasonably be made known to the person to be arrested; and,

2. The arrest is made under a warrant and the warrant is valid or reasonably believed by the officer to be valid.

10A:3-4.8 Use of deadly force

(a) Whenever firearms are used, the officer must first sound a verbal warning and then shoot to stop the subject. Warning shot shall not be authorized by the Department of Corrections.

(b) Deadly force may be used in the following situations under limitations consistent with the provisions of the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq.

1. **Self-Defense:** When the officer reasonably believes that deadly force is immediately necessary to protect himself or herself against the use of unlawful force which he or she believes may result in death or serious bodily harm.

2. **Defense of a Third Person:** When the officer reasonably believes that deadly force is immediately necessary to protect another against the use of unlawful force which he or she believes may result in death or serious bodily harm. However, deadly force is not justifiable in the following situations:

i. If the officer can otherwise secure the complete safety of the protected person; or

ii. Where it is reasonably appears that the person sought to be protected has unlawfully, with the purpose of causing death or serious bodily harm, provoked the use of deadly force against himself or herself in the same encounter.

3. **Prevention of Crime:** When the following conditions are met.

i. The officer reasonably believes that deadly force is necessary to prevent the commission of the following crimes:

Criminal homicide (2C:11-2)

Kidnapping (2C:13-1)

Aggravated sexual assault and sexual assault (2C:14-2)

Aggravated criminal sexual contact (2C:14-3a)

Robbery (2C:15-1)

Arson and related offenses (2C:17-1)

Burglary (2C:18-2)

ii. The person who the officer is seeking to prevent from committing a crime will endanger human life or inflict serious physical injury upon another unless the commission or the consummation of the crime is prevented.

iii. The use of deadly force presents no substantial risk of injury to innocent persons.

iv. Deadly force may not be used to prevent the following crimes:

Death by auto (2C:11-5)

Criminal sexual contact (2C:14-3b)

4. **Arrest and Escape from Custody:** When the following conditions are met.

i. The officer reasonably believes that deadly force is necessary to effect an arrest or prevent the escape of a person who has committed or has attempted to commit the following crimes:

Criminal homicide (2C:11-2)

Kidnapping (2C:13-1)

Aggravated sexual assault and sexual assault (2C:14-2)

Aggravated criminal sexual contact (2C:14-3a)

Robbery (2C:15-1)

Arson and related offenses (2C:17-1)

Burglary (2C:18-2)

ii. The use of deadly force presents no substantial risk of injury to innocent persons.

iii. There is probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.

iv. The use of deadly force is necessary to thwart the commission of a crime as set forth in i. above or the use of deadly force is necessary to prevent an escape or flight from arrest for a crime as set forth in i. above, provided that the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.

v. Deadly force may not be used to effect an arrest or to prevent an escape from custody for the crimes or attempts to commit the crimes of: Death by auto (2C:11-5)

Criminal sexual contact (2C:14-3b)

5. **Escape from Detention:** Where the officer reasonably believes that deadly force is necessary to prevent the escape of a person committed to a correctional facility for the detention of persons charged with or convicted of an offense, provided that the officer believes that the force employed creates no substantial risk of injury to innocent persons.

10A:3-4.9 Unauthorized use of personal weapons while off-duty

(a) An employee shall not be authorized to carry an off-duty firearm in the following instances:

1. Where N.J.S.A. 2C:39-7 (Persons Convicted of Certain Crimes) is applicable;

2. Where 18 U.S.C. 1202 Appx.—Appendix to the United States Code (Persons Convicted of Certain Crimes) is applicable;

3. When an employee has been suspended from duty for any violation by the Superintendent or a higher official of the Department;

4. Pending charges or during investigations of alleged incidents involving the misuse of a weapon; or

5. Any other situation where the Superintendent may exercise his or her authority to withdraw off-duty weapons privileges, subject to the review of the appropriate Assistant Commissioner.

(b) In any of the above instances, the off-duty weapons card must be turned in to the Superintendent or his or her designee.

10A:4.10 Carrying weapons in casinos prohibited

Pursuant to N.J.A.C. 19:45-1.13, an employee shall not carry a firearm within a casino.

10A:3-4.11 Reporting incidents

(a) When an authorized off-duty firearm is believed to have been lost or stolen, the employee must report this fact to the local police jurisdiction and his or her correctional facility within three hours from the time he or she is aware that the firearm is missing. When an off-duty weapons card, I.D. card or badge is believed to have been lost or stolen, the employee must notify the Superintendent or his or her designee within 24 hours.

(b) Officers shall immediately and without exception report to the local police jurisdiction and his or her correctional facility any incident where he or she has displayed, drawn or fired and off-duty firearm.

(c) On the next working day after any incident as described in (a) or (b) above, the officer must report in writing to the Superintendent the fact of the incident and identifying particulars of the incident. The Superintendent shall then forward the report to the Central Office Internal Affairs Unit for appropriate action.

(d) The employee shall, within three days, report to the correctional facility in writing whenever a registered authorized off-duty firearm has been sold or is no longer in use.

10A:3-4.12 Penalties for violation

(a) Actions which do not conform to the provisions of this subchapter and any post orders implemented in connection with this subchapter may result in the following:

1. Disciplinary action;

2. Personal, civil or criminal liability;

3. Denial of indemnification;

4. Refusal by the Office of the Attorney General to represent the officer.

(b) Decisions regarding 3. and 4. above will be made by the Attorney General after reviewing the facts of the case.

(c) Indemnification and representation may be denied whenever the officer has used force maliciously or criminally, as well as when the use of force violates the provisions of this subchapter.

10A:3-4.13 Post orders and procedures

(a) Each correctional facility shall be responsible for developing written post orders and procedures consistent with this subchapter.

(b) All written post orders and procedures shall be forwarded to the Office of the Deputy Commissioner for review and approval on or before February 15 of each year.

SUBCHAPTER 5. SEARCH OF INMATES AND FACILITIES

10A:3-5.1 Purpose

Facilities and inmates may be searched as provided by this subchapter for the purpose of controlling and deterring the introduction and concealment of contraband. The definition of contraband and all procedures for disposition of contraband set forth in N.J.A.C. 10A:3-6, contraband and its disposition, are fully applicable to this subchapter.

10A:3-5.2 Search plan

Each correctional facility shall develop and implement a comprehensive written plan governing searches of facilities and inmates. Each plan shall be submitted to the Office of the Deputy Commissioner for legal review and approval on or before February 15 of each year.

10A:3-5.3 Searches of facilities

(a) All inmate residential, work, training areas and other areas to which inmates have access shall be searched thoroughly for contraband on a routine, continuing basis. Searches shall be unannounced and irregularly timed, and may be limited to a specific building or area.

(b) Procedures to be utilized in conducting searches shall be as set forth by each correctional facility's Standard Operating Procedures, to be promulgated pursuant to the search plan required by N.J.A.C. 10A:3-5.2. Such procedures may provide that an inmate may be excluded from entry into an area being searched to facilitate the safe and effective performance of the search.

10A:3-5.4 Inspection of security devices

(a) All bars and sashes, locks, windows, doors, lock boxes and other security devices shall be inspected daily to detect any tampering or defect.

(b) Emergency keys shall be checked at least quarterly to determine that they work properly.

(c) Inspections of security devices shall be conducted continuously and systematically by scheduled to avoid an observable or predictable routine. The results of all inspections shall be submitted in writing to the shift supervisor for review by the Director of Custody Operations.

10A:3-5.5 Metal detector searches

(a) Searches of inmates by the use of metal detectors may be done routinely where necessary for security purposes. This may be a walk-through device or a handheld device which is passed over the fully clothed body of the inmate. The metal detector may also be utilized in conjunction with a strip search, as, for example, to pass the detector over the inmate's anal area.

(b) Metal detector searches may be conducted by male or female officers as provided by N.J.A.C. 10A:3-2.3.

10A:3-5.6 Frisk search

(a) A frisk search or pat-frisk shall be conducted while the inmate is fully clothed. It includes both the touching of the inmate's body through clothing, including hair, dentures, etc., and a thorough examination into pockets, cuffs, seams, etc., and all personal property in the inmate's possession.

(b) Frisk searches of inmates may be conducted at any time in the following circumstances:

1. Prior to the departure of the inmate from any area where the inmate has had access to dangerous or valuable items;
2. Prior to entering the visiting room; or
3. Under any other circumstances where conditions indicate a need for such searches, as, for example, upon departure of inmates from kitchen or dining areas.

(c) In addition to the foregoing routine searches, a frisk search may be conducted at any time when there is a reasonably clear indication that the inmate is carrying contraband. This search may be conducted only with prior approval of a supervisory level officer or staff member. Factors which may for the basis for such search may include:

1. Personal observations of activities or conditions which may be interpreted in light of the correction officer's experience and knowledge of the inmate as indicating the possession of contraband; or
2. Information received from a third party who is believed to be reliable.

(d) All frisk searches shall be conducted by staff of the same sex as the inmate, except as provided by N.J.A.C. 10A:3-2.2.

10A:3-5.7 Strip searches

(a) A strip search or strip frisk shall be conducted while the inmate is unclothed. A strip search includes a thorough and systematic examination of the inmate's body and orifices, including visual inspection of external genital and anal areas, as well as the inmate's clothing and all personal possessions.

(b) Strip searches may be conducted in the following circumstances:

1. After a contact visit;
2. Before an inmate enters or leaves the facility's main building, whether to go to a destination in the outside community or to a minimum security camp or farm area; or
3. Prior to the departure of the inmate from any area where the inmate has had access to dangerous or valuable items.

(c) Strip searches may also be conducted before placement in administrative segregation, prehearing detention, disciplinary detention, protective custody, the Management Control Units, South Hall and all other close custody units, except that no visual examination of anal or genital parts shall be conducted in connection with these placements.

(d) In addition, an inmate may be strip searched when an officer with a rank of Sergeant or above is satisfied that there is a clear indication that an inmate is carrying contraband on his or her person or in his or her anal or vaginal cavity.

1. In the event an officer of the rank of Sergeant or above is reasonably satisfied that an inmate has secreted or inserted contraband into his or her anal or vaginal cavity, the inmate shall be escorted immediately to the facility's hospital or medical department.

2. The following procedures shall be followed for examination of the inmate and removal of contraband:

i. The inmate may remove the object in the presence of a medical staff person of either sex, and a correction officer of the same sex as the inmate.

ii. A medical doctor or registered nurse may examine the inmate and remove the object, without the use of force, in the presence of a correction officer of the same sex as the inmate.

iii. In the event a correction officer of the rank of Sergeant or above determines, but the use of a metal detector, that a foreign object which contains metal is present in the inmate's anal or vaginal cavity, such object may be removed by a medical doctor only, with or without the use of force, in the presence of such correction officers of the same sex as the inmate as are necessary to insure security.

iv. In the event the supervisory officer or medical staff person has determined that an inmate is concealing non-metal contraband in his or her anal or vaginal cavity, and the inmate refuses to permit its removal, the inmate shall receive appropriate disciplinary charges and may be placed in prehearing detention or medical isolation. During prehearing detention, medical isolation and disciplinary detention, if any, the inmate may be kept under visual surveillance to detect removal or elimination of the contraband. N.J.A.C. 10A:4, Inmate Discipline, shall apply to all such placements.

(e) All frisk searches, strip searches and body cavity searches shall be conducted in a professional and dignified manner, with maximum courtesy and respect for the inmate's person. The number of officers present shall be only that number reasonably necessary to provide security. No member of the opposite sex shall be present during strip searches and body cavity searches except medical staff persons as set forth above and as provided by N.J.A.C. 10A:3-2.2.

(f) No inmate shall be searched as punishment or discipline.

10A:3-5.8 Urine monitoring

(a) Urine monitoring may be conducted for the purpose of deterring and controlling the introduction of contraband or to detect the presence of opiates, methadone, barbiturates, amphetamines, cocaine, tranquilizers, darvon, marijuana, alcohol or any other drug not authorized for possession or use by the correctional facility medical staff.

(b) Inmates may be required to submit urine for analysis when:

1. A corrections officer of the rank of Sergeant or above or an Internal Affairs Officer believes, based upon his or her education and experience, that there is a reasonable factual basis to suspect the inmate of using or possessing drugs or alcohol;

2. A supervising staff member or a licensed medical staff person in residential contract facilities and/or other community residential facilities utilizing non-custody staff believes based upon his or her education and experience that there is a reasonable factual basis to suspect the inmate of using or possessing drugs or alcohol;

3. The Superintendent, Assistant Superintendent or the Director of Custody Operations orders all inmates of a particular housing unit, work detail or other functional unit to submit urine samples. Such orders shall be in writing and this authority may not be delegated;

4. A corrections officer of the rank of Sergeant or above orders urine samples to be taken upon any inmate's return from furlough or other unsupervised temporary release from custody; or

5. A Disciplinary Hearing Officer/Adjustment Committee orders a urine sample to be taken as part of a sanction for a drug or alcohol related infraction.

10A:3-5.9 Collection, storage and analysis of urine samples

(a) Each time a urine specimen is collected for the reasons stated in N.J.A.C. 10A:3-5.8(b), Form 172-I (Continuity of Evidence-Urine Specimen) shall be completed and submitted to the Internal Affairs Officer or the staff member responsible for maintaining custody of evidence.

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(b) Urine samples taken from inmates shall be voided directly into an approved specimen bottle in the presence of at least one correction officer or staff member of the same sex as the inmate.

1. The specimen bottle shall immediately be closed, labeled and sealed by the correction officer or staff member.

2. The label shall indicate the inmate's name and number, the correctional facility to which the inmate is assigned, the name of the correction officer or staff member who witnessed the voiding of the sample, the date and time of the sample, and the prescription medication that the inmate is currently taking.

(c) The officer or staff member who signs the label as witness shall, as soon as reasonably practicable, deliver the urine sample to the Internal Affairs Officer or other officer responsible for maintaining custody over evidence.

1. The urine sample shall be placed in a locked and secure refrigerator or freezer by the officer for maintaining custody over evidence as soon as reasonably practical, but in no event later than eight hours after the sample was voided.

2. The officer who receives custody of the urine sample shall make a written record of the date and time he or she received the sample, the officer from whom it was received, and the date and time of its placement into the evidence locker and/or locked refrigerator.

(d) Inmate urine samples transported out of the correctional facility for drug testing shall be transported, where reasonably practical, in an iced cooler or similar device. The date and time of the removal of the sample from the correctional facility as well as the date and time of its receipt by the testing facility shall be noted in writing by the persons performing these functions.

(e) The Department of Corrections shall not proceed with testing any urine sample for drugs or alcohol unless the sample arrives at the laboratory in a sealed approved specimen bottle.

(f) Inmates charged with use of drugs or intoxicants not prescribed by the medical staff based upon the results of urine analysis shall be advised of the results of any tests at least 24 hours prior to any hearing ordered because of those charges.

(g) All urine monitoring shall be accomplished in a professional and dignified manner with maximum courtesy and respect for the inmate's person.

(h) Urine monitoring shall not be conducted as a means of punishment or discipline, except as ordered by a Disciplinary Hearing Officer/Adjustment Committee as permitted by Chapter 4, INMATE DISCIPLINE.

(i) No inmate shall be disciplined for refusing to provide a urine sample unless that inmate has been given a reasonable physical opportunity to comply with such order.

1. For the purposes of this rule, a reasonable physical opportunity shall constitute a two-hour period from the time of the initial order. The inmate may be required to remain in isolation during this two-hour period.

2. The inmate shall not be deemed to have complied with the order to submit a urine sample unless he or she voids the sample in the presence of a correction officer or staff member.

10A:3-5.10 Orientation and training

Each Superintendent shall be responsible for insuring that the requirements and guidelines set forth in this Subchapter are followed. Post orders developed in accordance with this Subchapter shall be made available to all correction officers and support staff. All personnel shall receive training in their interpretation and applicability, so as to insure effective and safe search techniques.

SUBCHAPTER 6. CONTRABAND AND DISPOSITION OF CONTRABAND

10A:3-6.1 Contraband defined

(a) Contraband means:

1. Any item, article or material found in the possession of or under the control of an inmate which is not authorized for retention or receipt;

2. Any item, article or material found within the facility or on its grounds which has not been issued by the correctional facility or authorized as permissible for retention or receipt;

3. Any item, article or material found in the possession of or under the control of staff or visitors within the facility or on its grounds which is not authorized for receipt, retention or importation; or,

4. Any item, article or material which is authorized for receipt, retention or importation by inmates, staff or visitors but which is found in an excessive amount or which has been altered from its original form.

An amount shall be considered excessive if it exceeds stated correctional facility limits or exceeds reasonable safety, security, sanitary or space considerations.

(b) Any article which may be harmful or presents a threat to the security and orderly operation of the correctional facility shall be considered contraband. Items of contraband shall include, but shall not be limited to: guns and firearms of any type; ammunition; explosives; knives, tools and other implements not provided in accordance with correctional facility regulations; hazardous or poisonous chemicals and gases; unauthorized drugs and medications; medicines dispensed or approved by the correctional facility but not consumed or utilized in the manner prescribed; intoxicants, including but not limited to liquor or alcoholic beverages; and, where prohibited, currency and stamps.

(c) Correspondence and publications which meet any of the foregoing definitions of "contraband" shall be handled in accordance with N.J.A.C. 10A:18, communication, mail and visits. Unauthorized money or currency found in correspondence or publications shall be handled in accordance with N.J.A.C. 10A:3-6.7.

10A:3-6.2 Procedures for handling contraband upon discovery

(a) Whenever an item, article or material is determined to be contraband pursuant to N.J.A.C. 10A:3-6.1, it shall be immediately seized.

1. The officer or staff member making the seizure shall submit the contraband to the unit supervisor who shall submit it to the Internal Affairs or Central Control Unit of the correctional facility, together with a fully completed report form (Form 171-I, seizure of contraband report). The contraband report must be submitted no later than the end of the shift during which it is seized.

2. Care should be taken at all times to carefully record the chain of possession of the contraband.

3. The officer or staff member shall also give an inmate from whose control or possession contraband is taken, an itemized, signed and dated receipt, (Form 171-II, Inmate Receipt, Contraband Seizure), a copy of which shall also go to the Internal Affairs or Central Control Unit or the Cottage Life Office at the Training Schools at Jamesburg and Skillman. The contents of this form shall be either read or explained to the inmate or resident as needed.

4. When contraband is removed from mail (that is, letters, packages, etc.) as defined by N.J.A.C. 10A:18, Communication, mail and visits, the officer or staff member making the seizure shall send the inmate to whom the mail was addressed a completed copy of Form 171-II indicating that the specified items were removed.

5. The inmate shall have three days to appeal the seizure to the Superintendent or his or her designee.

(b) The Internal Affairs or Central Control Unit shall maintain a log of all Seizure of Contraband and Inmate Receipt forms (Forms 171-I and 171-II). It shall be the responsibility of these units to record the disposition of the contraband on the Seizure of Contraband Report (Form 171-I).

(c) All contraband seized shall be clearly and appropriately marked and securely stored by the Internal Affairs or Central Control Unit.

(d) If disciplinary charges are issued in connection with the seizure of contraband, the Internal Affairs or Central Control Unit shall present the contraband at the disciplinary hearing unless the contraband was seized pursuant to N.J.A.C. 10A:3-6.6. If the contraband was seized pursuant to N.J.A.C. 10A:3-6.6, the Disciplinary Hearing Officer/Adjustment Committee or Cottage Treatment Team at the Training School for Boys, Skillman shall arrange to view the contraband outside the inmate's presence.

(e) Contraband shall be disposed of by the Internal Affairs or Central Control Unit in accordance with this Subchapter.

10A:3-6.3 Disposal of contraband personal property seized in reception units

(a) When an inmate is delivered to the Prison Reception Unit, Youth Reception Unit, Juvenile Reception Unit, Reception Unit at the Adult Diagnostic and Treatment Center or the Reception Unit at Clinton with items of personal property not authorized for retention or possession, the items shall be seized.

(b) The staff member making the seizure shall give the inmate an itemized, signed and dated receipt for the property seized, and shall notify the inmate that such items are contraband, and that he or she has three working days, from the date of the seizure of the contraband, to appeal the classification of any or all items as contraband to the Superintendent.

1. If the Superintendent or his or her designee shall determine that any or all of the items are not contraband, they shall be returned to the inmate.

2. If the Superintendent shall determine that any item is contraband, the inmate shall be given two working days to indicate which of the following means of disposal should be used with respect to the property:

- i. Mailed to a designated relative or friend of the inmate at the inmate's expense;
- ii. Given to a visitor for disposal;
- iii. Donated by the inmate to a charitable organization at the inmate's expense; or
- iv. Destroyed at the inmate's request.

3. If the inmate fails to indicate the desired disposition, the property shall be disposed of at the option of the Superintendent of the correctional facility in which the reception unit is located.

(c) Disciplinary reports shall not be issued to an inmate entering a reception unit for possession of unauthorized or excessive personal property.

10A:3-6.4 Disposal of contraband personal property seized within a correctional facility

(a) When contraband is seized within a correctional facility, appropriate disciplinary reports shall be written and issued pursuant to N.J.A.C. 10A:3-6.8.

(b) The staff member making the seizure shall give the inmate an itemized, signed and dated receipt (Form 171-II) for the property seized and shall notify the inmate that such items are contraband and that he has the right to appeal the classification of any or all items as contraband through the disciplinary process.

1. If the disciplinary hearing officer, adjustment committee or Cottage Treatment Team at the Training School for Boys, Skillman determines that any or all items are not contraband or if the Superintendent, on appeal, determines that an item is not contraband it shall be returned to the inmate.

2. If the Disciplinary Hearing Officer/Adjustment Committee or Cottage Treatment Team at the Training School for Boys, Skillman shall determine that any or all items are contraband, the inmate shall be given two working days following receipt of the hearing officer's or Cottage Treatment Team's decision or the decision of the Superintendent if the disciplinary decision is appealed to indicate to the Internal Affairs or Central Control Unit which of the following means shall be used to dispose of the contraband:

- i. Mailed to a designated relative or friend of the inmate at the inmate's expense;
- ii. Donated by the inmate to a charitable organization at the inmate's expense; or
- iii. Destroyed at the inmate's request.

3. Where the inmate fails to indicate the desired disposition, the property shall be disposed of at the option of the Superintendent.

4. For verifiable cases of inmates who have no family and no visitors, special arrangements to store property at the facility in which the inmate is housed may be approved on a case by case basis by the Superintendent.

10A:3-6.5 Disposal of contraband, state issued property

Where State issued personal property is confiscated as contraband pursuant to N.J.A.C. 10A:3-6.2, the inmate shall not have any option with respect to its disposition. It shall be returned to the source for redistribution or subsequent disposal. Commissary items seized as contraband may be distributed among needy inmates as determined by the Superintendent.

10A:3-6.6 Disposal of contraband threatening to security or disruptive of operations

(a) All contraband determined to pose a threat to security or to be disruptive of the orderly running of a correctional facility shall be taken into the custody of the institution and under no circumstances shall be returned to the inmate.

1. The staff member making the seizure shall immediately turn the contraband over to the Internal Affairs or Central Control Unit of the facility, together with the completed Seizure of Contraband Report form and Inmate Receipt form in accordance with N.J.A.C. 10A:3-6.2.

2. Appropriate disciplinary reports shall be written and issued, pursuant to N.J.A.C. 10A:3-6.8.

(b) Suspected contraband narcotics or dangerous drugs may be forwarded to an approved laboratory for chemical analysis or, where appropriate, field tested at the correctional facility. All weapons, ammunition, explosives, chemicals, liquor or items altered from original status may be sent to the laboratory for analysis. After analysis, the contraband shall be claimed at the laboratory and secured at the facility.

(c) Precautions shall be taken to assure the continuity of possession of contraband that will be used as evidence in accordance with accepted

legal procedures. Unauthorized items determined to pose a threat to or to be disruptive of the operations of a facility may be destroyed or properly disposed of by the facility only under the following circumstances:

1. With the permission of the Superintendent;
2. Upon completion of all disciplinary action; and
3. With the prior approval of the appropriate county prosecutor's office.

10A:3-6.7 Confiscation and disposal of unauthorized currency or money

(a) All unauthorized money or currency found in an inmate's possession shall be immediately seized and turned over to the Central Control, Internal Affairs Unit together with reports required by N.J.A.C. 10A:3-6.2.

1. Any inmate found to be in possession or to have control over such money or currency shall receive a disciplinary report.

2. A determination as to the manner in which the money or currency has been acquired shall be made by the Disciplinary Hearing Officer/Adjustment Committee, or the Cottage Treatment Team at the Training School for Boys, Skillman at the disciplinary hearing of the reports against the inmate.

3. Unauthorized money or currency acquired through illegal or improper means, including but not limited to extortion, gambling or bribery, or intended to be used to disrupt the orderly running of the correctional facility, shall be forfeited by the inmate and credited to the correctional facility's Inmate Welfare Account. All other unauthorized money or currency shall be held for the inmate who had it in his or her possession and shall be payable to him or her only upon his or her release from the facility. In such instance, the inmate still shall be liable to disciplinary action for possession of contraband.

(b) All personal checks, whether received in the mail or brought in by visitors, shall be deemed contraband and shall not be accepted by the facility for deposit in inmate's accounts.

(c) All cash received through the mail shall be deemed contraband and shall not be accepted by the facility for deposit in inmate's accounts.

(d) Cash brought to the facility by visitors, for deposit in inmates' accounts, shall not be deemed contraband and shall be accepted by the facility provided appropriate records are maintained of cash received, and provided signed receipts are issued to the visitors with copies maintained by the facility.

(e) Facilities desiring to do so shall be permitted to place an upper limit on the total amount of cash which an inmate is permitted to receive, per day, from one visitor or a combination of visitors.

(f) Money orders and checks other than personal shall be the only approved form of money received through the mail which can be accepted by the facility for deposit in inmates' accounts.

(g) The following procedures shall be utilized for disposing of the items defined as contraband:

1. All personal checks shall be refused if brought in by a visitor. Personal checks received through the mail shall be returned to the sender, at the correctional facility's expense. Personal checks returned via the mail shall include a note to the sender indicating that Department policy prohibits acceptance. In addition, Form 171-I (Seizure of Contraband Report) shall be filled out and a copy sent to the inmate.

2. All cash received through the mail shall be sent to the facility's Business Office whereupon a check, for each amount of cash received, shall be issued to the sender and mailed to the sender at the facility's expense. Accompanying the check shall be a note to the sender indicating that Department policy prohibits the acceptance of cash through the mail and explaining that the money is being returned in check form to protect against theft. In addition, Form 171-I (Seizure of Contraband Report) shall be filled out and a copy sent to the inmate.

10A:3-6.8 Disciplinary reports

(a) When disciplinary reports are issued resulting from application of this Subchapter, such reports shall be issued and adjudicated in accordance with Chapter 4, INMATE DISCIPLINE.

(b) Specific prohibited acts which involve contraband and which apply to all facilities except the Training School for Boys, Skillman, are enumerated in N.J.A.C. 10A:4-4.1 and in the Prison Complex Handbook on Discipline, the Youth Complex Handbook on Discipline and the Juvenile Handbook on Discipline.

(c) Specific prohibited acts which may involve contraband for residents of Training School for Boys, Skillman, are listed in N.J.A.C. 10A:4-13.5 and in that facility's Handbook for Residents.

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10A:3-6.9 Introduction or discharge of contraband into or from a facility by a visitor

(a) Any visitor present within the correctional facility or on its grounds shall surrender any item, article, or material which the Superintendent or his or her designee shall determine to be contraband.

1. The officer or staff member seizing any item, article or material determined to be contraband, possession of which does not appear to violate any Federal or State statute, shall give the visitor an itemized, dated and signed receipt. When the visitor exits the facility, the employee shall, in return for the receipt, return the item to him or her.

2. If there shall be reason to believe that possession of the contraband violates a Federal or State statute, the employee shall detain such person and notify the appropriate police agency.

(b) If there shall be reason to believe that a visitor has willfully introduced or was attempting to introduce contraband into the facility, such person shall be detained in the facility and the appropriate police agency shall be notified.

(c) Visitors may be subject to denial of future visits as specified by the Superintendent because of the presence of contraband in their possession or under their control. Where warranted, the case may be referred for criminal prosecution.

10A:3-6.10 Introduction or discharge of contraband into or from a facility by the mail

(a) Incoming correspondence and publications shall always be inspected for contraband. Any discovery of contraband in correspondence or publications shall be handled in accordance with N.J.A.C. 10A:18, communications, mail and visits.

(b) Unauthorized money or currency found in correspondence or publications shall be handled in accordance with N.J.A.C. 10A:3-6.7.

SUBCHAPTER 7. POLYGRAPH EXAMINATIONS**10A:3-7.1 Use of polygraph examinations with inmates**

(a) A polygraph examination may be requested by the Superintendent:

1. When there are issues of credibility regarding serious incidents or allegations which may result in a disciplinary charge; or

2. As part of a reinvestigation of a disciplinary charge, when the Superintendent is presented with new evidence or finds serious issues of credibility.

(b) The polygraph shall not be used in place of a thorough investigation, but to assist an investigation when appropriate.

(c) Agreement by the inmate to take a polygraph examinations shall not be a pre-condition for ordering a reinvestigation. An inmate's request for a polygraph examination shall not be sufficient cause for granting the request.

10A:3-7.2 Use of polygraph examinations with staff

Pursuant to N.J.S.A. 2A:170-90.1, no employee may be forced to consent to a polygraph examination as a prerequisite to employment or as a condition of retaining employment.

10A:3-7.3 Requesting a polygraph examination

The Superintendent shall request all polygraph examinations from the Department's Internal Affairs Unit, Polygraph Section, using Form 285-1 (Request for Polygraph Examinations). The Internal Affairs Unit, Polygraph Section, must approve all requests. If the polygraph involves a case in litigation, the request must be approved by the Commissioner or Deputy Commissioner prior to being referred to the Polygraph Section.

10A:3-7.4 Scheduling polygraph examinations

(a) Polygraph examinations shall be scheduled by the Department's Internal Affairs Unit, Polygraph Section. If the Department's polygraphists are not available, the Internal Affairs Unit shall make arrangements to obtain the services of a State Police polygraphist.

(b) The only polygraph examinations acceptable to the Department shall be those performed by the Department's polygraphists or those assigned to the State Police Polygraph Unit. No action of any kind shall be taken based on the results of independently performed polygraph examinations.

(c) Because polygraph examinations may be inappropriate under certain circumstances, the final decision on whether a polygraph examination will be given at a particular time shall be made by the polygraphist assigned to each individual case.

10A:3-7.4 Procedural limitations

(a) The inmate must be advised that the test is being administered as part of an official investigation.

(b) No examination shall be conducted unless the inmate has knowingly and without duress signed a written consent form. Under no circum-

stances shall any inmate be threatened or coerced into taking a polygraph examination. No inmate shall receive a disciplinary charge for refusal to take a polygraph examination.

(c) Whenever possible, the examination shall be conducted at the correctional facility where the inmate resides. However, the polygraphist may choose any other competent testing facility.

10A:3-7.5 Use of polygraph examinations with juveniles

(a) A juvenile under the age of 18 who consents to take a polygraph examination shall take the examination only with the express written consent of his parent or guardian, or if there is an appropriately executed court order.

(b) All other factors relating to administering polygraph examinations to juveniles shall be handled in the same manner as to an adult inmate.

SUBCHAPTER 8. FINGERPRINTING AND PHOTOGRAPHING JUVENILE INMATES**10A:3-8.1 Fingerprints of juvenile inmates**

Pursuant to N.J.S.A. 2A:4A-61, a correctional facility may fingerprint any inmate detained in or committed to the facility as the result of an adjudication of delinquency. Such records may be retained by the facility to be used for purposes of identification.

10A:3-8.2 Photographs of juvenile inmates

Inmates 14 years of age or older may be photographed for purpose of identification. Inmates under the age of 14 shall not be photographed unless both the juvenile and his parent or guardian expressly consent in writing or there is an appropriately executed court order.

10A:3-8.3 Confidentiality

(a) All fingerprint and photograph records of juvenile inmates shall be plainly marked "confidential". These records shall not be released except to the following:

1. Law enforcement agencies of this State for law enforcement purposes;

2. Any court or probation department;

3. The Attorney General or County Prosecutor;

4. The parents or guardian;

5. The attorney of the juvenile, provided the attorney has secured permission from the parents or guardian;

6. The Division of Youth and Family Services, if DYFS is providing care or custody of the juvenile; or

7. As directed by court order, as permitted by N.J.A.C. 10A:22, RECORDS.

10A:3-8.4 Written policy and procedures

Each facility which houses inmates with juvenile commitments shall prepare written policy and procedures consistent with this Subchapter. These shall be submitted to the Special Assistant for Legal Affairs in the Office of the Deputy Commissioner for legal review and approval.

SUBCHAPTER 9. TRANSPORTATION OF INMATES**10A:3-9.1 Use of State-owned and privately-owned vehicles**

(a) Transporting of inmates shall be done only in State-owned vehicles, except when emergencies or other unusual circumstances require the use of privately-owned vehicles.

(b) If it is necessary for an inmate to ride in an employee's private vehicle, the employee must secure approval from the Superintendent or his or her designee of the facility responsible for the inmate prior to such transportation.

1. If approval is granted, the employee shall be made aware of Departmental policy regarding the use of private vehicles and the liability provisions currently applicable as established by the Department of the Treasury, Division of Budget and Accounting.

2. In all cases, the employee shall furnish proof that the vehicle is properly licensed, registered and insured.

3. The use of an employee's vehicle may be authorized, but not required, by the correctional facility.

(c) Employees escorting inmates shall carry in their possession a valid drivers license.

10A:3-9.2 Transporting inmates by aircraft

The transporting of inmates by aircraft shall be in accordance with written guidelines formulated by the Bureau of Interstate Services, pursuant to N.J.A.C. 10A:3-9.11.

10A:3-9.3 Transport of maximum custody inmates

(a) State-owned vehicles used to escort maximum custody inmates shall be equipped with protective screening devices to separate inmates from the driver. Opening devices on the inner rear doors and windows of

passenger sedans shall be made inoperable for inmates. The rear door locking mechanism shall be modified so that is redirected, making it accessible to the officer only when the front door is open.

(b) The standard passenger sedan or van shall be used only in lieu of more secure but unavailable vehicles. Use of such vehicles to transport maximum custody inmates shall be in accordance with written institutional procedures.

(c) Vans or buses shall be used to transport groups of inmates. Those vehicles used to transport groups of maximum custody inmates shall comply with the following:

1. Windows or small ports must be protected by security screens or metal bars;
2. Security screen barricades with gates and locks must be located between driver and inmates;
3. A section of the rear of the bus must be screened off for baggage storage;
4. Transportation officer(s) must be seated with a clear view of the bus compartment; and
5. The vehicle must be equipped with one ten pound fire extinguisher (ABC Class).

(d) Vehicles used to transport maximum custody inmates shall be thoroughly searched for contraband by the transportation officer(s) before being used.

(e) Officers escorting inmates shall be provided by the correctional facility, or the Bureau of Interstate Services as appropriate, with necessary mechanical restraints.

1. The use of mechanical restraints shall be governed by N.J.A.C. 10A:3-3.6.

2. FAA regulations and individual airline rules govern the use of mechanical restraints while in aircraft flight.

(f) Upon arrival at a courthouse, any leg restraints shall be removed. Restraint belts and handcuffs shall not be removed until arraignment unless otherwise ordered by the court. Immediately at the conclusion of the hearing, handcuffs and restraint belts shall be replaced on the inmate.

(g) Officers escorting maximum custody inmates (except Training School inmates) shall always be armed with State issued weapons and ammunition. Any use of deadly force shall be governed by N.J.A.C. 10A:3-3.3.

(h) When escorting maximum custody inmates, the ratio of escorting officers to inmates shall be two officers for one inmate, two officers for two inmates, three officers for three inmates. Written procedures shall be developed by each institution regarding the security and staffing arrangements required when transporting four or more inmates.

(i) When female inmates are being transported, at least one female escort must be present for the duration of the trip.

(j) Only properly trained officers may transport maximum custody inmates. Such officers shall have been fully trained in the following areas:

1. Use of weapons and restraint equipment;
2. Effective search for contraband of inmates, their personal property and transportation vehicles, and
3. Any other activities required to successfully complete a transportation assignment.

(k) An inmate shall be strip searched by the escorting officer(s) prior to the trip and at any time after the inmate has been out of their sight. Strip searching upon return to the unit or delivery to the receiving unit is the responsibility of the unit's officers. See, N.J.A.C. 10A:3-5.

10A:3-9.4 Transport of reduced custody inmates

(a) The Superintendent or his designee shall make a determination with respect to the specific staffing and security arrangements required when transporting a reduced custody inmate. In these cases, a careful review shall be made of the individual case to determine the most appropriate staffing and security arrangements for each trip.

(b) Transportation of minimum custody inmates in work/study release, furlough, program and other such programs shall be done in accordance with appropriate Department rules.

(c) The searching of inmates shall be in accordance with the requirements of N.J.A.C. 10A:3-5.

10A:3-9.5 Transportation documents

(a) Prior to accepting escort responsibility for any inmate, officers shall be informed of the following: inmate's name and number, designation, degree of custody, unusual medical, emotional, or mental peculiarities. Officers shall also be provided appropriate medical information setting forth any prescribed medication or instructions for special handling when transporting medical or psychiatric cases.

(b) Prior to escort to court and on inter-facility transfers, the officer shall ensure that he has all documents necessary to obtain custody and/or to effect delivery of the inmate being escorted.

(c) Officers escorting court trips shall be provided a form on which to indicate detainers filed against the inmate for use by the judge in case the sentence giving the unit jurisdiction is vacated. This form shall also have space for the officer to enter the following: name of judge, sentence passed, plea, other pertinent information.

(d) All officers shall carry the official Department identification card approved by the Commissioner and issued by the institution.

10A:3-9.6 Recall to court

(a) An inmate shall only be produced in court by a writ of habeas corpus, writ of habeas corpus ad testificandum, post conviction relief order, or other order to produce which is to be at the correctional facility 24 hours prior to the scheduled court appearance.

1. It shall be improper to produce an inmate in court on a subpoena only.

2. Writs of habeas corpus must be signed by either a New Jersey State Superior Court judge or a Federal court judge. No other writs to produce shall be honored.

3. Questions concerning the validity of any writ shall be referred to the office of the Deputy Commissioner, Department of Corrections.

4. Any requests for exception to this policy shall be referred to the office of the Deputy Commissioner.

(b) A county may send its own officers to pick up an inmate at any time provided they have an appropriate writ with them.

10A:3-9.7 Inmate supervision

(a) During escort, inmates shall be carefully guarded to prevent escape and receipt of contraband.

(b) No communication between inmate and public shall be permitted at any time during escort.

(c) An inmate's special requests during escort not related to the purpose of the trip shall not be honored. The inmate shall be immediately returned to the correctional facility upon completion of the trip's purpose.

(d) If, while at court, the judge approves an interview of the inmate with the attorney, the officer shall be present during the interview. The officer shall not monitor the attorney-client conversation.

(e) An inmate shall be taken directly to the destination of a sickbed or funeral visit. Side trips for any purpose shall not be permitted. An inmate on such a trip shall not be allowed out of sight of the officer.

10A:3-9.8 Emergencies

Officers shall immediately notify the Superintendent or the next person in line of authority if an emergency arises during the transportation of an inmate. If time or other considerations make it impossible to contact the Superintendent, the State Police and/or local police may be notified by the officer without prior clearance by the Superintendent.

10A:3-9.9 Transporting parole violators and escapees with physical injuries.

(a) Prior to accepting responsibility for an injured parole violator or escapee to be escorted, the escort officer shall make every effort to obtain written information on how the injury occurred and whether medical aid was administered. A copy of a medical report shall be obtained to aid medical authorities at the receiving correctional facility.

(b) If a medical report is not available, the escort officer shall request the supervisor on duty at the sending correctional facility to provide a brief written statement that the injury was received prior to turning over the custody of the parole violator or escapee.

(c) Upon arrival at the receiving correctional facility, Central Control shall be notified so that the parole violator or escapee may be promptly seen by the facility's medical department.

(d) The physical condition of the injured parole violator or escapee shall be recorded photographically by the receiving correctional facility. A full and accurate description of the injury shall be recorded.

(e) A brief written report of the injury shall be submitted pursuant to N.J.A.C. 10A:22, REPORTS.

10A:3-9.10 Clothing

(a) Escorting officers going out-of-state, to any Federal court or on sickbed or funeral visits shall wear civilian clothing. All other escorting officers shall wear uniforms.

(b) Inmates shall wear civilian clothing on court trips.

10A:3-9.11 Office of Interstate Services

(a) The Interstate Escort Unit within the Office of Interstate Services of the Division of Policy and Planning shall be responsible for the return of parole violators and escapees from out-of-state and the transfer of

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inmates under the Interstate Corrections Compact. The unit shall also assist, on an emergency basis, correctional facility officers in escorting inmates on writ to the courts, trips to out-side medical facilities or other movements within State boundaries.

(b) Unless otherwise specified, the Senior Interstate Escort Officer shall be in charge in all matters relating to the interstate transportation of New Jersey escapees, parole violators and/or corrections compact transfers. Whenever institutional employees are assigned to assist the Interstate Escort Unit for such trips, they shall be responsible to the Senior Interstate Escort Officer for the duration of the assignment.

(c) The Office of Interstate Services shall develop specific guidelines governing the transporting of inmates by aircraft. These guidelines shall be approved by the Assistant Commissioner, Policy and Planning, prior to implementation. Current Federal Aviation Administration rules applicable to any phase of aircraft use in transporting inmates shall be maintained by Bureau of Interstate Services.

10A:3-9.12 Medical transportation

(a) In emergency situations when a non-ambulatory maximum custody inmate is in need of hospitalization or treatment outside of the correctional facility, he shall be transported by ambulance, or by a State-owned vehicle if an ambulance is unavailable. A State-owned vehicle shall be used to transport an ambulatory inmate who is in need of hospitalization or treatment outside of the facility.

(b) When an inmate is transported by ambulance, an officer shall accompany him in the ambulance and another officer shall follow the ambulance in a back-up car. When an inmate is transported by a State-owned vehicle, the ratio of escorting officers to inmates shall be governed by N.J.A.C. 10A:3-9.3(h).

(c) The use of mechanical restraints and equipment when transporting an inmate for hospitalization or treatment shall be governed by N.J.A.C. 10A:3-3.3 and the nature of the illness or injury.

(d) When a reduced custody inmate requires medical transport, the Superintendent or his or her designee shall make a determination with respect to the specific staffing and security arrangements required. In these cases, a careful review shall be made of the individual case to determine the appropriate vehicle, staffing and security arrangements for each trip.

10A:3-9.13 Written procedures

Each correctional facility and the Office of Interstate Services shall prepare written procedures governing the transportation of inmates outside of the correctional facility and from one jurisdiction to another, consistent with the requirements of this Subchapter. These procedures shall be made available to all personnel involved in transporting inmates and shall be reviewed at least annually and updated as necessary.

SUBCHAPTER 10. SECURITY PROCEDURES FOR ADMINISTRATIVE TRANSFERS OF INMATES FROM SATELLITE UNITS AND COMMUNITY BASED PROGRAMS

10A:3-10.1 Use of mechanical restraints

(a) Inmates assigned to satellite units and community based facilities may be transferred to medical or dental appointments, approved interviews, Parole Board Hearings and other similar destinations without the use of mechanical restraints (that is, handcuffs, security belts, etc.).

(b) When an inmate is to be returned to a correctional facility for any reason that creates an increased likelihood of an escape attempt, staff members of the satellite unit or community based program shall put into effect the security measures necessary to prevent an escape.

(c) Satellite units and community based programs shall notify the appropriate correctional facility when a decision has been made to remove an inmate from the program. The correctional facility shall assign transporting officers to make the transfer. The transporting officers shall routinely carry restraint equipment in order that the transfer will be made in a safe and secure manner.

(d) The inmate shall not be informed of his or her impending removal from the program prior to the arrival of transporting officers from the correctional facility responsible for making the transfer. Upon arrival of the transporting officers, the inmate to be transferred shall be identified and he or she shall immediately be secured with mechanical restraints.

10A:3-10.2 Inmate's personal property

(a) All of the handcuffed inmate's personal property shall be packed in his or her presence to ensure an accurate inventory.

(b) In instances when the inmate's behavior, while his or her personal property is being packed, becomes disruptive to the extent that it poses a threat to the orderly operation of the unit, the inmate shall be removed

from the facility and his or her personal property shall be forwarded to the receiving correctional facility immediately following the transfer.

10A:3-10.3 Inmate supervision

A transporting officer and/or facility staff member(s) shall be in the presence of the inmate during the entire transfer process.

(a)

Close Custody Units

Proposed New Rules: N.J.A.C. 10A:5

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Proposal Number: PRN 1986-188.

The agency proposal follows:

Summary

The proposed new rules are intended to provide guidelines for assigning and reviewing the progress of inmates who have been placed in close custody units. These proposed new rules also include guidelines for the operation of the Management Control, Administrative Segregation, Capital Sentence, Protective Custody and Transitional Protective Custody Units.

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 existing Standards into rules. These rules serve to implement procedures for operating close custody units and assigning, reviewing the progress and releasing inmates from these units when appropriate.

Economic Impact

The proposed new rules 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 5 CLOSE CUSTODY UNITS

SUBCHAPTER 1. INTRODUCTION

10A:5-1.1 Purpose

The purpose of this Chapter is to establish guidelines for:

1. Assigning inmates to close custody units;
2. Reviewing the progress of inmates assigned to close custody units;
3. Releasing inmates from close custody units, when appropriate; and,
4. Operating the Management Control, Administrative Segregation, Capital Sentence, Protective Custody and Transitional Protective Custody Units.

10A:5-1.2 Scope

This Chapter shall be applicable to the Division of Adult Institutions unless otherwise indicated.

10A:5-1.3 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 correctional 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 of a correctional facility to a long term close custody unit because of one or more disciplinary infractions or other administrative considerations.

"Capital Sentence Unit (C.S.U.)" shall mean the close custody unit to which persons sentenced to death pursuant to N.J.S.A. 2C:11-3, are assigned until such time that the execution is carried out, or the sentence is commuted or changed to a lesser penalty.

"Close custody unit" shall mean an area within a correctional 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 a correctional facility.

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

"Disciplinary detention" shall mean removal of an inmate from the general population of a correctional facility 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.

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

"Inter-Institutional Classification Committee (I.I.C.C.*)" shall mean the Committee, 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.

"Management Control Unit (M.C.U.*)" shall mean a close custody unit to which an inmate may be assigned if he or she poses a substantial threat to the safety of others; of damage to or destruction of property; or of interrupting the operation of a State correctional facility.

"Management Control Unit Review Committee (M.C.U.R.C.*)" shall mean the Committee within Trenton State Prison that is responsible for hearing cases of inmates referred for placement in the Management Control Unit (M.C.U.) and for conducting three month status reviews of inmates assigned to M.C.U.

"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 violations of rules and regulations, which will result in the imposition of sanctions.

"Protective custody" shall mean confinement to a secure unit designated to restrict or limit an inmate's activities and contacts with others, in order to provide protection to the inmate from injury or harm actually threatened, or reasonably believed to exist based on events, investigative reports, informants' reports or other reliable sources of information.

"Special Administrative Segregation Review Committee (S.A.S.R.C.*)" shall mean the administrators, designated by the Deputy Director of the Division of Adult Institutions, who are responsible for the bimonthly review of the status of inmates assigned to all Administrative Segregation Units except the Vroom Readjustment Unit.

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

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

"Transitional Protective Custody Unit" shall mean a Unit to which certain inmates, who have been assigned to a Protective Custody Unit, may be assigned as an initial step toward their reintegration into the general population of a correctional facility.

"Vroom-Administrative Segregation Review Committee" shall mean the administrators, designated by the Superintendent of the Trenton State Prison, who are responsible for the monthly review of the status of inmates assigned to the Vroom Readjustment Unit.

"Vroom Readjustment Unit (V.R.U.*)" shall mean an Administrative Segregation and Protective Custody Unit for inmates located in the Vroom Building, on the grounds of Trenton Psychiatric Hospital, Trenton, New Jersey.

"Youth Complex" shall mean State correctional facilities designated to house young adult offenders with indeterminate sentences as set forth in N.J.S.A. 30:4-146.

10A:5-1.4 Forms

The following forms related to close custody units shall be reproduced by each correctional facility from originals that are available by contacting the Standards Development Unit, New Jersey Department of Corrections:

1. 141-I AUTHORIZATION FOR PREHEARING M.C.U.
2. 146-I VOLUNTARY—PROTECTIVE CUSTODY CONSENT
3. 146-II NOTICE OF PROTECTIVE CUSTODY HEARING—INVOLUNTARY
4. 146-III PROTECTIVE CUSTODY HEARING ADJUDICATION

SUBCHAPTER 2. MANAGEMENT CONTROL UNIT (M.C.U.)

10A:5-2.1 Referrals for placement in the Management Control Unit (M.C.U.).

(a) Recommendations for placement of inmates in the Management Control Unit (M.C.U.) may be submitted to the Management Control Unit Review Committee (M.C.U.R.C.) by the:

1. Inter-Institutional Classification Committee (I.I.C.C.);
2. Institutional Classification Committee (I.C.C.);
3. Disciplinary Hearing Officer/Adjustment Committee;
4. Administrative Segregation Review Committees;
5. Superintendent (Trenton Prison);
6. Director of Custody Operations (Trenton Prison);
7. Director of Professional Services (Trenton Prison).

10A:5-2.2 Members of the Management Control Unit Review Committee (M.C.U.R.C.)

(a) The Management Control Unit Review Committee (M.C.U.R.C.) shall be composed of the:

1. Assistant Superintendent or the Director of the Vroom Readjustment Unit;
2. Director of Professional Services or his or her designate (that is, Director of Education, Director of Psychological Services, Director of Social Services, etc.); and,
3. Person designated by the Superintendent as the Supervisor of the Management Control Unit (M.C.U.).

10A:5-2.3 Responsibilities of the Management Control Unit Review Committee (M.C.U.R.C.).

(a) The Management Control Unit Review Committee (M.C.U.R.C.) shall meet at least once a week, when necessary, to deliberate on matters related to its responsibilities. The M.C.U.R.C. shall be responsible for:

1. Hearing the cases of inmates referred for placement in M.C.U.; and,
2. Reviewing the progress of each inmate placed in M.C.U. at least every three months to determine whether continued placement in the Unit is appropriate.

10A:5-2.4 Criteria for assigning inmates to the Management Control Unit (M.C.U.)

(a) The following criteria shall be utilized by the Management Control Unit Review Committee (M.C.U.R.C.) in determining the appropriateness of assigning inmates to the Management Control Unit (M.C.U.):

1. Disciplinary records during the inmates present term of confinement and any previous terms served. Weight shall be assigned to this criterion where there are a substantial number of minor charges, or one or more charges of a serious nature;
2. Past criminal offenses which indicate the capability and propensity to commit or precipitate serious acts of disruption or violence;
3. Number and location of previous institutionalizations including the disciplinary records, progress reports, classification reports, or any other records which indicate involvement in serious misbehavior;
4. Reports by professional staff (for example, psychologists, social workers, psychiatrists);
5. Reports indicating present involvement in criminal activities in the community or within the correctional facility;
6. Evidence of an attitude which indicates an unwillingness to follow rules and obey orders;
7. Inability to maintain a satisfactory work record as indicated in reports by work supervisors and/or frequency of job changes;
8. Information indicating unsatisfactory adjustment to, or performance in, treatment or rehabilitative programs; and,
9. Evidence of the inmate's inability or unwillingness to house with other inmates in a nondisruptive and nondestructive manner.

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10A:5-2.5 Assignment to the Management Control Unit (M.C.U.)

(a) An inmate shall be assigned to the Management Control (M.C.U.) when the Management Control Unit Review Committee (M.C.U.R.C.), after considering the criteria in N.J.A.C. 10A:5-2.4, concludes that the inmate poses a substantial threat:

1. To the safety of others;
2. Of damage to or destruction of property; or,
3. Of interrupting the operation of a State correctional facility.

(b) Procedures for Management Control Classification Committee (M.C.U.R.C.) hearings described in N.J.A.C. 10A:5-2.6 shall be followed and completed prior to placement in M.C.U.

(c) If there is a need for immediate placement in the M.C.U., such placement shall be made in accordance with N.J.A.C. 10A:5-2.8.

10A:5-2.6 Procedures for the Management Control Unit Review Committee (M.C.U.R.C.) hearings

(a) An inmate being considered for assignment to the Management Control Unit (M.C.U.) shall be given written notice at least 24 hours prior to appearing before the Management Control Unit Review Committee (M.C.U.R.C.). The staff member delivering the notice shall indicate the time and date of delivery.

(b) This notice shall delineate the criteria which will be utilized in determining his suitability for the M.C.U. and shall provide an outline of the major factors in the particular inmate's case history which will be closely scrutinized.

(c) The inmate shall also be notified that he may obtain the help of an inmate to act as a counsel substitute to assist in marshaling the facts in the inmate's case and to be present at the hearing as a spokesperson.

(d) Illiterate inmates or inmates otherwise demonstrating a need for assistance shall receive the assistance of a consenting inmate, or a staff member assigned to this function by the M.C.U.R.C. An interpreter shall be utilized if needed.

(e) The M.C.U.R.C. Chairperson shall have the discretion to keep the hearing within reasonable limits and to refuse to permit the collection and presentation of evidence which is not necessary for an adequate understanding of the case. The Chairperson 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.

(f) Unless there are exceptional circumstances, unavoidable delays or reasonable postponements, inmate shall be seen by the M.C.U.R.C. within 10 working days of being notified that they are being considered for the M.C.U.

(g) At the meeting with the M.C.U.R.C., the inmate shall be allowed to appear in person and to testify, unless his appearance would pose a serious threat to the safety or security of the correctional facility, the M.C.U.R.C., or unless he refuses to appear. In those cases where an inmate is not allowed to appear in person, he shall be permitted to present his case through a counsel substitute and through submission of such written materials as he believes appropriate.

(h) At the hearing, the inmate shall be informed of all adverse information bearing on the case, with the exception of information designated "confidential" by the M.C.U.R.C.

(i) Confidential information may consist of the following:

1. Informants' reports;
2. Professional reports (for example, psychiatrics, psychologists, social workers, teachers, etc); and,
3. Other information which would have an adverse impact upon the inmate's mental health, create a serious risk of reprisal against the reporting individual, or seriously impede progress on a pending correctional facility investigation into such areas as narcotics trafficking, gambling rings, escape plots and other security problems.

(j) When considering confidential informant information, the M.C.U.R.C. shall inquire into the reliability of the informant and the information, and it shall utilize such information only after satisfying itself that it is reasonably reliable.

(k) When information utilized by the M.C.U.R.C. is deemed confidential, and cannot be fully disclosed to the inmate, the M.C.U.R.C. shall direct the inmate and his representative to leave the meeting while this information is being presented or discussed. Whenever practicable, the inmate shall be informed of the general character of the information, the details of which have been withheld from him on grounds of confidentiality.

(l) When the inmate appears before the M.C.U.R.C., the Chairperson shall explain to him the reason for the his appearance, the nature of the proceeding and the particular areas of the M.C.U.R.C.'s concern.

(m) The inmate shall be permitted to present documentary evidence related to his case. The inmate shall also be permitted to call witnesses on his own behalf when permitting him to do so will not risk the maintenance of security or the orderly operation of the correctional facility. The M.C.U.R.C. shall have the discretion, however, to keep the hearing within reasonable limits.

(n) The Chairperson of the M.C.U.R.C. shall call those witnesses deemed to be reasonably available and whose testimony is necessary for a proper understanding of the circumstances of the particular case. Repetitive witnesses need not be called. The Chairperson shall have the discretion to refuse to call witnesses that may create a risk of reprisal. Unavailable witnesses may be asked to submit written statements. Witnesses requested by the inmate who are called should be questioned by members of the M.C.U.R.C. or the counsel substitute. Inmates without a counsel substitute may request that certain questions be directed by Committee members to any witnesses.

(o) The M.C.U.R.C. Chairperson shall exercise control over all presentations to exclude irrelevant information and to prevent harassment, abuse or repetition. If the Chairperson shall refuse to call one or more witnesses, the reasons for each such refusal shall be separately specified on the decision form.

(p) During the formal review with the inmate, the M.C.U.R.C. may give guidance to the inmate with respect to the reason for the rules and policies of the correctional facility.

(q) When the M.C.U.R.C. notes a particular treatment need which can be met by existing treatment services, and the inmate indicates a willingness to participate in such treatment, the M.C.U.R.C. shall make the appropriate referral.

(r) Within one calendar week, the M.C.U.R.C. shall provide a written notice of decision to the inmate advising him of its reason for the decision and a summary of the evidence relied upon.

(s) In its written notice of decision to the inmate being admitted or retained in M.C.U., the M.C.U.R.C. shall point out the elements of the inmate's behavior or attitude which are deemed to be unsatisfactory and shall advise him that the next formal M.C.U.R.C. review on his case will be held in three months.

10A:5-2.7 Review of Management Control Unit Review Committee (M.C.U.R.C.) disposition

(a) At the time the inmate is provided with the Management Control Unit Review Committee's (M.C.U.R.C.) decision, he shall be advised of the opportunity to have the Superintendent or his or her designee review the M.C.U.R.C. decision. The inmate shall have one calendar week to submit a letter of appeal. The Superintendent or his or her designee may approve or modify any M.C.U.R.C. disposition as he or she deems appropriate. The Superintendent or his or her designee may also order further hearings where appropriate.

(b) During the Superintendent's review, the following factors shall be considered:

1. Whether there was compliance with N.J.A.C. 10A:5-2.6;
2. Whether the decision of the M.C.U.R.C. was based on substantial evidence; and,
3. Whether the decision was rendered appropriate to the inmate's case.

(c) The Superintendent's decision will be forwarded to the inmate in writing within seven working days following receipt of the appeal.

10A:5-2.8 Use of Prehearing Management Control Unit prior to the Management Control Unit Review Committee (M.C.U.R.C.) meeting

(a) The inmate may be placed in Prehearing M.C.U. by order of the Superintendent or his or her designee when there is reasonable evidence that, if the inmate remains in general population, there is an immediate threat:

1. To the safety of others;
2. Of damage to or destruction of property; or,
3. Of interrupting the safe, secure and orderly operation of the correctional facility.

(b) The inmate shall be entitled to a hearing within five working days following his placement into Prehearing M.C.U.

(c) An inmate placed in Prehearing M.C.U. shall be given the written notice of the Management Control Unit Review Committee (M.C.U.R.C.) hearing as described in N.J.A.C. 10A:5-2.6 within 24 hours following placement in Prehearing M.C.U.

(d) An inmate may be placed in Prehearing M.C.U. only after such placement is authorized by the Superintendent or Assistant Superintendent. Form 141-I AUTHORIZATION FOR PREHEARING M.C.U. shall be utilized for this purpose.

(e) A separate Form 141-I must be completed for each inmate and, wherever possible, Form 141-I should be completed prior to placing the inmate in Prehearing M.C.U.

(f) When an emergency exists which precludes completion of the Form 141-I prior to placement, the Form must be completed immediately following placement. After all appropriate parties have signed Form 141-I, it shall be placed in the inmate's classification folder and a copy shall be placed in the inmate's M.C.U. folder.

(g) Additional copies of completed Form 141-I may be kept on file, for record keeping purposes, in any areas designated by the Superintendent and the Director of Custody Operations.

10A:5-2.9 Use of Prehearing Management Control Unit during an emergency

(a) In the event an emergency is declared which poses an immediate and substantial threat to the security and orderly operation of the correctional facility, it may become necessary to implement a total lock-up of inmates. The correctional facility shall remain in this lock-up state until such time as the emergency no longer exists.

(b) During this period between total lock-up and a return to normal operations any number of inmates may be placed in Prehearing M.C.U. status should their behavior fall into the placement criteria as outlined in N.J.A.C. 10A:5-2.8, USE OF PREHEARING MANAGEMENT CONTROL UNIT PRIOR TO THE MANAGEMENT CONTROL UNIT REVIEW COMMITTEE (M.C.U.R.C.) MEETING. When an unusually large number of inmates is involved, the procedures set forth in this Subchapter shall be modified in order to maintain an effective level of security and order, and at the same time, attempt to provide each inmate with the maximum M.C.U. hearing safeguards under these unusual circumstances.

(c) The following procedures shall be implemented and remain in effect until normal operations resume:

1. Inmates who have been identified as being a threat to the secure and orderly operation of the facility shall remain in Prehearing M.C.U. at housing assignments to be designated by the Superintendent or his or her designee.

2. Each inmate shall receive a written notice explaining the existence of the emergency, informing him that he has been identified as a threat to the secure and orderly operation of the facility, and advising him that he will receive an in-person hearing as soon as possible.

3. The schedule for the hearings shall be affected by the number of inmates involved and the need to insure security. A schedule of such hearings shall be issued by the Superintendent.

4. The Superintendent shall designate such special hearing officers as are familiar with classification materials and the M.C.U. process to conduct hearings as promptly as is possible. The inmate shall be permitted to appear in person unless doing so would be unduly hazardous to the safety of the hearing officer or security of the facility.

5. At the hearing the inmate shall be informed verbally of all adverse information bearing on his case with the exception of information designated "confidential." When reviewing confidential information, procedures set forth in N.J.A.C. 10A:5-2.6 shall apply.

6. The inmate shall be permitted to speak on his own behalf or to submit a written statement. If the inmate is illiterate or otherwise demonstrates a need for assistance in presenting his statement, a staff member may be assigned to assist him at the hearing.

7. The inmate shall receive a written notice of decision within 10 days.

8. Review procedures, after initial classification to M.C.U. during these emergency conditions, shall be those set forth in N.J.A.C. 10A:5-2.6. These review procedures shall be commenced within three months following initial placement with subsequent reviews held every three months.

9. Conditions of confinement as set forth in this Subchapter shall be modified as is reasonably necessary during the pendency of the emergency to insure security and the continued orderly operation of the facility.

10A:5-2.10 Review of inmates placed in the Management Control Unit (M.C.U.)

(a) When the Management Control Unit Review Committee (M.C.U.R.C.) determines that placement in the Management Control Unit (M.C.U.) is appropriate for a particular inmate, a preliminary determination shall also be made as to when the continued need for the M.C.U. will be reviewed. In any case, a formal review of each inmate in the M.C.U. shall be made a minimum of every three months.

(b) A written record shall be maintained by the M.C.U.R.C. of all reviews of inmates in the M.C.U. This record shall be kept in a separate file in addition to being made a permanent part of the inmate's case folder. A confidential notation shall be made in the file if the

M.C.U.R.C.'s conclusions regarding findings or disposition in a particular case are not unanimous. All M.C.U.R.C. reports shall be signed by all members.

(c) The inmate shall be permitted to appear at all reviews of his case unless doing so would be unduly hazardous to the safety and security of the facility, or he refuses to appear.

(d) Any member of the M.C.U.R.C. may request a review for an inmate in the M.C.U. earlier than was previously determined.

(e) At each review, the M.C.U.R.C. shall again review the information upon which it based its decision to assign the inmate to the M.C.U. Such information shall include:

1. Disciplinary reports;
2. Programs participation (for example, education, counseling, recreation activities, etc.); and,
3. Records of the inmate's behavior and attitude while in the Unit (for example, wing officers and professional staff reports which must periodically be filed describing pertinent observations, both positive and negative, of the inmate's behavior and attitude while in the M.C.U.).

(f) An inmate shall be released from the M.C.U. when, in the opinion of the M.C.U.R.C., he no longer poses a substantial threat:

1. To the safety of others;
2. Of damage to or destruction of property; or,
3. Of interrupting the operation of a State correctional facility.

10A:5-2.11 Ventilation, heating, lighting and sanitation

(a) Proper ventilation, lighting, normal room temperatures, cleanliness and properly functioning sanitary fixtures shall be maintained in cells within the Management Control Unit (M.C.U.).

(b) Daily inspections shall be made to insure that the cells, corridors, toilets, showers and other areas within the M.C.U. are kept secure, clean and sanitary.

10A:5-2.12 Food

(a) Management Control Unit (M.C.U.) 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:5-2.13 Showers, shaving

Each inmate in the Management Control Unit (M.C.U.) shall be permitted to shave and shower at least two times a week, unless permitting these activities would present an undue security hazard. Every effort shall be made to permit each inmate in M.C.U. to shave and shower every other day.

10A:5-2.14 Medical and psychiatric services

(a) Medical and psychiatric emergencies of inmates in the Management Control Unit (M.C.U.) shall be attended to immediately.

(b) Requests for medical attention by staff or inmates in non-emergency situations shall be responded to by the physician who visits the M.C.U. every weekday.

(c) The level of all other medical and psychiatric services shall be the equivalent of that provided to inmates in the general population.

10A:5-2.15 Personal items

(a) All inmates shall be admitted to the Management Control Unit (M.C.U.) dressed in normal correctional facility clothing after a thorough search for contraband.

(b) Each inmate shall be provided with the following items to the same extent as such items are provided for inmates in the general population:

1. Clothing required for use in cell;
2. Bedding and mattress;
3. Personal hygiene supplies (including soap, deodorant, toothbrush, toothpaste or powder, towel and toilet paper);
4. Utensils and supplies for adequately cleaning cell;
5. Eyeglasses; and,
6. Writing materials.

(c) The possession and use of radios, televisions, typewriters and other appliances in the M.C.U. shall be subject to the same guidelines as those developed by the Superintendent for the general population.

(d) Inmates in M.C.U. shall be permitted the same number of personal and library books as the general population. Written procedures shall be in effect for requesting, receiving and returning reading materials to the correctional facility's library and Inmate Law Library.

10A:5-2.16 Disposition of inmate's personal possessions not authorized in the Management Control Unit (M.C.U.)

(a) The inmate's personal possessions not authorized in the Management Control Unit (M.C.U.) shall not be stored by the correctional facility.

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(b) Disposition of these non-permissible personal possessions shall be handled in accordance with N.J.A.C. 10A:1, ADMINISTRATION, ORGANIZATION AND MANAGEMENT.

10A:5-2.17 Correctional facility clothing, bedding and linen

Written procedures shall be established which provide for each inmate in the Management Control Unit (M.C.U.) to send clothing, towels, sheets and other linens to the laundry on a weekly basis.

10A:5-2.18 Inmate legal activities

(a) Inmates shall be provided access to attorneys.

(b) Inmates shall also have access to the Inmate Law Library by means of inmate law library clerks who shall respond to the appropriate request of the Management Control Unit (M.C.U.) residents for legal reference materials, services and supplies as afforded inmates in the general population.

(c) The Superintendent shall be responsible for ensuring that M.C.U. inmates have reasonable access to notary services.

10A:5-2.19 Correspondence, visits and telephone calls

(a) Correspondence, visiting or telephone calling opportunities shall be available to inmates in the Management Control Unit (M.C.U.) but conducted in accordance with any special precautions deemed necessary or appropriate by the Superintendent.

(b) No staff member shall monitor the content of conversation between an inmate and his attorney or spiritual advisor.

(c) Restrictions of visits or telephone calls for persons in the M.C.U. shall be made in accordance with N.J.A.C. 10A:5-2.26.

10A:5-2.20 Exercise and recreation

(a) Efforts shall be made to provide opportunities for exercise and recreation consistent with custodial considerations. Each inmate in the Management Control Unit (M.C.U.) shall be permitted the minimum of two hours exercise each week and every effort shall be made to provide at least five hours per week, unless compelling security, safety or weather reasons dictate otherwise. When exercise is not permitted, the reasons shall be well documented.

(b) The Superintendent may take emergency action in suspending exercise or recreation privileges for any or all inmates until the emergency has passed. In any such emergency, the Superintendent shall notify the Commissioner.

10A:5-2.21 Education

(a) Educational programs shall be made available to inmates in the Management Control Unit (M.C.U.) who are desirous of participating in them.

(b) A teacher shall be assigned to the M.C.U. and an office shall be available in the Unit for his or her activities.

10A:5-2.22 Visits by professional staff

(a) Inmates in the Management Control Unit (M.C.U.) shall be visited daily during the work week by a member of the correctional facility's professional staff to determine any emergency or unusual needs of the inmates and make referrals to appropriate departments or staff members.

(b) Spiritual counseling shall be available on an individual basis as coordinated by the correctional facility's chaplain and consistent with the M.C.U. operating procedures.

10A:5-2.23 Work opportunities

(a) Work opportunities shall be provided to all inmates in the Management Control Unit (M.C.U.) in keeping with the special conditions of the Unit.

(b) Pay and work time credits shall be commensurate with the skill level and the amount of work responsibilities involved.

(3) Education and program credits shall be commensurate with credits available to the general population.

10A:5-2.24 Social, psychological and counseling program

(a) Treatment programs shall be available in the Management Control Unit (M.C.U.) to at least the same extent as available to the general inmate population. Social workers and a psychologist shall be assigned to the M.C.U. and offices shall be provided for each of these professional persons. The professionals shall provide services consistent with those provided to the general population (for example, crisis intervention, problem solving, short and long term counseling, parole and classification evaluations, etc.) and shall work closely with the M.C.U. supervisor and staff.

(b) Counseling sessions shall be arranged upon the request of an inmate confined in the M.C.U. Counseling shall be coordinated between the professional assigned to the M.C.U. and the Director of Professional Services.

(c) Two interview rooms shall be set aside within the M.C.U. for use by the assigned professionals, the M.C.U. supervisor, the Parole Counselor, and professional representatives of outside agencies such as Social Security, Veteran's Administration, Morrow Project, and Vocational Rehabilitation.

10A:5-2.25 Commissary

(a) Purchase of commissary items in the Management Control Unit (M.C.U.) shall be permitted within guidelines developed by the M.C.U. supervisor and approved by the Superintendent.

(b) Procedures for obtaining commissary items shall be the same as for the general population.

10A:5-2.26 Withdrawal of personal items or activities

(a) Whenever in the judgment of the officer in charge of the Management Control Unit (M.C.U.) there is imminent danger that an inmate will destroy his clothing or any items usually permitted the inmate in his cell, or will do injury to himself, to another person or to property with such items, the officer may deprive the inmate of such items, if practicable. In such case, however, effort shall be made to provide a substitute for the item or to permit the inmate to use the item under the supervision of the officer.

(b) Whenever an inmate is deprived of any usually authorized item or activity, a written report shall immediately be forwarded to the Superintendent or his or her designee and the M.C.U. Supervisor, identifying the inmate and the item or activity.

(c) The Management Control Unit Review Committee (M.C.U.R.C.) shall review any such restriction within one week. Any continued restriction shall be permitted only with the written authorization of the M.C.U.R.C.

(d) Such restrictions shall be reviewed on a weekly basis to determine whether there is reasonable certainty that the danger to person or property is no longer imminent and the restriction may be lifted.

10A:5-2.27 Special custodial responsibilities

(a) Because of the increased need for close security within the Management Control Unit (M.C.U.), the frequency and intensity of certain custodial functions shall be increased. Thorough cell searches may be conducted as often as once a week if found necessary for certain inmates or as often as twice a month for the entire population of the M.C.U. Spot-checks of cells may be conducted at any time.

(b) Despite the increased need for security, precautions shall be taken to insure that the inmates in the M.C.U. are not subjected to unnecessary limitations of their personal privacy. The M.C.U. supervisor or another person acting on the direct or standing orders of the Superintendent must authorize any non-routine cell searches.

10A:5-2.28 Disciplinary action within the Management Control Unit (M.C.U.)

(a) The rules set forth in N.J.A.C. 10A:4, INMATE DISCIPLINE shall be in full force and effect in the Management Control Unit (M.C.U.).

(b) No special restriction of privilege on disciplinary grounds, such as denial of outside recreation or of work opportunities, may be continued in M.C.U. for longer than 30 days. If, in the judgment of the Disciplinary Hearing Officer/Adjustment Committee, there are special custodial reasons for desiring to maintain special restriction of privileges upon an inmate for longer than 30 days, the Disciplinary Hearing Officer/Adjustment Committee shall recommend assignment to Administrative Segregation to the Institutional Classification Committee (I.C.C.).

10A:5-2.29 Program monitoring, review and modification

The Management Control Unit Review Committee (M.C.U.R.C.) shall continuously monitor and review all aspects of the Management Control Unit (M.C.U.). When the M.C.U.R.C. desires to make any significant deviation from the M.C.U. Program as delineated in this Subchapter a request shall be submitted in writing through the Superintendent to the Assistant Commissioner, Division of Adult Institutions.

10A:5-2.30 Compliance with all other rules

In addition to the rules contained in this Subchapter, all other Department rules applicable to inmates in the State Prison, Trenton, shall apply with equal force to inmates in the Management Control Unit (M.C.U.).

SUBCHAPTER 3. ADMINISTRATIVE SEGREGATION

10A:5-3.1 Admission to Non-Vroom Administrative Segregation

(a) Whenever the Disciplinary Hearing Officer/Adjustment Committee imposes a sanction which includes Administrative Segregation, the administrative segregation part of the sanction shall be referred by the

Disciplinary Hearing Officer/Adjustment Committee to the Institutional Classification Committee (I.C.C.) for confirmation at its next regularly scheduled meeting.

(b) In considering the sanction, the Institutional Classification Committee (I.C.C.) shall consider any relevant factors including, but not limited to:

1. The circumstances and gravity of the disciplinary infraction;
2. The reason(s) given by the Disciplinary Hearing Officer/Adjustment Committee for the sanction imposed;
3. The inmate's previous disciplinary record; and,
4. Whether other available dispositions are adequate to regulate the inmate's behavior within acceptable limits.

(c) Confirmation shall be made where the Institutional Classification Committee (I.C.C.) determines that the sanction is appropriate and within acceptable limits, and where the inmate's presence in the general population could pose a threat to the safe, secure and orderly operations of the correctional facility.

(d) The Institutional Classification Committee (I.C.C.) shall provide written notice to the inmate of its decision confirming, modifying or overruling the administrative segregation sanction together with its reasons therefor.

(e) A copy of the I.C.C. notice shall be filed in the inmate's classification folder.

(f) Not all correctional facilities within the Department of Corrections contain Administrative Segregation Units. If an inmate receives a sanction which includes administrative segregation, but is housed in a facility which does not have an Administrative Segregation Unit, the sanction first must be confirmed by the Institutional Classification Committee (I.C.C.) of the correctional facility in which the inmate is housed. The sanction shall then be referred to the next regularly scheduled meeting of the Inter-Institutional Classification Committee (I.I.C.C.) which shall provide for the transfer of the inmate to a correctional facility within the Division of Adult Institutions which has an Administrative Segregation Unit.

10A:5-3.2 Special Administrative Segregation Review Committee (S.A.S.R.C.)

(a) The Special Administrative Segregation Review Committee (S.A.S.R.C.) is a subcommittee of the Inter-Institutional Classification Committee (I.I.C.C.) which is responsible for providing a bimonthly review of the status of inmates assigned to all Administrative Segregation Units except the Vroom Readjustment Unit (V.R.U.).

(b) The Deputy Director of the Division of Adult Institutions shall designate voting members, whose titles shall not be lower than Assistant Superintendent, to serve on the S.A.S.R.C. on a six month rotating basis. The S.A.S.R.C. shall be composed of:

1. One voting member who shall be a representative of Trenton State Prison;
2. One voting member who shall be a representative from another Prison Complex facility; and,
3. One voting member who shall be a representative from a Youth Complex facility.

(c) The Deputy Director shall designate a Chairperson from among the voting members to serve a six month or extended term, as determined by the Deputy Director.

(d) An in-house psychiatrist or psychologist and a representative of the Classification Department will attend each meeting of the (S.A.S.R.C.) but they will have no voting power.

(e) The S.A.S.R.C. shall meet as frequently as is necessary to accomplish the business of the S.A.S.R.C., and the meetings shall be held at a facility designated by the members.

(f) Each inmate shall have his or her case reviewed at least once every 60 days by the S.A.S.R.C. in order to evaluate the inmate's behavior while in the Administrative Segregation Unit.

(g) The S.A.S.R.C. review shall not necessitate the inmate's presence although the Committee may, where it deems necessary, require the inmate to appear, unless he or she refuses to appear without the use of force.

(h) Upon review of the inmate's behavior, the S.A.S.R.C. may determine that he or she should be released from the Administrative Segregation Unit. The S.A.S.R.C. shall determine that an inmate should be released from the Administrative Segregation Unit when it concludes that:

1. The initial need for placement in the Administrative Segregation Unit no longer exists;
2. The inmate has clearly demonstrated by his or her behavior that he or she can and will adequately conform to the rules and regulations of correctional facilities;

3. The inmate's presence in the general population will not pose a threat to the safe, secure and orderly operations of a facility; and,

4. The inmate's presence in the general population prior to completion of the sanction as specified by the Disciplinary Hearing Officer/Adjustment Committee would not adversely affect the goals of a correctional facility.

(i) If the S.A.S.R.C. determines not to release the inmate from the Administrative Segregation Unit, the inmate shall be so advised in writing, together with the reasons therefor, unless security considerations preclude their disclosure, in which case a notation as to the Committee's reasons and an explanation of how security would be adversely affected shall be placed in the inmate's folder.

(j) If the S.A.S.R.C. determines to release the inmate, it shall give the inmate written notice of its decision. The inmate shall be:

1. Released into the general population of the correctional facility in which he or she has been confined in the Administrative Segregation Unit;
2. Referred to the Management Control Unit Review Committee (M.C.U.R.C.) for the Management Control Unit (M.C.U.);
3. Referred for a Protective Custody hearing; or,
4. Referred to the Inter-Institutional Classification Committee (I.I.C.C.) for possible transfer to another correctional facility.

(k) If the inmate is transferred to general population and wishes a transfer to another correctional facility, he or she shall submit a request to the Institutional Classification Committee (I.C.C.) for consideration by the Inter-Institutional Classification Committee (I.I.C.C.)

(l) The S.A.S.R.C. is authorized to assign inmates to an appropriate correctional facility in accordance with the guidelines established for the Inter-Institutional Classification Committee (I.I.C.C.).

(m) The decision of the S.A.S.R.C. to assign an inmate to another correctional facility shall be confirmed by the Inter-Institutional Classification Committee (I.I.C.C.) at its next regularly scheduled meeting. The inmate shall receive written notice of this decision.

(n) The appropriate Deputy Director shall be contacted for assistance when the transfer of an inmate from administration segregation status to another correctional facility cannot be completed because of a lack of available bed space.

(o) Upon final confirmation of the inmate's assignment by the Inter-Institutional Classification Committee (I.I.C.C.) and approval by the appropriate Deputy Director, the receiving correctional facility shall be responsible for immediately contacting the sending correctional facility and making the arrangements necessary for transferring the inmate.

10A:5-3.3 Admission to the Vroom Administrative Segregation Unit

(a) Whenever the Disciplinary Hearing Officer/Adjustment Committee has imposed a sanction which includes administrative segregation and specifies the Administrative Segregation Unit at the Vroom Readjustment Unit (V.R.U.), the administrative segregation part of the sanction shall be referred by the Disciplinary Hearing Officer/Adjustment Committee to the next regularly scheduled Inter-Institutional Classification Committee (I.I.C.C.) meeting for confirmation.

(b) In considering the sanction, the Inter-Institutional Classification Committee (I.I.C.C.) shall consider any relevant factors including, but not limited to:

1. The circumstances and gravity of the disciplinary infraction;
2. The reason(s) given by the Disciplinary hearing Officer/Adjustment Committee for the sanction imposed;
3. The inmate's previous disciplinary record; and/or,
4. Whether other available dispositions are adequate to regulate the inmate's behavior within acceptable limits.

(c) Confirmation shall be made where the Inter-Institutional Classification Committee (I.I.C.C.) determines that the sanction is appropriate and within acceptance limits, and where the inmate's presence in the general population could pose a threat to the safe, secure and orderly operations of the correctional facility.

(d) The Inter-Institutional Classification Committee (I.I.C.C.) shall provide written notice to the inmate of its decision confirming, modifying or overruling the administrative segregation sanction together with its reasons therefor. A copy of this notice shall be filed in the inmate's classification folder.

10A:5-3.4 Vroom-Administrative Segregation Review Committee

(a) The Superintendent of Trenton State Prison shall appoint a separate Vroom-Administrative Segregation Review Committee which shall be composed of three persons which shall include:

1. A correctional officer of the rank of Sergeant or above;
2. A treatment staff person; and,
3. An administrative staff person.

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(b) The Superintendent shall designate one member of the Vroom-Administrative Segregation Review Committee to serve as Chairperson. All members shall regularly be assigned to work in the Vroom Readjustment Unit.

(c) Each inmate housed in the Vroom-Adjustment Segregation Unit shall have his case reviewed once each month by the Vroom Administrative Segregation Review Committee. This review shall not necessitate the inmate's presence although the Committee may, where it deems necessary, require the inmate to appear, unless the inmate refuses to appear without the use of force.

(d) The purpose of the review shall be to evaluate the inmate's behavior while in the Vroom Administrative Segregation Unit.

(e) Upon review of the inmate's record while in Vroom Administrative Segregation Unit, the Vroom Administrative Segregation Review Committee may recommend to the Inter-Institutional Classification Committee (I.I.C.C.) that he be released from the Unit. Such a recommendation shall be made when the Committee concludes that:

1. The initial need for placement in the Vroom Administrative Segregation Unit no longer exists;

2. The inmate has clearly demonstrated by his behavior that he can and will adequately conform to correctional facility rules and regulations;

3. The inmate's presence in general population will not pose a threat to the safe, secure and orderly operations of the correctional facility; and,

4. The inmate's presence in the general population prior to completion of the sanction as specified by the Disciplinary Hearing Officer/Adjustment Committee would not adversely affect correctional facility goals.

(f) The inmate shall receive notice of the Vroom-Administrative Segregation Review Committee's decision.

(g) If the Vroom-Administrative Segregation Review Committee determines not to release the inmate from the Vroom Administrative Segregation Unit, the inmate shall be so advised in writing, together with the reasons therefor, unless security considerations preclude their disclosure, in which case a notation as to the Committee's reasons and an explanation of how security would be adversely affected shall be placed in the inmate's classification file.

10A:5-3.5 Role of the Inter-Institutional Classification Committee (I.I.C.C.) in review of inmates in the Vroom Administrative Segregation Unit

(a) If the Vroom-Administrative Segregation Review Committee recommends release from the Vroom Administrative Segregation Unit prior to the time specified by the Disciplinary Hearing Officer/Adjustment Committee, the Vroom-Administrative Segregation Review Committee shall make the recommendation to the Inter-Institutional Classification Committee (I.I.C.C.) together with the reasons therefor at the I.I.C.C.'s next regularly scheduled meeting.

(b) The Inter-Institutional Classification Committee (I.I.C.C.) shall act upon the Vroom-Administrative Segregation Review Committee's recommendation.

(c) The Inter-Institutional Classification Committee (I.I.C.C.) shall review the record of every inmate in the Vroom Administrative Segregation Unit no later than six months after his admission to the Unit and every three months thereafter to determine whether the inmate shall be released or retained in the Unit. The review shall be of the inmate's folder and include an evaluation of the reports of staff members. The review shall not necessitate the inmate's presence although the Inter-Institutional Classification Committee (I.I.C.C.) may, where it deems necessary, require the inmate to appear, unless the inmate refuses to appear without the use of force.

(d) In reviewing each case, the Inter-Institutional Classification Committee (I.I.C.C.) shall consider such factors as whether:

1. The initial need for placement in the Vroom Administrative Segregation Unit still exists;

2. The inmate has clearly demonstrated by his behavior that he can and will conform to correctional facility rules and regulations;

3. The inmate's presence in general population may pose a threat to the safe, secure and orderly operations of the correctional facility; and,

4. The inmate's presence in general population prior to completion of the sanction as specified by the Disciplinary Hearing Officer/Adjustment Committee would adversely affect the goals of the correctional facility.

(e) If the Inter-Institutional Classification Committee (I.I.C.C.) decides not to release the inmate from the Vroom Administrative Segregation Unit, it shall advise the inmate of its decision in writing, together with the reason(s) therefor, unless security considerations preclude their dis-

closure, in which case a notation as to the Inter-Institutional Classification Committee's (I.I.C.C.) reasons and an explanation of how security would be adversely affected, shall be placed in the inmate's file.

(f) If the Inter-Institutional Classification Committee (I.I.C.C.) decides to release the inmate from the Vroom Administrative Segregation Unit, it shall:

1. Assign him to the general population of an appropriate correctional facility;

2. Refer him to Trenton State Prison's Management Control Unit Review Committee (M.C.U.R.C.) for assignment to the Management Control Unit (M.C.U.); or,

3. Refer him for a Protective Custody hearing.

(g) The inmate shall receive notice of the Inter-Institutional Classification Committee's (I.I.C.C.) decision.

(h) No inmate shall be retained in the Vroom Administrative Segregation Unit because of a reluctance on the part of a correctional facility to accept him.

10A:5-3.6 Separate facilities

Whenever possible, areas utilized for Administrative Segregation Units shall be physically separate from other programs in the correctional facility.

10A:5-3.7 Ventilation, heating, lighting, sanitation and observation

(a) Ventilation and reasonable temperature shall be maintained on a 24 hour basis.

(b) Light of sufficient intensity shall be maintained to allow visual observation of inmates at all times.

(c) Partial curtains may be permitted over the cell door, at the discretion of the Superintendent.

(d) When admitted, inmates shall not be placed in the 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.

(e) Toilets that are flush controlled from outside the cells shall be flushed as often as is necessary to maintain good sanitary standards.

10A:5-3.8 Food

(a) Segregated 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:5-3.9 Grooming, showering and shaving

(a) As needed, barbering and hair care services shall be provided.

(b) Each inmate in an Administrative Segregation Unit shall be given the opportunity to shave and shower not less than three times per week, unless permitting these activities would present an undue security hazard.

10A:5-3.10 Medical and psychiatric services

(a) A member of the medical staff which can be a nurse, paramedic, doctor or other authorized health care personnel shall be available in the Administrative Segregation Unit on a daily basis to assess medical needs. Any inmate wishing to see a doctor shall notify the medical staff member or the tier officer or his or her sick call request.

(b) Medical and psychiatric emergencies shall be attended to immediately. Requests for medical attention for inmates in non-emergency situations shall be responded to by the physician, or medical person designated by the physician, 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:5-3.11 Personal items

(a) All inmates admitted to a Non-Vroom Administrative Segregation Unit shall be permitted the same items and amounts of personal property (for example, TV's, radios, personal clothing, etc.) as inmates in the general population with the exception of those items which could pose a threat to the safety, security or orderly operation of the Administrative Segregation Unit. The Superintendent shall establish a list of permissible items for inmates in the Administrative Segregation Unit.

(b) Personal clothing shall not be permitted within the Vroom Administrative Segregation Unit. Disposition of personal items not permitted in Administrative Segregation shall be in accordance with established Department of Corrections' procedures.

10A:5-3.12 Correctional facility clothing, bedding and linen

(a) The issue and exchange of correctional facility clothing, bedding, linen, and the laundry services in the Non-Vroom Administrative Segregation Unit shall be on the same basis as available to the general inmate population.

(b) The issue and exchange of correctional facility bedding, linen, and the laundry services in the Vroom Administrative Segregation Unit shall be on the same basis as available to the general inmate population.

(c) The issue of correctional facility clothing to inmates in the Vroom Administrative Segregation Unit shall be limited to the list of permissible items (for example, jump suits, canvas type footwear, etc.) as established by the Superintendent and approved in writing by the Division of Adult Institutions' Assistant Commissioner.

(d) The policies and procedures for clothing issue and bedding and laundry services shall be in accordance with N.J.A.C. 10A:14, SANITATION AND HYGIENE.

10A:5-3.13 Inmate legal service

Legal services shall be made available to inmate assigned to an Administrative Segregation Unit. Legal services shall be in accordance with the provisions set forth in N.J.A.C. 10A:6, INMATE ACCESS TO COURTS.

10A:5-3.14 Reading material

Inmates in Administrative Segregation Units shall be permitted to retain in their possession a reasonable amount of reading material. In addition, procedures shall be in effect permitting inmates access to books and periodicals from the correctional facility library and Inmate Law Library.

10A:5-3.15 Correspondence, visits and telephone calls

(a) Inmates in Administrative Segregation Units shall have the same correspondence, opportunities as inmates in the general population.

(b) Each correctional facility which has an Administrative Segregation Units shall provide each inmate in the Unit the opportunity to receive a minimum of one non-contact visit per week.

(c) Each correctional facility which has an Administrative Segregation Unit shall provide each inmate in the Unit the opportunity to make a minimum of one collect telephone call per week, excluding telephone calls of a legal nature.

10A:5-3.16 Recreation

(a) Where physical facilities permit, each inmate in an Administrative Segregation Unit shall be allowed recreation and exercise outside the cell at least five hours per week, unless to do so would adversely affect the security or orderly operations of the correctional facility.

(b) Inmates who shall be retained in Administrative Segregation shall be given the opportunity for out-of-doors recreation for a minimum of one hour of the required five per week unless to do so would adversely affect the security or orderly operations of the correctional facility.

10A:5-3.17 Education

Educational programs shall be made available to inmates assigned to an Administrative Segregation Unit and who are desirous of participating in an educational program.

10A:5-3.18 Visits by professional and correctional supervising staff

(a) A member of the correctional facility social work staff shall make visits to the Administrative Segregation Unit five days per week and shall be available to interview individual inmates as requested. When appropriate, referrals to other departments or staff members shall be made.

(b) The correctional facility chaplain shall also visit the Administrative Segregation Unit as requested by individual inmates to provide religious counseling or other pastoral services.

(c) The supervisor in charge of the Administrative Segregation Unit shall make daily visits to the Unit and shall be available to interview individual inmates as requested.

(d) All inmates transferred to the Vroom Administrative Segregation Unit shall be counseled by the Unit's professional staff regarding the behavioral and attitudinal changes that are necessary if they are to gain release from the Unit.

10A:5-3.19 Work opportunities

Work opportunities shall be made available to inmates assigned to the Administrative Segregation Unit to the extent possible in light of security considerations, limited resources, availability of physical facilities and budgetary constraints.

10A:5-3.20 Psychological/psychiatric evaluations

(a) Every inmate in the Administrative Segregation Unit for six months shall receive a psychiatric or psychological evaluation and shall receive a psychiatric or psychological evaluation every three months thereafter. The evaluation shall consider, but not be limited to the following factors:

1. The inmate's adjustment to his or her surroundings;
2. The likelihood of the inmate conforming his or her behavior to correctional facility rules and regulations; and,

3. The likelihood of the inmate posing a threat to the safe, orderly and secure operations of the correctional facility.

(b) The results of the evaluation shall be available to the Institutional Classification Committee (I.C.C.) for use in its periodic review of the inmate, or where applicable, to the Inter-Institutional Classification Committee (I.I.C.C.) for its periodic review of the inmate. This shall not preclude the Inter-Institutional Classification Committee (I.I.C.C.), Institutional Classification Committee (I.C.C.), or Special Administrative Segregation Review Committee (S.A.S.R.C.) from directing that additional evaluations be made where they deem it necessary.

10A:5-3.21 Withdrawal of personal items or activities

(a) Whenever, in the judgment of the officer in charge of the Administrative Segregation Unit, there is imminent danger that an inmate will destroy his or her clothing or any item usually permitted the inmate in his or her cell or will do injury to him or herself, to another person or to property with such items, the officer may deprive the inmate of such items, if practicable. 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 the officer.

(b) Whenever an inmate is deprived of any usually authorized item or activity, a written report shall immediately be forwarded to the Superintendent or his or her designee and the supervisor of the Administrative Segregation Unit, identifying the inmate and the item or activity. In addition, the Special Administrative Segregation Review Committee (S.A.S.R.C.) or Vroom Administrative Segregation Review Committee, whichever shall be appropriate shall review any such restriction within one week. Any continued restriction shall be permitted only with the written authorization of the appropriate Review Committee.

(c) Such restrictions shall be reviewed on a weekly basis to determine whether there is reasonable certainty that the danger to person or property is no longer imminent and the restriction may be lifted.

10A:5-3.22 Selection of staff

All custody, treatment and administrative staff for Administrative Segregation Units shall be selected in accordance with Department of Civil Service regulations and the terms and conditions of all collective bargaining agreements and contracts entered into between the various working units and the Department of Corrections.

10A:5-3.23 Records

(a) The following information on inmates confined in an Administrative Segregation Unit shall be available in the Unit for the use of the custodial staff:

1. Inmate's name and number;
2. Previous housing locations;
3. Unit cell or room assignments;
4. Date admitted;
5. Disciplinary charge leading to administrative segregation;
6. Special medical or psychiatric problems; and,
7. Date beyond which the inmate may not be retained in the Administrative Segregation Unit on the instant offense.

(b) All unusual behavior shall be noted in the Unit log book together with the time and date of the incident. Unusual incidents shall also be reported pursuant to N.J.A.C. 10A:21, REPORTS.

SUBCHAPTER 4. CAPITAL SENTENCE UNIT (C.S.U.)

10A:5-4.1 Scope

Persons sentenced to death pursuant to N.J.S.A. 2C:11-3 shall be assigned to the Capital Sentence Unit (C.S.U.) until such time that the execution is carried out or in the alternative, that the sentence is commuted or otherwise changed to a lesser penalty.

10A:5-4.2 Establishment of the Capital Sentence Unit (C.S.U.)

(a) The Commissioner shall designate a specific housing unit at Trenton State Prison to be utilized solely for inmates under court imposed death sentence. There shall be no commingling of inmates in the Capital Sentence Unit (C.S.U.) with those in general population at Trenton State Prison.

(b) Female inmates under death sentence shall be housed in a separate section of the C.S.U. designated by the Commissioner.

(c) Access to inmates in the C.S.U. Unit shall be only as set forth in this Subchapter and the post orders promulgated in connection herewith.

10A:5-4.3 Admissions to the Capital Sentence Unit (C.S.U.)

(a) All male inmates shall be initially admitted at the intake unit of the Youth Reception and Correction Center at Yardville.

(b) The Superintendent of the Youth Reception and Correction Center at Yardville shall be responsible for developing written procedures to

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specify amounts and types of personal property on admission, medical screening, classification information and other relevant procedures.

(c) All intake procedures shall be completed at the Youth Reception and Correction Center at Yardville and the inmate shall be transported to Trenton State Prison as soon as is practicable.

(d) Prior to the escort vehicle's leaving the Youth Reception and Correction Center at Yardville, the Superintendent or his or her designee shall telephone the Trenton State Prison Superintendent's office to advise them of the time of departure and expected arrival time at Trenton State Prison.

(e) Females shall be admitted directly to the Capital Sentence Unit of Trenton State Prison. All intake procedures for female inmates shall be conducted at the Trenton State Prison Intake Unit.

10A:5-4.4 Capital Sentence Unit Management Team

(a) The Superintendent shall appoint a team of custody and support service personnel to supervise, monitor and provide for custody, security and services in the Capital Sentence Unit. This team shall be comprised of a:

1. Correction officer of the rank of Lieutenant or above, as Chairperson and Supervisor of the C.S.U.;

2. Psychologist;

3. Social worker;

4. Medical staff person;

5. Chaplain; and,

6. Such other staff as may be assigned by the Superintendent.

(b) In addition to delivery of services, the Supervisor of the C.S.U. shall be responsible for:

1. Maintaining a daily log;

2. Orientating new staff and inmates;

3. Supervising the proper use of restraints or force;

4. Conducting searches;

5. Preparing special reports concerning unusual incidents;

6. Supervising visits and telephone calls; and,

7. Other responsibilities as assigned by the Superintendent.

(c) The C.S.U. Management Team shall meet once per month, or more often as may be deemed necessary, to discuss problems, monitor delivery of services and share relevant information. A written summary of its deliberations shall be submitted to the Superintendent.

10A:5-4.5 Clothing, bedding and hygiene items

(a) Upon admission to C.S.U., the inmate shall receive one set of State issue clothing, bedding and hygiene items as set forth in the Capital Sentence Unit's post orders.

(b) He or she may also receive, according to Trenton State Prison rules and procedures, one:

1. TV set;

2. Radio; and,

3. Electric shaver.

10A:5-4.6 Reading materials

(a) Inmates in the Capital Sentence Unit (C.S.U.) may enjoy the same types and number of reading materials that are available to general population.

(b) The C.S.U. Management Team shall make the necessary arrangements to have sufficient reading materials available on the C.S.U.

10A:5-4.7 Showers

Each inmate shall be permitted a minimum of three showers per week.

10A:5-4.8 Recreation

(a) Inmates shall be permitted outdoor recreation a minimum of three, and up to six times per week, weather and security considerations permitting.

(b) Depending on security considerations and individual behavioral problems, recreation may be alone or in small groups as designated by the Capital Sentence Unit (C.S.U.) Supervisor.

10A:5-4.9 Legal services

A staff person who has had paralegal training shall assist each inmate with legal materials and services, except that no assistance will be provided concerning any matter which is being handled by an attorney.

10A:5-4.10 Food packages; canteen

(a) Inmates in the Capital Sentence Unit (C.S.U.) will receive correctional facility meals. No additional food or food packages will be permitted from any source.

(b) If an inmate has sufficient funds in his or her inmate account, he or she may order snack items, cigarettes, stamps and hygiene items approved by the Superintendent or his or her designee, from the canteen.

10A:5-4.11 Religious counseling

(a) The Trenton State Prison chaplain shall visit the Capital Sentence Unit (C.S.U.) at least once per week to minister to inmate's individual religious needs or to collect inmate's written requests for religious counseling.

(b) Upon written request, the chaplain shall arrange for individual religious counseling by a Trenton State Prison staff minister of the inmate's faith on a weekly basis.

(c) In any case where there is no Trenton State Prison staff person available, outside clergy of the inmate's faith may be permitted by means of a window visit only provided he or she has passed a security check in accordance with correctional facility procedures.

(d) During the 72 hour period immediately preceding the inmate's execution, religious counseling shall be permitted as set forth in N.J.A.C. 10A:16-10 LETHAL INJECTION.

10A:5-4.12 Barber

A staff person assigned by the Superintendent or his or her designee shall provide barber services to inmates in the Capital Sentence Unit (C.S.U.) once per month.

10A:5-4.13 Medical services

(a) Upon admission, each inmate shall be given a physical and psychological examination.

(b) A correctional facility physician assigned by the Superintendent shall conduct a physical examination of each inmate in the Capital Sentence Unit (C.S.U.) every six months. He or she shall report to the Superintendent any unusual medical condition which may require specialized treatment or further evaluation.

(c) The medical staff person assigned to the C.S.U. Management Team, or alternate assigned by the Superintendent or his or her designee, shall visit the C.S.U. daily or as often as may be necessary, to dispense medication and to evaluate individual medical needs.

(d) All medications shall be dispensed in liquid form or by injection.

10A:5-4.14 Sanitation

(a) Capital Sentence Unit (C.S.U.) staff shall be responsible for general sanitary maintenance of the C.S.U.

(b) Each inmate shall be responsible to clean his or her individual cell according to Trenton State Prison rules.

10A:5-4.15 Psychological and psychiatric services

(a) The C.S.U. Management Team psychologist shall monitor the condition of the inmates in the Capital Sentence Unit (C.S.U.) and shall make such recommendations, concerning the need for further evaluation or treatment, to the Superintendent and the C.S.U. Management Team as are appropriate.

(b) The psychologist shall file a written report concerning each inmate's psychological condition once every three months.

(c) In those cases where the psychologist believes the inmate is in need of additional evaluation or treatment, the psychologist shall refer the inmate to the facility psychiatrist. The psychiatrist shall examine the inmate and prescribe the needed treatment or medication.

(d) Inmates taking anti-psychotic drugs shall be examined by the psychiatrist at least once per month, and the psychiatrist shall file a written report of each examination.

(e) Prior to prescribing any anti-psychotic drug or sedative, the facility psychiatrist shall consult with the Department's Chief Medical Consultant to insure that the prescribed medication will not have an undesirable effect on death sentence procedures which may be scheduled. All medications shall be dispensed in liquid form or by injection.

10A:5-4.16 Visits and telephone use

(a) Each inmate in the Capital Sentence Unit (C.S.U.) shall have the opportunity for one non-contact visit per week with a member (up to two persons) of his or her family.

(b) Family members are defined as those set forth in N.J.S.A. 30:4-8.1 (father, mother, husband, wife, child, brother or sister) or a person with whom the inmate has shared a significant family-like relationship prior to his or her being sentenced under N.J.S.A. 2C:11-3. Whether such person meets this criteria shall be at the discretion of the Superintendent.

(c) Upon the written request of an inmate, a member of the press may be permitted to visit the inmate. Such visits shall be arranged at least 48 hours in advance through the Department's Public Information Officer, and shall be non-contact visits only.

(d) Contact visits as are necessary shall only be permitted to the inmate's attorney-of-record only. Such visits shall be arranged at least 24 hours in advance by notice of the attorney to the Superintendent's office.

(e) All visits shall be arranged and conducted according to correctional facility rules and are subject to cancellation as warranted by security and the orderly operation of the C.S.U.

(f) The Superintendent or his or her designee shall establish a schedule to permit each inmate to make a minimum of one collect telephone call per week to a person on the inmate's approved visit list or other member of his or her immediate family only.

(g) All personal telephone calls shall be monitored.

(h) The inmate may place such collect telephone calls as are needed to his or her attorney-of-record. Custody staff shall take whatever steps are deemed necessary by the Superintendent or his or her designee to insure that the person accepting the collect call is the inmate's attorney.

(i) Telephone calls of a legal nature shall not be monitored.

10A:5-4.17 Work assignments

There shall be no correctional facility work assigned to inmates in the Capital Sentence Unit (C.S.U.), except that required to maintain the cleanliness and orderliness of their individual cells according to facility rules.

10A:5-4.18 Correspondence

(a) Inmates in the Capital Sentence Unit (C.S.U.) shall have the same correspondence opportunities that are available to those in the general population. All mail may be carefully screened for evidence of escape plans and searched for contraband. Legal mail shall be processed as set forth in N.J.A.C. 10A:18, COMMUNICATION, MAIL AND VISITS.

(b) Custody staff shall examine purported legal mail to insure that it does in fact originate from or is directed to a source defined in N.J.A.C. 10A:18, COMMUNICATION, MAIL AND VISITS and that it contains no contraband.

10A:5-4.19 Records in the Capital Sentence Unit (C.S.U.)

(a) The following information on inmates confined in the Capital Sentence Unit (C.S.U.) shall be available on the C.S.U. for the use of staff:

1. Inmate's name and number;
2. Cell assignment;
3. Date admitted;
4. Disciplinary, medical or psychological problems;
5. List of approved visitors and telephone calls; and,
6. Name, address and telephone number of the inmate's attorney-of-record.

(b) All unusual behavior shall be noted in the C.S.U. log book together with date and time of the incident. Unusual incidents shall be reported pursuant to N.J.A.C. 10A:21, REPORTS.

10A:5-4.20 Disciplinary hearings

(a) Disciplinary hearings shall be heard by an Adjustment Committee and shall be held on the Capital Sentence Unit (C.S.U.) in a place designated by the Superintendent or his or her designee.

(b) In the event the inmate requests paralegal assistance at the hearing, the staff person assigned to assist the C.S.U. inmates with legal services shall provide this assistance. The hearing shall not be unreasonably delayed by reason of an inmate's request for paralegal assistance.

(c) Sanctions which may be imposed are those which do not conflict with the custody, security or objectives of the C.S.U. (for example, no loss of commutation time may be imposed).

10A:5-4.21 News media contact

News media contact shall be in accordance with N.J.A.C. 10A:19, NEWS MEDIA CONTACTS WITH CORRECTIONAL FACILITIES AND INMATES.

10A:5-4.22 Post orders

(a) Trenton State Prison shall develop post orders consistent with this Subchapter.

(b) Post orders shall be submitted, before September 15 of each year, to the Office of the Deputy Commissioner for his or her approval and for review by the Special Assistant for Legal Affairs.

10A:5-4.23 Training

(a) All staff and alternates selected for assignment to the Capital Sentence Unit (C.S.U.) shall be given training in management, custody support services and procedures before being assigned to the C.S.U.

(b) In the event of an emergency, at the discretion of the Superintendent, other staff may be temporarily assigned as are deemed necessary.

(c) Orientation of new inmates assigned to C.S.U. shall be accomplished pursuant to correctional facility rules as set forth in the post orders.

SUBCHAPTER 5. PROTECTIVE CUSTODY

10A:5-5.1 Admission to Protective Custody

(a) An inmate may be placed in Protective Custody by any of the following means:

1. On the recommendation of the Inter-Institutional Classification Committee (I.I.C.C.);

2. On the recommendation of a sentencing court or prosecutor, subject to approval of the Superintendent. The recommendation must be accompanied by a statement of justifiable reasons to support such placement;

3. On the recommendation of a prison lay staff person or a custody staff member of the rank of Sergeant or above. Emergency placement shall be reviewed and approved within 24 hours by the Shift Supervisor;

4. On the order of the Superintendent; Assistant Commissioner, Division of Adult Institutions; Deputy Commissioner; or Commissioner;

or,

5. Voluntarily, on the inmate's request.

(b) If an inmate voluntarily requests placement in Protective Custody, he or she must fill out and sign Form 146-I VOLUNTARY-PROTECTIVE CUSTODY CONSENT in which his or her reasons for requesting Protective Custody are stated. If the inmate's reasons cannot be verified or are deemed frivolous by the Superintendent or his or her designee, placement in Protective Custody may be denied or the inmate released.

(c) In all cases of involuntary placement in Protective Custody, the Superintendent or his or her designee shall gather facts, information and available documentation to support or reject the request and shall order such additional investigation as is deemed necessary for a clear understanding of the case.

10A:5-5.2 Hearing procedure for involuntary placement to Protective Custody

(a) An inmate in emergency Protective Custody or under consideration for placement in Protective Custody shall be given written notice on Form 146-II NOTICE OF PROTECTIVE CUSTODY HEARING—INVOLUNTARY as soon as practicable, but no later than three working days after emergency placement.

(b) The written notice shall be given to the inmate at least 24 hours prior to the in-person hearing. The notice shall be signed by the staff person delivering it and the date and time of delivery shall be noted.

(c) The notice shall include the following:

1. Statement of reasons utilized by the administration to initiate the Protective Custody hearing procedure;

2. Date of the Protective Custody hearing; and,

3. Notification that the inmate may present any relevant evidence supporting or contesting placement in Protective Custody.

(d) Evidence may consist of:

1. Witnesses' written statements;

2. Documents bearing on the nature of threat of harm involved; or,

3. Other facts relevant to the need or lack of need for placement in Protective Custody.

(e) Illiterate inmates or inmates otherwise unable to marshal the facts shall receive the assistance of a counsel substitute assigned by the Disciplinary Hearing Officer/Adjustment Committee or Superintendent. An interpreter shall be utilized, if needed, at the discretion of the Disciplinary Hearing Officer/Adjustment Committee.

(f) The Disciplinary Hearing Officer/Adjustment Committee shall have the discretion to keep the hearing within reasonable limits and to refuse to permit the collection and presentation of evidence which is not necessary for an adequate understanding of the case. The Disciplinary Hearing Officer/Adjustment Committee may order further investigation and reports where deemed necessary and 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.

(g) Inmates placed in emergent Protective Custody or under consideration for placement in Protective Custody shall receive a hearing within 10 working days after receipt of the notice unless there are exceptional circumstances, unavoidable delays or reasonable postponements.

(h) At the hearing, the inmate shall be informed of all information bearing on his or her case, with the exception of information designated "confidential." or

(i) Confidential information may consist of the following:

1. Informants' reports;

2. Professional reports (for example, psychiatrists, psychologists, social workers, teachers, etc.); or,

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3. Other information which would have an adverse impact on the inmate's health, create a serious risk of reprisal against the reporting person or seriously impede progress on a pending investigation.

(j) When reviewing confidential informant information, the Disciplinary Hearing Officer/Adjustment Committee shall inquire into the reliability of the informant and the information, and shall utilize such information only after satisfied that it is reasonably reliable. Whenever informant information is used, the inmate shall be informed of the general character of the information, if practicable. The details of informant information shall be withheld on grounds of confidentiality.

(k) Within 10 working days of the hearing, the Disciplinary Hearing Officer/Adjustment Committee shall provide a written notice of decision and a summary of the evidence relied upon.

10A:5-5.3 Appeal procedures for Protective Custody placement

(a) The inmate shall be advised of the opportunity to appeal to the Superintendent or his or her designee at the time that he or she is provided with the Protective Custody hearing decision (Form 146-III PROTECTIVE CUSTODY HEARING ADJUDICATION).

(b) The inmate shall have five working days from the date he or she receives the Protective Custody decision to submit a letter of appeal.

(c) All appeals shall be reviewed by the Superintendent and the following factors shall be considered:

1. Whether there was compliance with this subchapter;
2. Whether the decision was based on reliable information;
3. Whether the decision to place the inmate in Protective Custody was justifiable considering the inmate's safety and the continued secure, orderly operation of the correctional facility.

(d) Within 10 working days of receipt of the appeal, the Superintendent may:

1. Approve the Disciplinary Hearing Officer/Adjustment Committee's decision;
2. Modify the Disciplinary Hearing Officer/Adjustment Committee's decision; or,
3. Order further hearings.

(e) In all cases, the inmate shall be notified in writing of the Superintendent's decision.

10A:5-5.4 Review of inmates in Non-Vroom Protective Custody Units

(a) Each inmate in Protective Custody, whether voluntary or involuntary, shall be reviewed every three months, or more often if feasible, by the Institutional Classification Committee (I.C.C.).

(b) An inmate who is placed in Protective Custody involuntarily shall, in every case, have an in-person hearing once per year in accordance with procedures specified in N.J.A.C. 10A:5-5.2 and N.J.A.C. 10A:5-5.3.

10A:5-5.5 Release of inmates from Non-Vroom Protective Custody Units

(a) An inmate who has voluntarily signed him or herself into Protective Custody may sign him or herself out upon completion of a release form, provided the Institutional Classification Committee (I.C.C.) and the Superintendent or his or her designee are satisfied that there is no known danger to the inmate's well being.

(b) An inmate who has been placed in Protective Custody involuntarily may be released by the Superintendent or his or her designee, upon recommendation by the Institutional Classification Committee (I.C.C.) when they are satisfied that the conditions giving rise to the inmate's placement in Protective Custody have abated or do not exist.

(c) Inmates released from involuntary Protective Custody shall, when appropriate, be referred to the Inter-Institutional Classification Committee (I.I.C.C.) for assignment to a suitable correctional facility.

10A:5-5.6 Transfer to the Vroom Protective Custody Unit

(a) Transfer of inmates to the Vroom Protective Custody Unit, whether emergent or based on the Disciplinary Hearing Officer/Adjustment Committee's recommendation, shall be reviewed by the Inter-Institutional Classification Committee (I.I.C.C.).

(b) The Inter-Institutional Classification Committee (I.I.C.C.) shall review the evidence and the Disciplinary Hearing Officer/Adjustment Committee's decision based on the following criteria:

1. Whether the decision to place the inmate in the Vroom Protective Custody Unit was based on substantial evidence of serious threat of harm should the inmate remain in general population; and,
2. Whether alternative housing locations, was not feasible based on classification criteria or because sufficient protection could not be reasonably assured.

10:5-5.7 Periodic review of inmates in the Vroom Protective Custody Unit

(a) Each inmate in the Vroom Protective Custody Unit shall be reviewed by the Vroom Classification Committee once each month. This review shall not necessitate the inmate's presence although the Committee may, where it deems necessary, require the inmate to appear unless the inmate refuses to appear without the use of force.

(b) The purpose of this review shall be to ascertain the continued need or change, if any, in circumstances requiring the inmate's continued retention in the Vroom Protective Custody Unit.

10A:5-5.8 Formal review of inmates in the Vroom Protective Custody Unit

One year from the date of the initial Disciplinary Hearing Officer/Adjustment Committees' decision to place an inmate in the Vroom Protective Custody Unit, and every twelve months thereafter, an inmate shall be given a formal hearing in accordance with procedures specified in N.J.A.C. 10A:5-5.2 and N.J.A.C. 10A:5-5.3.

10A:5-5.9 Release of inmates from the Vroom Protective Custody Unit

(a) The Vroom Classification Committee may grant the inmate's release subject to the Superintendent's approval when it concludes that:

1. The initial circumstances creating the need for placement in the Vroom Protective Custody Unit no longer exist; and,
2. Release from the Vroom Protective Custody Unit will not pose a threat to the inmate's safety or well being or to the safe, secure orderly operation of the correctional facility.

10A:5-5.10 Ventilation, heating, lighting, sanitation, observation

(a) Ventilation and reasonable temperature shall be maintained on a 24 hour basis. Light of sufficient intensity (100 watts if requested) and if compatible with existing electrical load capacity shall be maintained to allow visual observations of inmates at all times. Partial curtains may be permitted over the cell door, at the discretion of the Superintendent.

(b) 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.

(c) Toilets that are flush controlled from outside the cells shall be flushed as often as is necessary to maintain good sanitary standards.

10A:5-5.11 Food

(a) Protective Custody 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:5-5.12 Grooming, showering and shaving

(a) Barbering and hair care services shall be provided as needed.

(b) Each inmate in Protective Custody shall be given the opportunity to shave and shower not less than three times per week, unless permitting these activities would present an undue security hazard.

10A:5-5.13 Medical services

(a) A member of the medical staff, which can be a nurse, paramedic, doctor or other authorized health care personnel, shall be available in the Unit on a daily basis to assess medical needs. Any inmate wishing to see a doctor shall notify the medical staff member or the housing officer of his or her sick call request.

(b) Medical and psychiatric emergencies shall be attended to immediately. Requests for medical attention for inmates in non-emergency situations shall be responded to by the physician or medical person designated by the physician within 24 hours.

10A:5-5.14 Personal items

(a) All inmates shall be admitted to Protective Custody dressed in normal correctional facility clothing after a thorough search for contraband.

(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 cell;
2. Bedding and mattresses;
3. Personal hygiene supplies (including soap, deodorant, toothbrush, toothpaste or powder, towel and toilet paper);
4. Utensils and supplies for cleaning cell;
5. Eyeglasses; and,
6. Writing materials.

(c) The possession and use of radios, televisions, typewriters and other appliances in Protective Custody shall be subject to the same guidelines as those developed by the Superintendent for the general population.

(d) Written procedures shall be in effect permitting inmates access to books and periodicals from the correctional facility's library and Inmate Law Library.

10A:5-5.15 Correctional facility clothing, bedding and linen

The issue and exchange of correctional facility clothing, bedding, linen, and the laundry service shall be on the same basis as is available to the general inmate population.

10A:5-5.16 Inmate legal services

Inmates in Protective Custody shall be afforded legal access to courts pursuant to N.J.A.C. 10A:6, INMATE ACCESS TO COURTS.

10A:5-5.17 Correspondence, visits and telephone calls

(a) Inmates in Protective Custody shall have the same correspondence opportunities that are available to inmates in the general population.

(b) Each correctional facility which has a Protective Custody Unit shall provide each inmate in the Unit with the opportunity to receive a minimum of one window visit per week, unless precluded by security conditions or other extraordinary circumstances.

(c) An inmate who has completed seven consecutive years in the Vroom Protective Custody Unit may request permission to receive one contact visit per month in addition to the regularly scheduled window visits. Unless precluded by security problems or other emergent circumstances, such visits shall be arranged.

(d) Each correctional facility which has a Protective Custody Unit shall provide each inmate in the Unit the opportunity to make a minimum of one collect telephone call per week, excluding legal telephone calls.

10A:5-5.18 Recreation

(a) Where physical facilities permit, each inmate in Protective Custody shall be allowed recreation and exercise outside the cell at least five hours per week, unless to do so would adversely affect the security or orderly operations of the correctional facility.

(b) Inmates who shall be retained in Protective Custody shall be given the opportunity for out-of-doors recreation for a minimum of one hour of the required five hours per week unless to do so would adversely affect the security or orderly operations of the correctional facility.

10A:5-5.19 Education

(a) A member of the educational staff shall be assigned to develop individualized educational programs for inmates who are assigned to Protective Custody if they so desire.

(b) The educational opportunities available to inmates in Protective Custody shall be comparable to those available to inmates in general population to the extent possible in light of available resources, space constraints and security precautions.

10A:5-5.20 Visits by professional and correctional supervisory staff

(a) A member of the correctional facility social work staff shall make visits to the Protective Custody Unit five days per week and shall be available to interview individual inmates as requested. When appropriate, referrals to other departments or staff members shall be made.

(b) The correctional facility chaplain shall visit the Protective Custody Unit as requested by individual inmates to provide religious counseling or other pastoral services.

(c) The Unit supervisor or his or her designee in charge of the Protective Custody Unit shall make daily visits to the Unit and shall be available to interview individual inmates as requested.

10A:5-5.21 Work opportunities

Work opportunities shall be made available to inmates assigned to a Protective Custody Unit to the extent possible in light of security considerations, limited resources, availability of physical facilities and budgetary constraints.

10A:5-5.22 Psychological examination

Every inmate assigned to a Protective Custody Unit shall have a psychological examination every six months or whenever it appears that he or she is suffering from an emotional or psychological disorder.

10A:5-5.23 Withdrawal of personal items or activities

(a) Whenever in the judgment of the custody supervisor of the Protective Custody Unit there is imminent danger that an inmate will destroy his or her clothing or any item usually permitted the inmate in his or her cell or will do injury to him or herself, to another person or to property with such items, an officer of the rank of Sergeant or above may deprive the inmate of such items, if practicable. In such case, however, effort shall be made to supply a substitute for the item or to permit the inmate to use the item under the supervision of the officer.

(b) Whenever an inmate is deprived of any usually authorized item or activity, a written report shall immediately be forwarded to the Superintendent or his or her designee and the supervisor of the Protective Custody Unit identifying the inmate and the item.

(c) The Institutional Classification Committee (I.C.C.) shall review any such restriction within one week. Any continued restriction shall be permitted only with the written authorization of the Institutional Classification Committee (I.C.C.).

(d) Such restrictions shall be reviewed on a weekly basis to determine whether there is reasonable certainty that the danger to person or property is no longer imminent and the restriction may be lifted.

10A:5-5.24 Selection of staff

All custody treatment and administrative staff for Protective Custody Units shall be selected in accordance with Department of Civil Service regulations and the terms and conditions of all collective bargaining arrangements and contracts entered into between the various working units and the Department of Corrections.

10A:5-5.25 Records

(a) The following information on inmates confined to Protective Custody shall be available in the Unit for the use of appropriate staff members:

1. Inmate's name and number;
2. Religion;
3. Previous housing location;
4. Unit cell or room assignment;
5. Date admitted;
6. Special medical or psychiatric problems; and
7. Date on which yearly review hearing is required.

(b) All unusual behavior shall be noted in the Unit log book together with the time and date of the incident. Unusual incidents shall also be reported pursuant to N.J.A.C. 10A:21 REPORTS.

10A:5-5.26 Disciplinary action within Protective Custody Units

The rules set forth in N.J.A.C. 10A:4, INMATE DISCIPLINE shall be in full force and effect in the Protective Custody Units.

10A:5-5.27 Transfers; record maintenance

All transfers into or out of a Protective Custody Unit shall be entered on the inmate's classification progress record.

10A:5-5.28 Correctional facility procedures

(a) Each correctional facility which has a Protective Custody Unit shall be responsible for developing written post orders/procedures consistent with this Subchapter.

(b) These written post orders/procedure shall be forwarded to the Department of Corrections' Office of the Deputy Commissioner for review and approval on or before September 15 of each year.

SUBCHAPTER 6. TRANSITIONAL PROTECTIVE CUSTODY

10A:5-6.1 Criteria for eligibility

(a) The criteria for consideration of assignment of inmates to the Transitional Protective Custody Unit are:

1. Present assignment to a Protective Custody Unit either voluntarily or on the recommendation of a Disciplinary Hearing Officer/Adjustment Committee;
2. Conduct and attitude demonstrated by the inmate that he may be able to modify his behavior sufficiently to enable him to successfully reintegrate into general population; and,
3. Conclusions by the correctional facility Internal Affairs Unit and the Superintendent that the inmate will be in no danger as a result of previous or present threats against his well-being at the facility to which he is ultimately assigned.

10A:5-6.2 Sentence considerations

(a) An inmate's maximum sentence shall not be a factor when he is being considered for assignment to the Transitional Protective Custody Unit.

(b) An inmate's maximum sentence shall be a factor when he is being considered for transfer from the Transitional Protective Custody Unit to the general population of a correctional facility.

10A:5-6.3 Admission

(a) The Institutional Classification Committee (I.C.C.) of the facility where the inmate is presently assigned to a Protective Custody Unit and the Leesburg State Prison I.C.C. shall meet to identify and select inmates who may be transferred to the Transitional Protective Custody Unit at the Leesburg State Prison. The transfer of an inmate, selected by the Committees, must be approved by the Superintendent of the sending correctional facility and the Inter-Institutional Classification Committee (I.I.C.C.) before the transfer is made.

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(b) Joint Institutional Classification Committee (I.C.C.) meetings shall be held as often as is needed to consider inmates for transfer to the Transitional Protective Custody Unit.

10A:5-6.4 Program

(a) Inmates assigned to the Transitional Protective Custody Unit shall be afforded the opportunity to have contact visits, work assignments (as are available) and a recreational program modified to meet their individual need for protection or supervision.

(b) Escorts shall be provided during each program component as deemed advisable by the Superintendent.

10A:5-6.5 Review and transfer

(a) Each inmate assigned to the Transitional Protective Custody Unit shall be reviewed by the Leesburg State Prison Institutional Classification Committee once every three months.

(b) If the Leesburg State Prison Institutional Classification Committee shall determine whether the inmate has demonstrated by his conduct, attitude and participation in activities, that he can satisfactorily be placed into the general population of a correctional facility.

(c) If the Leesburg State Prison Institutional Classification Committee is satisfied that the inmate has made sufficient progress, it shall submit its decision for release from the Transitional Protective Custody Unit to the Superintendent of Leesburg State Prison or his designate for approval.

(d) Inmates who fail to make progress or who otherwise demonstrate by their conduct that they cannot adopt the behavior necessary for satisfactory adjustment to the general population of a facility shall be reassigned to a Protective Custody Unit pursuant to the procedures set forth in 10A:5-5, PROTECTIVE CUSTODY.

(e) All recommendations for reassignment shall be submitted to the Inter-Institutional Classification Committee (I.I.C.C.) for approval and selection of a suitable correctional facility.

10A:5-6.6 Services and conditions

All conditions of confinement and correctional facility services set forth in 10A:5-5, PROTECTIVE CUSTODY shall be afforded inmates in the Transitional Protective Custody Unit.

10A:5-6.7 Post orders

(a) Each sending correctional facility and Leesburg State Prison shall develop written procedures and Post Orders consistent with this Subchapter to implement the Transitional Protective Custody Program.

(b) These procedures and post orders shall be submitted for review and approval as to custody, program and legal sufficiency to the Office of the Deputy Commissioner and Assistant Commissioner of Adult Institutions on or before September 15 of each year.

INSURANCE

Proposals numbered PRN 1986-185, 186 and 199, and the pre-proposal PPR 1986-2 are authorized by Hazel Frank Gluck, Commissioner, Department of Insurance.

Submit comments by June 18, 1986 to:

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

DIVISION OF ADMINISTRATION

(a)

Automobile Insurance

Nonrenewal of Automobile Insurance Policies

Proposed Amendments: N.J.A.C. 11:3-8

Authority: N.J.S.A. 17:1-8.1, 17C-6(e), 17:22-6.14a1, 2 and 3, 39:6A-3 and 39:6A-19.

Proposal Number: PRN 1986-199.

The agency proposal follows:

Summary

N.J.A.C. 11:3-8 contains procedures and requirements which are applicable to the nonrenewal of automobile insurance policies. On November 5, 1984, the Department of Insurance proposed several amendments to

this subchapter (see: 16 N.J.R. 2930(a)). Numerous comments on this proposal were submitted by insurers, industry trade organizations and consumers. These were carefully reviewed and analyzed. The amendments set forth in this proposal reflect the comments and recommendations submitted on the earlier proposal and include substantive modifications to the existing rule as well as revisions to the amendments previously proposed.

The Department has a statutory mandate to depopulate the New Jersey Automobile Full Insurance Underwriting Association. Many insurers have maintained that changes in the nonrenewal regulation are necessary to achieve depopulation. A number of the changes in this proposal are designed to promote depopulation while still protecting the insured. Additional substantive modifications resulting from review of the existing rule as well as technical and editorial modifications are also included.

The proposed amendment to N.J.A.C. 11:3-8.1 (Scope) would eliminate language which now excludes automobiles owned by business entities and used in the business and fleets from the requirements of this subchapter.

N.J.A.C. 11:3-8.2(a) concerns renewal offers and requires that an insurer offer renewal coverages at least as favorable to the insured as the expiring policy, subject to changes approved by the Commissioner. A 1977 amendment to this subsection clarified that this requirement included duration of the policy term and, also provided that insurers must permit policyholders to return to their prior duration of policy contract upon request.

The November 1984 proposal incorporated specific notice provisions and clarified that this requirement includes schedule of premium payments. The Department's current proposal retains these amendments. In addition, subsection (a) is to be amended to include time frames for the mailing of renewal bills. Finally, the proposal restructures and recodifies the existing subsection (a) into four subsections cited at N.J.A.C. 11:3-8.2(a) through (d).

The Department's November, 1984 proposal amended existing N.J.A.C. 11:3-8.2(b) to mandate that nonrenewal notices contain a statement advising policyholders of their right to file a complaint with the Insurance Department and of their possible eligibility for coverage through the New Jersey Automobile Full Insurance Underwriting Association.

The current proposal incorporates those amendments and, in addition, requires that the nonrenewal notice to include all the relevant information for nonrenewals based on N.J.A.C. 11:3-8.3(a)1. or (b) including number of accidents or claims and number of cars in the household.

The proposed amendment, N.J.A.C. 11:3-8.2(h), clarifies that in any instance in which an insurer may nonrenew a policy pursuant to the provisions of the subchapter it may, in the alternative, condition the renewal upon a change in limits or elimination of any coverage not required by law.

N.J.A.C. 11:3-8.3 delineates specific standards or criteria which are applicable to the nonrenewal of any coverage included in an automobile insurance policy. Subsection (a)1. has been amended to make it clearer although the substance is the same. Subsection (a)11. allows an agent to request nonrenewal of coverage for his or her insureds when the agent has replaced coverage with another voluntary market company. This subsection has been amended to clarify its intent. Form letters to be used by insurers in providing the notifications required by the provision are appended to the subchapter. In addition, insurers and agents must keep documentation of correspondence pursuant to this subsection.

Under the existing rule, excessive comprehensive physical damage claims cannot cause a policy to be nonrenewed except upon application to the Commissioner. The November, 1984 proposal added two subsections, (b) and (c) to N.J.A.C. 11:3-8.3, which established standards for the nonrenewal of only the comprehensive physical damage and towing and labor coverages. Comments to this proposal noted that collision insurance is not normally written on a stand-alone basis and that the rule should permit the termination of all physical damage coverage based upon excessive comprehensive claims. The current proposal retains these subsections although the number of claims triggering potential nonrenewal activity has been revised. Companies that wish to avail themselves of the increased flexibility to nonrenew under these subsections will have to write collision on a stand-alone basis.

N.J.A.C. 11:3-8.3(b), which has been recodified in the proposal as subsection (d), requires that an insurer submit to the Commissioner for prior approval any basis for nonrenewal not enumerated in the foregoing provisions of that section. Amendments to this subsection which have been carried over from the November, 1984 proposal include: (1) An extension from 90 to 120 days of the requires submission to the Depart-

ment of the nonrenewal request; (2) a specific requirement that the Department acknowledge receipt of such requests; and (3) a deemer provision applicable to the authorization of non-renewals.

A new section, N.J.A.C. 11:3-8.4, originally proposed in November 1984, has also been carried over to this proposal with certain modifications. The section provides additional standards of nonrenewal which are applicable to automobile policies covering certain categories of policyholders, specifically, first-time applicants for insurance, policyholders cancelled or nonrenewed and policyholders formerly insured through the New Jersey Automobile Full Insurance Underwriting Association (NJAFIUA) or New Jersey Automobile Insurance Plan (NJAIIP). The rule specifies that such nonrenewals: (1) may not be arbitrary, capricious or unfairly discriminatory, and in particular, may not be based upon race, religion, age, sex or similar criteria; and (2) must be based upon a failure to meet current standards as contained in the insurer's underwriting guidelines. Nonrenewals authorized under this section are limited to a period of three years following policy issuance.

The proposal defines first-time applicant as someone applying for automobile insurance for the first time, including children coming off their parent's policies. In addition, the proposal requires that insurers be able to document that insureds subject to the less stringent nonrenewal standards meet the eligibility standards of the rule. The purpose of these amendments is to encourage depopulation of the residual market by affording insurers greater underwriting flexibility with respect to these insureds.

The November, 1984 proposal, at N.J.A.C. 11:3-8.5, contained record maintenance and reporting requirements. To monitor the effect of the rule, particularly with respect to depopulation efforts, as well as ensure compliance with its provisions, insurers were required to maintain certain records and file with the Department on an annual basis reports which indicate by rating territory the number of policies subject to this subchapter which are issued voluntarily, cancelled pursuant to N.J.S.A. 17:29C-7(B), nonrenewed or conditionally renewed pursuant to various sections of the rule.

The current proposal incorporates these reporting requirements but exempts companies writing less than 0.5 percent share of the private passenger automobile market.

Finally, at N.J.A.C. 11:3-8.7, the proposal specifies that in addition to any other penalties authorized by law, the Commissioner may after notice and a hearing, suspend or revoke the rights of an insurer under N.J.A.C. 11:3-8.4 of the rule.

Social Impact

The proposed amendments to this subchapter which specify various notice requirements, such as that concerning nonrenewals by terminated agents, will ensure that policyholders are apprized of their rights. Notice of the availability of the Insurance Department for review of complaints concerning nonrenewals will protect the public and facilitate handling of complaints. Insurers and policyholders will benefit thereby.

The proposed amendments to N.J.A.C. 11:3-8.3 which permit nonrenewal of comprehensive and towing coverages will enable insurers to discontinue coverage based on excessive claims. At the same time, the standards set forth provide adequate protection to the general public. The revisions to N.J.A.C. 11:3-8.3(d), dealing with nonrenewals requiring the Commissioner's prior approval, should serve to facilitate consideration of such requests.

The proposed relaxation of nonrenewal requirements with respect to first-time applicants, insureds cancelled or nonrenewed pursuant to law and former NJAIP or NJAFIUA insureds is designed to promote depopulation of the residual market. By extending underwriting flexibility to insurers with respect to these insureds for a specified period of time, insurers should be encouraged to issue voluntary policies. The limited applicability of this provision, will ensure continuation of the protections currently afforded to voluntary policyholders under the existing rule.

Economic Impact

The relaxation of nonrenewal requirements provided under N.J.A.C. 11:3-8.4 should stimulate the writing of policies in the voluntary market and aid in the depopulation of the residual market. Consumers should benefit from the enhanced competitive environment.

Insurers will experience certain increased costs as a result of effecting compliance with various notice requirements of N.J.A.C. 11:3-8.2 and the record maintenance and reporting requirements prescribed at N.J.A.C. 11:3-8.5. The new standards set forth at N.J.A.C. 11:3-8.3(b) and (c) concerning nonrenewal of comprehensive and towing coverages should assist insurers in containing costs resulting from excessive claims.

The Department expects to absorb any increased costs resulting from implementation of the amendments within current budget resources.

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

SUBCHAPTER 8. NONRENEWAL OF AUTOMOBILE INSURANCE POLICIES

11:3-8.1 Scope

This subchapter applies to all automobiles as defined in N.J.S.A. 39:6A-2a, excluding those [owned by business entities and fleets or] insured through any statutorily mandated residual market mechanism, and to all policies or contracts of insurance insuring such automobiles.

11:3-8.2 General provisions

(a) Every insurer shall make an offer to the insured named in a policy subject to this subchapter to renew such policy upon its expiration date, unless a valid notice of nonrenewal or conditional renewal as specified in (b) below has been sent by the insurer to the insured in accordance with this subchapter.

[Such] (b) **Each** renewal offer shall be in the usual form of either a renewal policy, a certificate, or a renewal bill, [and shall offer coverage at least as favorable to the insured as the expiring policy and at the same limits and terms including duration of the policy as applied to the expiring policy, subject to changes approved by the Commissioner that had become effective since the commencement of the current policy period. Payment by the insured in accordance with the terms stated in the billing notice or in accordance with terms agreed to with the company or producer shall constitute acceptance of the offer by the insured. The words "same limits" shall not preclude the insurer from offering physical damage coverage with a higher deductible than that in the expiring policy, provided the insured is informed that a lower deductible is available at an appropriate rate. Insurers must permit insureds to return to their prior duration of policy term upon request.] **With respect to payment of the renewal premium, notice shall be given not more than 45 days or less than 30 days prior to the due date of the premium and shall clearly state the effect on nonpayment of the premium by the due date.**

(c) **Subject to changes approved by the Commissioner that had become effective prior to the expiration of the current policy, each renewal shall offer coverage, limits and terms at least as favorable to the insured as the expiring policy, including, but not limited to:**

1. **Schedule of premium payments; if any; and**
2. **Duration of policy term;**

i. **Whenever an insurer, pursuant to changes approved by the Commissioner, alters the duration of the insured's policy term, the insurer shall permit the insured to revert to the prior duration of policy term upon request.**

ii. **The renewal offer shall include or be accompanied by a statement advising the insured of his or her right to revert to the prior duration of policy term.**

(d) **Payment by the insured in accordance with the terms stated in the billing notice or in accordance with terms agreed to with the company or producer shall constitute acceptance of the renewal offer by the insured.**

(e) **The requirements of (b) above shall not preclude the insurer from offering physical damage coverage with a higher deductible than that in the expiring policy, provided the insured is informed that a lower deductible is available at an appropriate rate.**

[(b)](f) **No notice of nonrenewal shall be valid unless it is mailed or delivered by the insurer to the insured no less than 60 days and no more than 90 days prior to the expiration of the current policy, setting forth the reason(s) for such nonrenewal.**

1. **No notice of nonrenewal shall be valid unless it includes the text of the designated provision(s) of this subchapter under which action is being taken and the correct facts which bring the insured under the provision(s), including dates and any other facts necessary for identification of the incidents. In the event action is being taken under N.J.A.C. 11:3-8.3(a)1, the text of the exceptions under N.J.A.C. 11:3-8.3(a)2 must be included together with a statement that none of these exceptions are applicable. [(Effective February 21, 1977, for notices sent on or after that date.)]**

i. **In the event action is being taken under N.J.A.C. 11:3-8.3(a)1., (b) or (c), the text of the notice shall include both the number of accidents or claims and the number of cars in the household.**

2. **Each notice of nonrenewal shall include or be accompanied by the statement prescribed in i. below which shall be clearly and prominently set out in boldface type or other manner which draws the reader's attention.**

i. **Each notice of nonrenewal must set forth: "If you have reason to believe that our decision to nonrenew (or conditionally renew, as appropriate) your**

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policy is not in compliance with New Jersey Regulation N.J.A.C. 11:3-8, you should file a written complaint immediately with the New Jersey Department of Insurance, Division of Licensing and Enforcement, CN 325, Trenton, New Jersey 08625."

3. The notice of nonrenewal shall also include or be accompanied by a statement advising the insured of his possible eligibility for coverage through the New Jersey Automobile Full Insurance Underwriting Association.

[(c)](g) Nothing in this subchapter shall be construed as prohibiting a renewal policy from being issued for higher limits of coverage and/or additional coverage(s), provided that such additional protection is specifically requested by the insured and the insurer is willing to provide it. Conversely, nothing shall prohibit the renewal policy from being issued for lower limits of coverage and/or fewer coverages provided that such reduction in protection is specifically requested by the insured and further provided that coverage in no case shall fall below the level or levels otherwise required by law.

(h) In any instance in which an insurer may, pursuant to the provisions of this subchapter, nonrenew an automobile policy, it may, in lieu of the nonrenewal and in compliance with such provisions, condition the renewal of the policy upon a change of limits or elimination of any coverage not required by law.

[(d)](i) No notice of nonrenewal for any coverage subject to this subchapter shall be valid unless it is based upon one or more of the [reasons] standards set forth in N.J.A.C. 11:3-8.3(a)] or is otherwise authorized by the Commissioner of Insurance pursuant to [N.J.A.C. 11:3-8.3(b)] N.J.A.C. 11:3-8.4.

11:3-8.3 [Reasons for nonrenewal] Standards of nonrenewal applicable to all automobile policies

(a) An insurer may issue notice of nonrenewal based upon one or more of the following reasons:

1. Accident involvement: The named insured or any operator who customarily operates the automobile has been involved during the 36 months period ended 90 days prior to the expiration of the current policy in:

i. [More than one] **Two or more** bodily injury accidents if there is one car in the household or [an average of more than one accident for all cars in the household,] **three or more accidents if there are at least two cars in the household**, provided a loss payment has been made or a loss reserve has been established for such accidents other than a payment [or reserve for such accidents other than a payment or reserve] for the personal injury protection benefits; or

ii. [More than one accident] **Two or more accidents** involving damage to any property including his own of \$300.00 or more for which accidents a payment was made if there is one car in the household, or [an average of more than one such accident for all cars in the household,] **three or more such accidents if there are at least two cars in the household**, provided that loss payments under the comprehensive physical damage coverage shall not be counted; or

[iii. A combination of more than one such bodily injury or property damage accident; or]

iii. **A bodily injury and a physical damage accident as described in i. and ii. above if there is one car in the household. Two bodily injury and one physical damage accident or two physical damage and one bodily injury accident if there are at least two cars in the household.**

[iv. More than two such accidents regardless of the number of cars in the household.]

2. Exceptions: Accidents under i. to [iv.] iii. above shall not be counted if the accident occurred under the following circumstances:

i. The accident resulted in a claim or payment only under the Personal Injury Protection Coverage;

ii. The automobile was lawfully parked at the time of the accident (an automobile rolling from a parked position shall not be considered as lawfully parked, but shall be considered as in the operation of the last operator);

iii. The named insured or[,] anyone customarily operating the automobile, has been reimbursed by, or on behalf of, a person responsible for the accident or has a judgment against such persons;

iv. The automobile of the named insured or other customary operator was struck in the rear by another vehicle, and the operator has not been convicted of a moving traffic violation in connection with the accident.

v. The operator of another automobile involved in such accident was convicted for a moving traffic violation and the named insured or other customary operator was not convicted of a moving traffic violation in connection therewith;

vi. The automobile operated by the named insured or anyone who customarily operates the automobile is damaged as a result of contact

with a "hit and run" driver, provided that the accident has been reported to legal authority[ies] within a reasonable time thereafter;

vii. The accident resulted from contact with animals or fowl.

3. Convictions concerning motor vehicle law: The named insured or any operator who customarily operates the automobile:

i. Has been convicted, entered a plea of guilty or nolo contendere, forfeited bail bond or other security for any one of the following motor vehicle law violations during the 36 months ended 90 days prior to the expiration date of the current policy:

(1) Driving while intoxicated or under the influence of drugs;

(2) Leaving the scene of an accident;

(3) Criminal negligence or assault arising out of the operation of a motor vehicle;

(4) Driving while license is suspended or revoked.

ii. Has been convicted, entered a plea of guilty or nolo contendere, or forfeited bail bond or other security for other moving traffic violations during the 36 months period ended 90 days prior to the expiration of the current policy which result in the accumulation of an average of nine points or more, as defined in the New Jersey Motor Vehicle Law, per car in the household or which result in an accumulation of nine or more points for any one such operator, provided that any operator who has been involved in such motor vehicle law violations continues to be an operator of the automobile at the time of renewal.

4. Convictions other than motor vehicle laws: The named insured or anyone customarily operating the automobile is convicted, entered a plea of guilty or nolo contendere, forfeited bail bond or other security for obtaining or attempting to obtain from any other person, insurance company or the Unsatisfied Claim and Judgment Fund any money or any other thing of value by falsely or fraudulently representing that such person is entitled to such consideration under the automobile insurance policy, or falsely or fraudulently making statement or presenting documentation in order to obtain such consideration, or by cooperating, conspiring or otherwise acting in concert with any person seeking to obtain or attempting to obtain falsely or fraudulently such consideration.

5. Use of the automobile in professional racing.

6. Physical or mental impairment of the named insured or anyone customarily operating the automobile which adversely affects the ability to operate the automobile safely, unless a physical disability is compensated for by corrective measures.

i. A nonrenewal premised upon physical or mental impairment must be supported by a current medical examination. The medical examination report must clearly state the nature of the impairment and, in the case of a physical disability, the extent to which such disability adversely affects the ability to safely operate the automobile. In the event such a current medical examination report is not otherwise available, it must be secured by the insurer at its own expense.

7. Refusal to submit to a medical examination at company expense where there is reason for the company to doubt an operator's ability to operate the automobile safely.

8. Addition of an operator of the automobile during the policy term or for the new policy term with respect to whom any of the above causes for nonrenewal would apply.

9. In the case of companies which limit their writing to members of a church, profession or occupation or similar group, loss of the qualification for such group by the owner of the automobile. In such case an additional 12 months of nonrenewal notice shall be given. The membership of an automobile or travel club does not constitute a qualified group subject to this paragraph.

10. Failure by an insured under the policy to comply with the cooperation or subrogation clause of the policy, subject to reasonable rules established by the Commissioner.

11. **Written [R]request by the producer of record not to renew the policy. [provided the request is accompanied by a true statement by the producer that he has replaced like coverage at approved rates in the voluntary market with an admitted carrier, specifying the name of the carrier; provided also that the transferor carrier has advised the insured in writing of his right to renewal in the same company before obtaining the insured's consent to transfer and of the insured's right to renew if he or she is cancelled by the new carrier for reasons other than nonpayment or suspension or revocation of registration or driver's license. The producers request for nonrenewal shall be made no later than 90 days prior to the expiration of the policy and a copy thereof shall be sent by the producer to the named insured.] The producer's request shall include a certification that the policy has been replaced with like coverage at approved rates in the voluntary market with an admitted insurer and shall specify the name of the replacing insurer. The producer's request shall also**

certify that the insured has been informed in writing of his or her right to renewal and has agreed in writing to the nonrenewal because the producer has obtained comparable coverage with another insurer. The producer's request not to renew the policy shall be submitted to the insurer not less than 90 days prior to the expiration date of the policy and a copy thereof shall be simultaneously sent by the producer to the named insured.

i. Upon receipt of such request from the producer, the transferor carrier shall advise the insured in writing of his or her right to renewal in the same company before obtaining the insured's consent to transfer and also of the insured's right to renew the policy if he or she is cancelled by the new insurer for reasons other than nonpayment of premium or suspension or revocation of the registration or driver's license. Exhibit A appended to this subchapter is approved for this purpose. A nonrenewal based on such request shall be invalid and the original company shall renew the policy at the request of the insured through an active agent and/or broker, or directly if the replacement policy is cancelled by the new carrier for any reason other than the reasons allowed for cancellation by N.J.S.A. 17:29C-7 (nonpayment of premium or suspension or revocation of registration or driver's license).

[i.ii. Failure by a terminated agent to request renewal during the period of nine months from the effective date of termination as provided in N.J.S.A. 17:22-6.14(a) shall be construed as request not to renew in the context of this subchapter. In such event, the insurer shall in writing advise the insured of the status of the agent and that the agent's failure to request renewal denotes that replacement coverage as specified in 11 and 11i above has been obtained. The written notice shall also set forth the insured's right to renewal in the same company as set forth in 11i. above. Exhibit B appended to this subchapter is approved for this purpose. The insurer's notice shall be sent to the insured not less than 60 days prior to the expiration date of the policy.

iii. Insurance companies and producers shall maintain copies of all correspondence required pursuant to 11, 11i. and 11ii. above for a period of three years.

iv. Notices to insureds set forth in Exhibits A and B shall be sent by certified mail or by regular mail, if at the time of such mailing the insurer has obtained from the Post Office Department a date stamped proof of mailing showing the name and address of the insured. The insurer shall also maintain documentation of the mailing.

(b) An insurer may issue notice of nonrenewal with respect to comprehensive physical damage coverage, including towing and labor coverage, if the insurer, during the 12-month period ended 90 days prior to the expiration of the current policy, has paid under such coverage claims each of which involve a loss payment by the insurer of at least \$100.00, as specified in paragraphs 1 and 2 below:

1. Four or more such claims if there is one car in the household or six or more such claims if there are at least two cars in the household.

2. For any policy which covers more than one car, an insurer may nonrenew comprehensive physical damage coverage, including towing and labor coverage for one of the covered cars, if that single car has four or more claims.

(c) An insurer may issue notice of nonrenewal with respect to towing and labor coverage if the insurer, during the 12-month period ended 90 days prior to the expiration of the current policy, has paid claims under such coverage as specified in 1 below:

1. Four or more such claims if there is one car in the household or six or more claims if there are at least two cars in the household.

[(b)](d) Except as provided at N.J.A.C. 11:3-8.4, any [Any] refusal to renew a policy or coverage, as applicable, which is not based upon the [reasons] standards set forth in (a) through (c) above shall be submitted to the Commissioner of Insurance for review no later than [90] 120 days prior to the expiration of the policy. [No insurer shall issue such a nonrenewal to the insured unless the insurer has received the authorization of the Commissioner.] The Commissioner shall, in writing, acknowledge receipt of any refusal to renew submitted pursuant to this subsection. The Commissioner shall, within 45 days of receipt, either disapprove or authorize issuance of any nonrenewal submitted by an insurer for review and acknowledged by the Commissioner pursuant to this subsection. If the Commissioner shall fail to either disapprove or authorize issuance of the nonrenewal within such 45-day period, issuance of the nonrenewal shall be deemed to be authorized.

11:3-8.4 Additional nonrenewals based on underwriting guidelines

(a) An insurer may issue notice of nonrenewal based upon a failure to meet current underwriting standards as specified in such insurer's underwriting guidelines provided that such nonrenewals may be issued only with respect to a policy:

1. Issued by the insurer to any policyholder who was cancelled pursuant to N.J.S.A. 17:29C-7 or nonrenewed pursuant to this subchapter; or
2. Issued by the insurer to any policyholder who was last insured through a statutorily mandated residual market insurance mechanism; or
3. Issued by the insurer to any policyholder who is a first-time applicant for automobile coverage.

i. For the purposes of this section, the term "first-time applicant" shall mean a person seeking automobile insurance for the first time, including a child applying for a policy in his or her own name after being on their parent's policy.

(b) Pursuant to the provisions of N.J.S.A. 17:22-6.14a1., an insurer's underwriting guidelines shall not be arbitrary, capricious or unfairly discriminatory.

1. Nonrenewals based upon one or more of the following reasons are specifically prohibited:

- i. The race, religion, nationality or ethnic group of an insured;
- ii. Solely upon the lawful occupation or profession of an insured, except that this provision shall not apply to any insurer, agent, or broker which limits its market to one lawful occupation or profession, or to several related lawful occupations or professions;
- iii. The principal location of the insured motor vehicle, unless such decision is for a business purpose which is not a mere pretext for unfair discrimination. The insurer shall state the business purpose for such nonrenewal and provide the Department with documentation of such purpose on request;
- iv. Solely upon the age, sex or marital status of an insured, except that this subparagraph shall not prohibit rating differentials based upon age, sex or marital status;

v. The insured previously obtained insurance coverage through a residual market insurance mechanism;

vi. Another insurer previously declined to insure the insured or terminated an existing policy of the insured.

(c) When policies are written subject to nonrenewal pursuant to this section, the company shall document that the insured is a first time applicant, was cancelled pursuant to N.J.S.A. 17:29C-7 or nonrenewed pursuant to this subchapter or was last insured through a statutorily mandated residual market insurance mechanism. Such documentation shall be available to the Department on request.

(d) Issuance of a notice of nonrenewal pursuant to this section shall be limited to a period of three years from the date as of which the policy becomes effective after first issuance.

11:3-8.5 Reporting requirements

(a) The Commissioner will review and monitor the operation of this subchapter to ensure compliance with its provisions, and further, to determine whether depopulation of the residual market is being effected through the utilization of the non-renewal procedures specified at N.J.A.C. 11:3-8.4

(b) Every insurer except as defined in (e) below shall maintain a record, in such detail as may be required by the Commissioner, of all policies subject to this subchapter which are:

1. In force in each rating territory as of December 31 of each calendar year;
2. Voluntarily written by the insurer in each rating territory, specifying separately:

- i. Policies issued to first-time applicants; and
- ii. Policies issued to insureds who were previously cancelled pursuant to N.J.S.A. 17:29C-7 or nonrenewed pursuant to this subchapter; and
- iii. Policies issued to insureds previously insured through a statutorily mandated residual market mechanism.

3. Terminated by the insurer in each rating territory pursuant to the provisions of N.J.S.A. 17:29C-7(B); and

4. Nonrenewed or conditionally renewed by the insurer in each rating territory specifying separately:

- i. Policies nonrenewed or conditionally renewed pursuant to N.J.A.C. 11:3-8.3.
- ii. Policies nonrenewed or conditionally renewed pursuant to N.J.A.C. 11:3-8.4.

(c) Each insurer except as defined in (e) below shall file with the Commissioner an annual report containing the information required to be maintained by (b) above. The report shall be in a format to be prescribed by the Commissioner.

1. Reports for the -month period ending December 31, 1986 and for each full calendar year thereafter shall be filed with the Commissioner annually on May 1 after the close of the preceding calendar year.

(d) The Commissioner may require the filing of such additional reports as she deems necessary to effectuate the requirements of this subchapter.

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(e) Any insurer that does not write at least 0.5 percent of the New Jersey private passenger automobile market, based on direct premiums written shall be exempt from the reporting requirements of this section.

1. The method of calculating a market share report are set forth at N.J.A.C. 11:3-20.7.

11:3-8.6 Separability

If any provision of this subchapter or its application to any person or circumstances is held invalid, the remainder of this subchapter and its application to other persons or circumstances shall not be affected.

11:3-8.7 Penalties

(a) Any person violating the provisions of this subchapter shall be subject to such penalties as may be authorized by law.

(b) In addition to any such penalties, the Commissioner may, after notice and hearing, suspend or revoke the rights of any insurer or group of insurers under N.J.A.C. 11:3-8.4.

EXHIBIT A

COMPANY LETTERHEAD INFORMATION GOES HERE

Date
Policy No.
Expiration Date

Insured's Name
and Address

Dear Policyholder:

Your automobile insurance policy is due to expire on (date).

Under New Jersey law you have the right TO RENEW your automobile policy with our company. It is our understanding that you have received written notification from your agent of your right to renew. Your agent has informed us, however, that after being so notified, you agreed in writing to the nonrenewal of your policy with us because your agent has obtained comparable coverage with another company. We have also been informed by your agent that your new policy will not be issued through the New Jersey Automobile Full Insurance Underwriting Association, also known as the JUA.

If any of these statements are not true and you wish to have your policy renewed by the (name of company) insurance company, please contact us before (date).

If your replacement policy should be cancelled by your new company within 60 days after its effective date, you also have the right TO RENEW your old coverage unless you have been cancelled by the new company for:

- 1. Nonpayment of premium, or
- 2. Suspension or revocation of car registration or driver's license.

If you want to renew your policy with our company, contact your agent or write or telephone us at:

New Jersey Telephone Number or 800 Number
Address

EXHIBIT B

COMPANY LETTERHEAD INFORMATION GOES HERE

Date
Policy No.
Expiration Date

Insured's Name
and Address

Dear Policyholder:

Your automobile insurance policy is due to expire on (date).

Your insurance agent (name of agent) is no longer an agent for the (name of company) insurance company. We have not been notified whether your agent wishes to renew your policy with our company. Under New Jersey laws, failure to request renewal means that your agent has obtained comparable coverage with another company.

If any of these statements are not true and you wish to have your policy renewed by the (name of company) insurance company, please contact us before (date).

Under New Jersey laws, we MUST RENEW your auto insurance if you want us to. You are not eligible to be placed in the New Jersey Automobile Full Insurance Underwriting Association, also known as the JUA.

If you have chosen to place your automobile insurance policy with another insurance company and it is cancelled by the new company within 60 days after effective date, you also have the right TO RENEW your old coverage with us unless you have been cancelled by the new company for:

- 1. Nonpayment of premium, or

2. Suspension or revocation of car registration or driver's license.

If you want to renew your policy with our company, contact your agent or write or telephone us at:

New Jersey Telephone Number or 800 Number
Address

(a)

Standards for the Submission of Private Passenger Automobile Rate Filing

Rule Pre-Proposal: N.J.A.C. 11:3-16

Take notice that Hazel Frank Gluck, Commissioner of the Department of Insurance, pursuant to her authority at N.J.S.A. 17:1C-6(e), 17:1-8.1, 17:29A-1 et seq., 17:29A-14c(4)(a), 17:29A-5.2, 17:29A-36 and 17:29A-37 will receive preliminary comments with respect to the initiation of subsequent rulemaking proceedings covering the standards for the submission of private passenger automobile rate filings.

On November 5, 1984, the Department proposed a rule establishing specific standards for automobile rate filings (see 16 N.J.R. 2934). The proposed rule expired without the Department having acted on it. Several comments on this proposal were submitted by insurers, industry trade organizations and the Public Advocate and were carefully reviewed and analyzed by Department staff. The following pre-proposal reflects these comments and recommendations as well as internal review of the proposed rule.

This pre-proposal represents a preliminary stage of rulemaking, and the Department is interested in alternate suggestions as well as specific comments on this draft.

The pre-proposal is known as PPR 1986-2.

Full text of the pre-proposal follows:

SUBCHAPTER 16. PRIVATE PASSENGER AUTOMOBILE RATE FILINGS

11:3-16.1 Purpose; scope; general; certification

(a) This subchapter provides data requirements requirements for all private passenger automobile rate filings.

(b) This subchapter shall apply to all rating organizations and to all insurers making private passenger automobile insurance rate filings in this State.

(c) Each filer shall provide the data required by this subchapter on 5-1/4 inch, double sided, double density, floppy disk, in ASCII characters in addition to hard copy.

(d) Every private passenger automobile rate filing shall be filed simultaneously with the Department of Insurance and the Department of the Public Advocate, Division of Rate Counsel, and shall be accompanied by the following certification signed by an officer of the filing entity.

Certification

I, _____, certify that the attached filing complies with all statutory and regulatory requirements to the best of my information, knowledge and belief.

Name, Title, Date

11:3-16.2 Definitions

The following words and terms shall have the indicated meanings, unless the context clearly indicates otherwise.

"Collected premiums" means premiums charged by the insurer without adjustments for premiums written or earned and not received but with adjustments for premiums that have been determined to be uncollectable.

"Coverages" includes bodily injury liability, property damage liability, basic personal injury protection, collision, and comprehensive.

"Current year" means a selected 12-month period ending not more than six months prior to the date of the filing.

"Filer" means an insurer or rating organization proposing a rate change.

"Miscellaneous coverages" include uninsured motorist, underinsured motorist, towing and labor, accidental death and dismemberment, extended medical payments, and additional personal injury protection coverage.

"On-level premiums" means either premium adjusted to the current rate levels or premium calculated by extending exposures at present rates.

"Permissible loss ratio" includes adjustment for investment income.

"Primary and secondary classification rating factors" include, but are not limited to the following: driver age, driver sex, driver marital status, and average supplement to the rating factor due to multicar and safe driver plans.

"Prior year" means the 12 months immediately preceding the current year, as defined herein.

"Report year" means the 12 month-period during which losses are recorded or received.

11:3-16.3 General information

(a) Each filer shall provide exhibits containing the following information for all coverages by coverage, including the miscellaneous coverages, when any rate change is being proposed.

1. A list of all rate level or relativity factor changes approved in the last three years, with effective dates;

2. The filer's share of the New Jersey voluntary market for the most recent calendar year;

i. The Department of Insurance shall publish annually in the New Jersey Register the necessary market totals for determining the filer's market share.

3. The filer's last reported amount on line 15, Form FD N.J.A.C. 11:3-20. (This information is not applicable to rating organizations.)

4. The duration of the policies to be issued under this filing;

5. The dates of the experience period being used in this filing;

i. For one year policies the filer shall use an experience period complying with the requirement that the maximum length of time between the midpoints of the experience period and the proposed policy periods is no more than the values specified below. The midpoint of the proposed policy period shall be measured from the proposed effective date of this filing.

(1) For filings using a one-year experience period, 33 months;

(2) For filings using a two year experience period, 39 months;

(3) For filings using a three year experience period, 45 months.

ii. For policies with durations of less than one year, the time requirements in i above shall be correspondingly reduced.

6. A list of any data quality problems that may affect the relevance of the historical experience for ratemaking purposes;

7. A list of any planned or past changes in the underwriting standards, claims settlement, claims reporting, marketing practices or reserving policies that may affect the relevance of the historical experience to the prospective rating period.

11:3-16.4 Scope of revisions

(a) Each filer shall provide exhibits containing information for the proposed revisions by coverage, including miscellaneous coverages. This information shall include the proposed average rate or average relativity, the current average rate or average relativity and the percentage change in average rate or average relativity value. The filer shall provide data by coverage on each of the following, if such revisions are being requested:

1. Statewide rate levels;

2. Territorial rate levels;

3. Average primary and secondary classification rating factors (with respect to rating organizations, "average" means "aggregate average");

4. Increased limits rating factors (these rating factors shall be supplied separately for each liability coverage unless the filer makes rates on a combined single limits basis);

5. Deductible relativities (these relativities shall be supplied separately for the physical damage and personal injury protection coverage);

6. Combined average age and symbol relativities. (with respect to rating organizations, "average" means "aggregate average").

(b) The filer shall provide an exhibit containing its calculation of the current and proposed statewide average rate and proposed percentage change in the average rate for all coverages combined using the current distribution of risks.

(c) If the filer is proposing a change in the territorial rate levels for one or more coverages, the filer shall demonstrate compliance of the proposed territorial rates with the requirements of N.J.S.A. 17:29A-36.

11:3-16.5 Calculation of indicated revisions

(a) Each filer shall provide exhibits containing information for the proposed revisions on by coverage, including miscellaneous coverages, for each year of the experience period. If the proposed revision is calculated using data other than that specified below, the filer shall provide comparable information for each data item.

1. Direct written and earned exposures;

2. Direct written and earned premiums;

i. The filer shall identify whether basic limits and total limits, and whether collected and on level premiums are included.

3. Losses including all loss adjustment expenses and corresponding claim counts (the factor used to unload unallocated loss expenses shall be shown);

4. Indicated loss ratio;

i. If the filer makes adjustments to the loss ratio, these adjustments shall be explained;

5. Trend factors;

6. Projected loss ratio including trend indications;

7. Permissible loss ratio including all loss adjustment expenses; and

8. Indicated revisions.

(b) The filer shall provide exhibits containing the following additional information for the proposed revision by coverage, including miscellaneous coverages:

1. All data in (a) above shall be supported by appropriate documentation; and

2. The permissible loss ratio calculation by coverage.

3. Regardless of the number of years of experience used for a rate level determination, the data submitted in (a) above shall be at least three years.

11:3-16.6 Criteria for applicability of special data requirements of N.J.A.C. 11:3-16.8

(a) A filer with a current voluntary market share of two percent or greater as calculated in N.J.A.C. 11:3-16.3(a)2 meeting any of the following criteria shall be subject to the provisions of N.J.A.C. 11:3-16.8 if:

1. There has already been one rate level change within the 12-month period immediately preceding the proposed effective date of the proposed rate level change; or

2. The filer has been ordered to return excess profits pursuant to N.J.S.A. 17:29A-5 for the current year; or

3. The statewide rate level change for any coverage as provided in N.J.A.C. 11:3-16.4(a)1 is greater than plus or minus five percent; or

4. The statewide rate level change for miscellaneous coverages is greater than plus or minus fifteen percent; or

5. Any territorial rate level change for any coverage as provided in N.J.A.C. 11:3-16.4(a)2 is greater than plus or minus ten percent; and

6. Any classification factor, basic or excess limits, deductibles, physical damage, personal injury protection, or combined age and symbol relativity factor change for any coverage as provided in 11:3-16.4(a)3, 4, 5, and 6 is greater than plus or minus 20 percent.

11:3-16.7 Special provisions applicable to rating organizations

(a) To comply with the provisions of N.J.A.C. 11:3-16.8, rating organizations subject to the provisions of N.J.A.C. 11:3-16.8 shall:

1. Include data of all authorized individual insurers in the required exhibits except the following:

i. Individual insurers with less than a 0.5 percent voluntary market share who have been members for less than one year;

2. Specify which insurers have authorized the rating organization to file rates on their behalf; and

3. If the insurers in (a) above are not the same for all data throughout the filing, all differences must be identified, explained and justified; and

4. Provide the average aggregate results for all companies specified in (b) above in accordance with the provisions of N.J.A.C. 11:3-16.8. However, the New Jersey Automobile Full Insurance Underwriting Association (N.J.A.F.I.U.A.) losses and expenses of servicing carriers for the N.J.A.F.I.U.A. shall not be included in the expense data.

11:3-16.8 Special data requirements for filers meeting any of the requirements of N.J.A.C. 11:3-16.6

(a) The filer shall provide loss development exhibits containing the following information for coverages where a rate revision has been proposed:

1. Incurred loss amounts and corresponding claim counts by development period and accident year for each of the last six annual valuation years;

i. Any claims on which partial payments have been made shall be counted only once.

ii. If loss development factors are calculated using data other than that specified in 1 above, the filer shall provide comparable information for each data item. Technical details regarding the loss development calculation also shall be provided.

(b) The filer shall provide loss trend data exhibits containing the following information for coverages where a statewide rate level revision has been proposed:

1. An explanation for the selection of the trend experience period, the trend function and trend amount;

2. The loss trend data base including loss amounts, claim counts and earned exposures with all data items being given on a by period basis.

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i. If the trend function and trend amount are calculated using data other than that specified in 1 and 2 above, the filer shall provide comparable information for each data item. Technical details regarding the trend function calculations also shall be displayed.

3. An analysis comparing the actual loss trend values with the corresponding loss trend data points estimated from the selected trend amount and trend function for the entire experience period. This exhibit shall include a measure of the fit of the selected trend amount and trend function, such as the coefficient of determination to the actual trend values.

(c) The filer shall provide expense data exhibits containing the following information for each average where a rate revision has been proposed:

1. An identification of the kinds of expenses that are being included in each of the following expense categories as defined in the Insurance Expense Exhibit, Part II:

- i. Commission and brokerage;
- ii. Other acquisition, field expenses and collection;
- iii. General expenses;
- iv. Policyholder dividends;
- v. Taxes, licenses and fees.

2. The method of including these expenses in the proposed rates stating whether each item is charged as a variable amount, a flat amount, or a combination of a variable and flat amount. This exhibit also shall contain the filer's actual expense provisions for each category in the proposed revisions.

i. Using the proposed expense provisions, the filer shall demonstrate compliance with N.J.S.A. 17:29A-37.

3. The actual New Jersey incurred expense data for the following categories for the current and four prior years:

- i. Commission and brokerage;
- ii. Taxes, licenses and fees;
- iii. Special State premium assessments;
- iv. New Jersey agents license fees where paid by company;
- v. Franchise taxes applicable to New Jersey;
- vi. Any other items attributable to New Jersey operations;
- vii. The actual countrywide incurred expense data for the categories listed in paragraph 1 above for the current and prior four years. An explanation of the selected method of including these expenses in the proposed rates shall be explained.

(d) The filer shall provide an anticipated investment income exhibit in cash flow format for each coverage where a rate revision has been proposed. The filer shall demonstrate its compliance with the Clifford Remand Decision, *In Re Application of Insurance Rating Board*, 63 NJ 413 (1973).

11:3-16.9 Procedures for non-compliance

Any filing not made in substantial compliance with the provisions of this subchapter will be deemed incomplete and returned to the filer.

11:3-16.10 Severability

If any provision of this regulation is held invalid, the remainder of the regulation shall not be affected.

(a)

DIVISION OF ACTUARIAL SERVICES

Limited Death Benefit Forms

Proposed Amendments: N.J.A.C. 11:4-21

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17B:25-18, 17B:27-25, 17B:30-1 et seq., 17B:30-15 and 17:44A-21.

Proposal Number: PRN 1986-185.

The agency proposal follows:

Summary

Limited death benefit life insurance policies limit the proceeds which are payable to a beneficiary upon the death of the insured for a specified period of time following policy issuance, as an alternative to underwriting. Prior to 1980, such policy forms generally were not approved for use in this State.

The Department, however, recognizes that this type of life insurance protection can be beneficial to individuals who are ineligible for full benefit, underwritten coverage, due to poor medical history or other adverse underwriting characteristics. As a result, in 1980 the Department promulgated N.J.A.C. 11:4-21 which authorized the sale of limited death benefit policies on a restricted basis and established guidelines for the advertising and issuance of such policies.

Pursuant to Executive Order No. 66(1978), this regulation was re-adopted on June 3, 1985, with several substantive amendments which became operative on September 1, 1985. Generally, these amendments strengthened the disclosure requirements of the rule while at the same time expanded the potential market for such coverage.

An amendment to N.J.A.C. 11:4-21.4(b), for example, required that all insurer advertising and sales presentations prominently advise the prospective insured of the nature of the policy's limited death benefits and that a similar, full coverage, underwritten policy might be available from that or some other insurer, possibly at lower rates. Amendments to N.J.A.C. 11:4-21.4(h) and (i), respectively, raised the maximum face amount of the limited death benefit policy from \$5,000 to \$15,000 and lowered the minimum age at which such a policy may be issued from 50 to 45.

Subsequent to the re-adoption of the subchapter, the Department received complaints from insurers concerning the amended language of N.J.A.C. 11:4-21.4(b). The insurers argued that the disclosure required by the provision was unduly burdensome and, in particular, had a deleterious impact on their multi-state radio and television broadcast advertising capability. The Department's proposed amendments to the subchapter address the concerns expressed by these insurers by deleting the aforementioned subsection (b).

However, the Department also has received information indicating that some insurers have issued limited death benefit policies to substantial numbers of standard or preferred risks. As previously indicated, it is the intent of N.J.A.C. 11:4-21 to ensure the availability of life insurance protection to those who may be otherwise ineligible and to avoid, through disclosure, the inappropriate purchase of the product by persons qualifying for full benefit, underwritten coverage.

In light of this information, the Department is proposing several amendments to the subchapter which are designed to further strengthen its disclosure requirements. Full disclosure of the limitations of this policy form is particularly important considering both the broadened potential market and the increased maximum benefit levels that result from the Department's earlier amendments to the rule.

N.J.A.C. 11:4-21.1, the purpose section of the subchapter, has been amended to explicitly state that the regulation is intended to assure that limited death benefit policies are not sold to persons eligible for full death benefit policies.

N.J.A.C. 11:4-21.2 (Applicability and scope) has been amended to provide for the rule's application to every limited death benefit policy issued or delivered after the operative date of the amended subchapter, to provide for the rule's applicability to currently filed forms as well as those filed in the future, and to deem noncomplying filed forms as withdrawn as of the operative date of the amended subchapter.

An agency note included in this proposal indicates that the Department intends to make the amendments to this subchapter operative 60 days after publication of a notice of adoption in the *New Jersey Register*. This delayed operative date has been incorporated to permit insurers adequate lead time to effect compliance with the revised requirements of the subchapter. The existing text of N.J.A.C. 11:4-21 will remain in effect until the operative date of the revised subchapter.

The definitions section of the subchapter (N.J.A.C. 11:4-21.3) has been modified to clarify the term "limited death benefit policy" and to add definitions of "Department" and "Full death benefit policy." The term "prominent" has been redefined to require, with respect to printed material, the use of at least 12 point type and, with respect to radio or television presentations, verbal statements made at either the beginning or conclusion of the broadcast.

N.J.A.C. 11:4-21.4 (Requirements) has been substantively revised. N.J.A.C. 11:4-21.4(a) through (e) have been replaced by proposed subsections (a) through (j). Proposed N.J.A.C. 11:4-21.4(a) requires that the insurer determine, based upon information provided by the prospective insured on the application form, that the prospect has been declined for full death benefit coverage, has found such coverage to be unavailable or is uninterested in obtaining such coverage, prior to the issuance of the limited death benefit policy.

Proposed N.J.A.C. 11:4-21.4(b) specifies that insurer advertising must include a prominent statement of the nature of the limited death benefit policy as well as an illustration of the application of the benefit. An approved form of the statement is appended to the subchapter as Exhibit A, and insurers are permitted to use alternative statements, subject to Department approval. Paragraph 1 of this subsection relieves insurers using radio and television broadcast advertising from the requirements

of the subsection, provided the required disclosure statement is prominently displayed in any advertising which will be furnished by the insurer to persons responding to the broadcast.

Other amendments to this section include the following: (1) any advertising containing a specific premium rate must incorporate illustrations showing rates per \$1,000 of coverage or the limited death benefit versus policy face amount death benefit (corresponding to the stated premium rate) for males and females at two different ages. Age differentials of at least ten years must be used in either illustration; (2) the insurer must obtain, at the time of application, a separate written statement signed by the applicant attesting that he or she is aware of the limited nature of the policy. An approved form is appended to the subchapter as Exhibit B, and insurers are permitted to use alternative statements subject to Departmental approval; (3) the face page of the policy must contain an illustration similar to that described in item (1) above, but which discloses the amount of the limited death benefit applicable to the specific insured; (4) insurer advertising must be submitted to the Department prior to use; (5) advertising of insurers that offer both limited and full death benefit policies must disclose to applicants for limited death benefit coverage the availability of full coverage and show the differences in premium rates; (6) all radio and television broadcast advertising must prominently state that the policy is a limited death benefit policy and the duration of the limited death benefit period; and (7) commissions paid to agents on limited death benefit policies may not be greater than on full death benefit policies.

Subsections (f) through (j) of N.J.A.C. 11:4-21 have been recodified in the proposal at subsections (j) through (n), and, in some instances, have been modified. For example, the revised N.J.A.C. 11:4-21.4(j) requires that the method for calculating the limited death benefit (which cannot be less than premiums paid plus interest, based on non-forfeiture value interest rates) be submitted to the Department along with the form filing. Similarly, revised N.J.A.C. 11:4-21.4(k) limits the duration of the limited death benefit period to 25 percent of the life expectancy at issue or two years, whichever is shorter. Finally, amended N.J.A.C. 11:4-21.4(n) requires that the notice in the policy allowing for its return for a full refund within 30 days of delivery be printed in at least 12 point type.

Social Impact

Limited death benefit policies are designed for individuals who, because of certain underwriting characteristics, may be ineligible for full coverage, underwritten policies. Although such coverage is expensive, the Department believes that this type of coverage is necessary for certain individuals.

The proposed amendments to this rule protect the public by providing stricter advertising and disclosure requirements. For example, the proposal includes provisions for statements explaining the nature of the limited death benefit policy as well as illustrations of the application of the benefit. The full disclosure required by the amendments should serve to avoid the inappropriate purchase of limited death benefit coverage by persons eligible for full benefit, underwritten policies.

The proposed amendments also provide relief to insurers utilizing multi-state radio and television broadcast advertising.

Economic Impact

The stricter disclosure and advertising requirements may result in eligible individuals purchasing full death benefit policies rather than limited death benefit policies. Such individuals will benefit since full death benefit coverage is often less costly than comparable limited death benefit coverage.

Insurers will incur some additional costs in revising their advertising materials, applications and policy forms and in printing other documents required by the rule. The relaxation of disclosure requirements with respect to radio and television broadcast advertising may result in reduced costs to insurers utilizing these forms of advertising.

The Department expects to incur certain administrative costs in reviewing revised forms and advertising material. It is anticipated that the costs will be absorbed within the existing budget.

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

SUBCHAPTER 21. LIMITED DEATH BENEFIT FORMS

11:4-21.1 Purpose

(a) The purpose of this subchapter is to establish guidelines for the filing and review of [L]limited [D]death [B]benefit policy forms which will:

1. Make life insurance available to people who [would not] are otherwise [be eligible] **uninsurable**;

2. **Assure that limited death policies are not sold to people who are eligible for full death benefit policies sold in New Jersey**;

[3. Insure that the applicant is aware that he or she may qualify for an underwritten policy, which may provide greater benefits at lower premiums; and]

[2.]3. Reduce through disclosure the likelihood of misunderstanding arising where the sales presentation emphasizes the non-underwriting feature while minimizing or ignoring the limitation on death benefits at early durations; **and**

4. Set standards for the advertising of [L]limited [D]death [B]benefit policy forms so as to eliminate unfair, misleading or deceptive advertising practices.

11:4-21.2 Applicability and scope

This subchapter shall apply to all [individual] life insurance policy forms delivered or issued for delivery after the [effective] **operative** date hereof that limit death benefits [at early durations] **during a period following the inception date of the policy**, as an alternative to underwriting. [For previously filed limited death benefit forms, revised advertising materials and sales presentations must be submitted to the Department prior to the issuance of any limited death benefit policy form after the operative date of this subchapter.] **The requirements set forth in this subchapter apply to all previously filed forms as well as any forms submitted in the future. Previously filed forms which do not comply with these requirements are considered withdrawn as of the operative date of this subchapter.**

AGENCY NOTE: The amendments to this subchapter shall become operative 60 days after publication in the Register of the notice of adoption.

11:4-21.3 Definitions

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

["Advertising materials and sales presentations" means]

"Advertising" means any advertising materials and sales presentations in the following categories:

1. Printed and published material, audiovisual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio and television scripts, billboards and similar displays;

2. Descriptive literature and sales aids of all kinds issued by an insurer or agent, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters;

3. Material used for the recruitment training and education of an insurer's sales personnel, agents, solicitors, and brokers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, or retain a policy; and

4. Prepared sales talks, presentations and material for use by sales personnel, agents, solicitors and brokers.

"Department" means the New Jersey Department of Insurance.

"Full death benefit policy" means any individual life insurance policy, group life insurance policy, group life insurance certificate, or fraternal benefit society certificate delivered or issued for delivery in this State which provides the full face amount as the death benefit at all times following the inception date of the policy.

"Limited [D]death [B]benefit [P]policy" means [a policy which limits death benefits at early durations as an alternative to underwriting] any individual life insurance policy, group life insurance policy, group life insurance certificate, or fraternal benefit society certificate delivered or issued for delivery in this State which limits death benefits during a period following the inception date of the policy as an alternative to underwriting.

"Prominent[ly]" means in such a manner as to make wording conspicuous, obvious and immediately noticeable. For written publications, this [would] means [type] print larger [and bolder] than [that of the remainder] the remaining text of the publication and in at least 12 point type, and [appearing] placement at the top or the beginning of the publication. For radio or television broadcasts, this means verbal statements made at the [outset] beginning or at the conclusion of the presentation.

11:4-21.4 Requirements

[(a) The policy must prominently display, on its face page, the amount of any death benefit smaller than the face amount of the policy, together with the years during which each of the reduced amounts apply. The brief description of the face page shall refer to the limited benefits and specify the period of limitation.

(b) All advertising materials and sales presentations shall prominently advise the prospect of the limited nature of the early death benefits, and

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that similar, full coverage, underwritten policies, at possibly lower premium rates, may be available from that or some other company.

(c) For companies that offer similar, full coverage, underwritten policies to some of all of those eligible for limited death benefit policies, any difference in the premium rates between the limited benefit policy and the underwritten policy must be prominently shown in advertising and sales presentations. Instructions in the procedure to be followed if the prospect is interested in applying for the underwritten policy must also be included.

(d) A narrative statement of the method by which the policy will be sold, including any instructions to agents, standardized presentation, and any advertising and direct mail material shall be submitted to the Department.

(e) When sold by agents, the commission must be significantly lower on the limited benefit policies to insure that full coverage, equivalent, underwritten policies will be sold in preference to the limited benefit forms. A statement to this effect must be submitted to the Department.]

(a) No limited death benefit policy shall be issued to any prospective applicant unless the insurer had determined, based on information provided by the applicant in the policy application form, that the applicant:

1. Has attempted to purchase a full death benefit policy and has been declined for such coverage; or
2. Has found full death benefit coverage to be unavailable; or
3. Is not interested in obtaining full death benefit coverage.

4. All limited death benefit policy application forms must be submitted to the Department for review and approval prior to their use in this State.

(b) All advertising of a limited death benefit policy shall contain a prominent statement explaining the nature of the limited death benefit policy and providing an illustration of the application of the limited death benefit. Exhibit A appended to this subchapter is approved for use for these purposes. Insurers may submit alternative, substantially similar explanatory statements to the Department for review and may use such statements upon the approval of the Department.

1. Radio and television broadcast advertising is not required to contain the statement required pursuant to (b) above if that statement is prominently displayed in advertising which will be furnished to anyone responding to the broadcast advertising.

(c) Any advertising of a limited death benefit policy which makes reference to a specific premium rate must provide either:

1. An illustration demonstrating both the benefit at a fixed point during the limited death benefit period and the policy face amount, corresponding to the stated premium rate for a male or female at two different ages; or
2. An illustration demonstrating the premium rate per \$1,000 for a male and female at two different ages.
3. There must be at least a 10 year differential in the ages used for illustration purposes as specified in 1 and 2 above.

(d) All advertising and any revisions thereto shall be submitted to the Department prior to its use. The material submitted must include a narrative statement of the method by which the policy will be sold.

(e) All advertising of limited death benefit policies by companies that offer both full death benefit policies and limited death benefit policies must advise applicants of the availability of the full death benefit policies and must show any difference in the premium rates between the limited death benefit policy and the full death benefit policy. Instructions in the procedure to be followed in applying for full death benefit policy must also be included.

1. Radio and television broadcast advertising is not required to contain the information specified in (e) above if that information is prominently displayed in advertising which will be furnished to anyone responding to the broadcast advertising.

(f) In addition to any other applicable requirements of this section, all radio and television broadcast advertising must prominently state:

1. That the policy is a limited death benefit policy; and
2. The duration of the limited death benefit period.

(g) No limited death benefit policy shall be issued in this State unless the insurer has, at the time of application, obtained from the applicant a signed and dated statement, separate from any other documents, attesting that the applicant understands the nature of the limited death benefit. Exhibit B appended to this subchapter is approved for use by insurers. Insurers may submit alternative, substantially similar statements to the Department for review and may use such statements upon the approval of the Department.

(h) Every limited death benefit policy shall, on its face page, prominently describe the nature of the limited death benefit, in the manner set forth in (b) above, provided, however, that the illustration of the application of the limited death benefit shall set forth the amount of the limited death benefits applicable to the insured.

(i) When sold by agents, the commission may not be greater on the sales of limited death benefit policies than on full death benefit policies. This is intended to insure that limited death benefit policies will not be sold in preference to the full death benefit policies.

[(f)] (j) The limited death benefit shall not be less than the amount of premiums paid with interest at the rate used to determine nonforfeiture values under the policy. The method for calculating the limited death benefit must be submitted to the Department at the time of the submission of the form filing.

[(g)](k) The period during which a limited death benefit applies shall not exceed 25 percent of [expectation of] life [expectancy] at the issue age, as determined by the mortality table used for nonforfeiture values under the policy, or two years, whichever is shorter.

[(h)](l) The face or ultimate amount of insurance shall not exceed \$15,000.

[(i)](m) The issue age shall not be less than 45.

[(j)](n) The policy shall include a provision allowing for the return of the policy for a full refund of premiums within [at least] 30 days after delivery. This provision must be on the face sheet of the policy and must be in at least 12 point type.

11:4-21.5 Severability
(No change.)

EXHIBIT A

This life insurance product provides a limited death benefit. It has a year limited death benefit period. If you die during the limited benefit period, your beneficiary will not receive the full face value of the policy in benefits. Your beneficiary will receive the full face value of the policy in benefits if you die after the limited benefit period. The following illustration demonstrates the amount of the limited death benefit that would be paid to the beneficiary of an insured (male or female), age , who had purchased a (face amount) limited death benefit policy:

Year	Death Benefit Payable
1.	
2.	
3.	

EXHIBIT B

I, (name of applicant), have received information from (name of company) which explains that the life insurance policy I am purchasing will pay a limited death benefit to my beneficiary if I die during the first years after the policy is issued. A full benefit is (in the amount of the face value of policy) will be paid if I die after the year.

NAME (Signature)

ADDRESS

DATE

Hazel Frank Gluck
Commissioner

Date

EXHIBIT B

I, (name of applicant), have received information from (name of company) which explains that the life insurance policy I am purchasing will pay a limited death benefit to my beneficiary if I die during the first years after the policy is issued. A full benefit (face amount of policy) will be paid if I die after the year.

NAME (Signature)

ADDRESS

DATE

(a)

**DIVISION OF THE REAL ESTATE COMMISSION
Qualifications for Licensing; Broker and Broker-Salesperson**

Proposed Amendment: N.J.A.C. 11:5-1.3

Authority: N.J.S.A. 45:15-10.1 and 45:15-17.

Proposal Number: PRN 1986-186.

The agency proposal follows:

Summary

On October 7, 1985, the Department of Insurance proposed amendments to N.J.A.C. 11:5-1.3 concerning qualifications for the licensing of brokers and broker-salespersons. (See 17 N.J.R. 2350(a).) This proposal required candidates for broker licenses to work "9:00 a.m. to 5:00 p.m. weekdays" to fulfill the full time employment component of their apprenticeship.

The existing language of N.J.A.C. 11:5-1.3 which simply makes reference to "full time" employment has been consistently construed to mean normal business hours of approximately 9:00 a.m. to 5:00 p.m. weekdays.

The requirement of full time employment during normal business is viewed as important for several reasons. First, a broker not only must obtain experience in selling or leasing property, which can be gathered at odd hours on evenings and weekends, but also a full knowledge of the real estate brokerage business, including substantial contact with other licensees as well as lawyers, banks, financial institutions, engineers and surveyors, title insurers and others involved in the sale of property. Such experience is more available when the applicant serves a substantial portion of his or her apprenticeship during normal office hours. Also, a thorough apprenticeship requires a degree of commitment to learning; evening, weekend or vacation work as a salesperson is insufficient to immerse the applicant in all phases of the business necessary to serve the public properly as a broker. Finally, pursuant to N.J.A.C. 11:5-1.18, every resident broker must maintain an office which is open to the public during usual business hours. Since the responsibilities of a broker include overseeing the operation of the real estate office and ensuring that the office operates in full compliance with all applicable laws and rules, the full time employment requirement serves to ensure that broker license candidates will be familiar with these aspects of the brokerage business.

However, clarification of the term full time as used in N.J.A.C. 11:5-1.3 was deemed necessary because the Real Estate Commission had received and been required to disapprove the apprenticeship of broker candidates who maintained other full time employment during normal business hours. The October 7 proposal was intended to provide this clarification.

This current proposal modifies the October 7, 1985 proposal by permitting an applicant for a broker's license to meet the full time employment component of apprenticeship by demonstrating that he or she has worked from 9:00 a.m. to 5:00 p.m. during any five days in each week of the two-year apprenticeship period. This change recognizes that many real estate salespersons, particularly those who work in resort areas, are actively engaged in real estate activities during weekend hours. Further, N.J.A.C. 11:5-1.3(a) is being amended to clarify the term "full time" as requiring real estate activities to be the primary occupation of all broker license candidates.

Social Impact

The proposed amendment impacts upon the public served by licensed real estate broker and broker license candidates. The proposal will adversely affect those broker applicants who are not presently employed in a manner consistent with the revised apprenticeship requirements. However, since it clarifies the meaning of existing terminology, it is expected to benefit applicants by clearly informing them of the qualifications for licensure. Further, by permitting the employment requirement to be met through working full time during normal business hours on any five days of a given week the proposed amendment provides necessary flexibility. Finally, the proposed amendment protects the public by ensuring that applicants complete an appropriate apprenticeship period prior to obtaining a broker's license.

Economic Impact

The proposed amendment impacts upon the Division of the Real Estate Commission and broker license applicants. By providing clear notice of licensure requirements, prospective applicants who presently do not work in a fashion consistent with the rule's full time employment criteria will have an opportunity to modify their employment arrangements to achieve

compliance. Those individuals who cannot fulfill the full time employment requirement, may avoid unnecessarily expending the time and effort needed to meet the other license qualifications. The proposal is expected to facilitate completion of the apprenticeship period for those individuals who engage in real estate activities during normal business hours on weekends. It has a positive economic impact on the Division of Real Estate Commission in that it will serve to reduce applications which do not meet the requirements and which must be received and denied in accordance with procedural standards.

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

11:5-1.3 Qualifications for licensing; broker and broker-salesperson

(a) The Commission defines the word "apprenticeship," as used in N.J.S.A. 45:15-9 to require a broker-salesperson relationship wherein an adequate knowledge of the methods, techniques and terminology of the business, as well as the pitfalls for the public and licenses alike, has been engendered by intimate, intensive and successful contact with diverse aspects of the real estate business under the guidance and direction of a licensed broker. In order to satisfy the above requirement, an applicant must have been to employed [full time during his apprenticeship as a salesperson.] **on a full time basis as a salesperson during the two year apprenticeship period. The said full time employment may be satisfied by a showing that the applicant has worked under the supervision of his or her broker during the hours of approximately 9:00 a.m. to 5:00 p.m. during any five of the seven days in each week of the two year apprenticeship, and that the applicant's primary occupation during the apprenticeship period has been his or her work as a real estate salesperson.** In addition, the applicant and the broker under whom he or she serves his or her apprenticeship shall see to it that the apprenticeship includes practices and experiences in all aspects of the real estate business as set forth in N.J.S.A. 45:15-3.

(b)-(f) (No change.)

LABOR

(b)

DIVISION OF VOCATIONAL REHABILITATION SERVICES

Vocational Rehabilitation Services Program Rules

Proposed Readoption: N.J.A.C. 12:51

Authorized By: George M. Krause, Acting Commissioner,
Department of Labor.

Authority: N.J.S.A. 34:16-27.

Proposal Number: PRN 1986-193.

Submit comments by June 18, 1986 to:
George R. Chizmadia, Director
Division of Vocational Rehabilitation Services
Department of Labor
CN 398
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 12:51 expires on August 5, 1986. The Department has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The Department of Labor, therefore, proposes to readopt the New Jersey State Vocational Rehabilitation Facilities rules without change.

The rules define the criteria established for operating a program of services which is eligible to provide services to the New Jersey Division of Vocational Rehabilitation Services. A discussion of the chapter's contents follows.

Subchapter 1 contains general provisions concerning scope and purpose of the rules.

Subchapter 2 discusses the standards of performance and rationale for such standards.

Subchapter 3 outlines the required corporate organization and administration of the rehabilitation services.

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Subchapter 4 outlines the procedure for conducting evaluations of a handicapped individual's employability.

Subchapter 5 explains the Work Adjustment Training (WAT) program.

Subchapter 6 explains the Sheltered (Extended) Employment program.

Subchapter 7 discusses requirements for psycho-social centers.

Subchapter 8 contains rules concerning fees.

Subchapter 9, 10 and 11 contain rules concerning staffing, reporting and physical facility requirements.

Subchapter 12 requires cooperation with other community agencies.

Subchapter 13 discusses the Professional Advisory Committee.

Subchapter 14 contains grant rules.

Subchapter 15 discusses the State Rehabilitation Facilities Plan.

Subchapter 16 requires cooperative relationships with local Division offices.

Subchapter 17 explains payment policies.

Subchapter 18 discusses accreditation standards.

Subchapter 19 outlines client eligibility for DVRS services.

Social Impact

The proposed readoption of the vocational rehabilitation rules will allow the department to continue in full force and effect the beneficial vocational rehabilitation programs resulting from the original promulgation of the rules. The proposed readoption of the rules will provide the Department with the regulatory structure to enforce its responsibilities mandated pursuant to N.J.S.A. 34:16-21. The rules require facilities to operate in a manner consistent with the best practices of vocational rehabilitation theory.

Economic Impact

Since the proposed readoption of the rules would only promulgate the existing regulatory program, the Department foresees no additional economic impact. However, the present economic impact on the regulated parties will be continued by the readoption. The continued impact includes the expenses of compliance with the rules, regarding maintaining staffing, space, and use of materials as specified in the rules.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 12:51.

ENERGY

DIVISION OF ENERGY PLANNING AND CONSERVATION

The following proposals are authorized by Charles A. Richman, Acting Commissioner, Department of Energy.

Submit comments by June 18, 1986 to:

Edward J. Linky, Chief
Office of Regulatory Affairs
Department of Energy
101 Commerce Street
Newark, New Jersey 07102

(a)

Energy Subcode

Thermal and Lighting Efficiency Standards

Proposed Amendments: N.J.A.C. 14A:3-4.4 and 4.5

Authority: N.J.S.A. 52:27F-27.

Proposal Number: PRN 1986-171.

The agency proposal follows:

Summary

The New Jersey Department of Energy adopted N.J.A.C. 14A:3-4 Thermal Efficiency in New and Renovated Buildings, on August 2, 1978. This subchapter requires all new and renovated buildings to comply with the energy subcode of the Uniform Construction Code. On January 18, 1982, this subchapter was amended to adopt and upgrade the BOCA Basic Energy Conservation Code/1981 to ASHRAE Standard 90A-1980 levels as well as adopt by reference IES's STANDARD, LEM-1 1982, for lighting. Criteria for heated swimming pools, based upon the requirements defined in ASHRAE Standard 90A-1980, were incorporated at the same time. On August 20, 1984, this subchapter was further amended to incorporate the higher performance requirements of ASHRAE Standard 90A-1980 for equipment installed after January 1, 1984.

As required by the Uniform Construction Code Act N.J.S.A. 52:27D-119 et seq., the Department is proposing improved thermal performance for detached 1 and 2 family housing based upon the standards of the nationally recognized Farmers Home Administration (FmHA). FmHA adopted these standards in 1978. The historical bases for this change are as follows.

Previously this subchapter amended BOCA/1981 to be consistent with ASHRAE Standard 90A-1980. BOCA/1984 is based on ASHRAE Standard 90A-1980. Therefore, New Jersey's current energy subcode and BOCA/1984 are identical with one exception; the upgrading of BOCA/1984 to the more energy efficient FmHA Standards for detached 1 and 2 family dwellings as contained in this proposal.

The Department modeled via computer simulations, the design heating and cooling loads, energy consumption and operating costs of a "typical" 1,800 square-foot house for the thermal requirements of the current energy subcode, ENERGY MASTER PLAN and FmHA with the following equipment: gas furnace, oil furnace, heat pump (electric back-up) and electric resistance. Analyzing the results, the Department has determined that the increased insulation levels are economically justified, with a pay back period of four years for all assemblies, except the ceiling/roof assembly which required a slightly longer payback.

Finally, federally-funded detached 1 and 2 family housing must be constructed to one level of thermal performance while the current energy subcode specifies another, ASHRAE Standard 90A-1980. Therefore, adopting *Thermal Performance Construction Standards of Instruction 1924-A, Exhibit D of the Farmers Home Administration*, assures that all new and renovated detached 1 and 2 family housing will benefit from the cost effective and consistent thermal performance requirements for the state. The single thermal performance standard will ease the economic and administrative burdens on both the state and the housing construction industry.

Social Impact

The proposed amendments are designed to ensure that new detached 1 and 2 family housing will be more energy efficient and cost effective. By further reducing energy costs, the family will have more disposable income for other purposes.

Economic Impact

The proposed amendments will have a positive economic impact in several areas. Owners of detached 1 and 2 family housing constructed to the new standard will recover the additional costs associated within four years. With energy costs reduced, additional disposable income can be realized and saleability enhanced.

This single standard for detached 1 and 2 family housing should reduce the economic and administrative burdens on the housing construction sector. Finally the new standard will be implemented through the existing enforcement mechanism thereby adding no new administrative costs.

Environmental Impact

It is anticipated that the proposal will have a positive indirect effect on the environment. The reduced energy consumption will result in an overall improvement in air quality.

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

14A:3-4.4 Thermal efficiency standards

(a) The Department adopts the model code of the Building Officials and Code Administrators International Inc., known as the **BOCA Basic/National Energy Conservation Code/1981**[4], including all subsequent revisions and amendments thereto. Copies of the **BOCA Basic/National 1981**[4] may be obtained from the sponsor at BOCA, 4501 West Flossmoor Road, Country Club Hills, Illinois 60477.

(b) The Energy Subcode is amended as follows:

1.-2. (No change.)

3. The following amendments are made to Article 3 of the energy subcode entitled "Building Envelope";

i. (No change.)

[ii. In Section E-301.2.1 Exceptions, delete the words "Figure E-301.2.1b and E-301.2.1c" and add the words "Figure E-301.2.1a and E-301.2.1b".]

[iii]. Delete Figure E-301.2.1a and add Table E-301.2.1 below:

Table E-301.2.1
MAXIMUM ALLOWABLE U₀ VALUES FOR GROSS EXTERIOR WALL ASSEMBLIES

Region'	Annual heating degree days-°F	Maximum "U ₀ "	
		A1	A2
I	5000	[0.190] 0.063	0.29
II	5500	[0.185] 0.063	0.28
III	6000	[0.180] 0.063	0.27

'See Figure [E-301.5] A.

Note 1. A1 indicates detached one and two family dwellings.

Note 2. A2 indicate[d]s all other residential buildings not more than three stories in height.

[iv].iii. [Rename Figure E.301.2.1b and Figure E-301.2.1c to read Figure E.301.2.1a and Figure E-301.2.1b, respectively.] **In Section E-301.2.1, delete exceptions 1 and 2 and Figures E-301.2.1b and E-301.2.1c.**

[v].iv. [Modify Table E-301.2.2 to read as follows:] **Delete Figure E-301.2.2 and add Table E-301.2.2 below:**

Table E-301.2.2
MAXIMUM ALLOWABLE U₀ VALUES FOR GROSS ROOF/CEILING ASSEMBLIES

Region'	Annual heating degree days-°F	Maximum "U ₀ "	
		A1	A2
I	5000	[0.0475] 0.033	
II	5500	[0.0450] 0.033	
III	6000	[0.0425] 0.033	

'See Figure [E-301.5.] A.

v. **In Section E-301.2.2, delete exception 1.**

vi. In Section E-301.2.3 delete the words "combined thermal transmittance value U₀ as specified in Figure E-301.2.3" and add the words "maximum allowable transmittance value U₀ of [0.08] **0.052** Btu/hr-ft²-°F."

vii.-viii. (No change.)

ix. Delete Figure E-301.2.4 and add Table E-301.2.4 below:

Table E-301.2.4
MINIMUM ALLOWABLE R VALUES OF PERIMETER INSULATION FOR SLAB ON GRADE FLOORS

Region'	Annual heating degree days-°F	R Values	
		Heated Slabs	Unheated Slabs
I	5000	6.3	4.3
II	5500	6.7	4.6
III	6000	7.1	4.9

'See Figure [E.301.5.] A.

x. In Section E-301.3.1 delete words "Figure E-301.[2]3.1" and add the words "Table E-301.3.1."

xi. Delete Figure E-301.3.1 and add Table E-301.3.1 below:

Table E-301.3.1
MAXIMUM ALLOWABLE U₀ VALUES FOR GROSS EXTERIOR WALL ASSEMBLIES

Region'	Annual heating degree days-°F	Maximum "U ₀ "	
		Over 3 Stories	3 Stories & Under
I	5000	0.355	0.295
II	5500	0.345	0.285
III	6000	0.330	0.275

'See Figure [E-301.5.] A.

xii. (No change.)

xiii. Delete Figure E-301.3.2 and add Table E-301.3.2 below:

Table E-301.3.2
MAXIMUM ALLOWABLE U₀ VALUES FOR ROOF/CEILING ASSEMBLIES

Region'	Annual heating degree days-°F	Maximum "U ₀ "	
		A1	A2
I	5000		0.084
II	5500		0.080
III	6000		0.076

'See Figure [E-301.5.] A.

xiv.-xv. (No change.)

xvi. In Section E-301.3.5 delete the words "those specified in [the following] Figure E-301.3.5" and add the words "33.5 Btu/hr-ft²."

xvii. (No change.)

[xxiii. After Section E-301.4.3 add Figure E-301.5 below.]

[Figure E-301.5]
[HEATING DEGREE DAY REGIONS IN NEW JERSEY]

	I	II	III
Degree Days	5000	5500	6000
Test Reference Year	Philadelphia 1969	New York 1951	Albany 1969
Design Temps			
Winter	17°F	13°F	10°F
Summer DB	89°F	90°F	91°F
WB	77°F	76°F	76°F

(INSERT FIGURE A)

4. (No change.)

5. The following changes are made to Article 5 of the energy subcode entitled "Plumbing Systems".

i. In Section E-503.1.1 delete the numbers 15 and [31]47 and add the numbers 13.6 and 43, respectively.

ii. Add Section [Table] E-504.0 SWIMMING POOLS as follows:

(1) E-501.1 Pool Heaters.

(A) (No change.)

(B) E-504.1.[1]2 [After January 1, 1982, a]All gas and oil fired pool heaters shall have a thermal efficiency of 75 percent when tested in accordance with ANSI Z21.56-1975.

(C) (No change.)

(2) E-504.2. Pool Covers. Heated swimming pools shall be equipped by the builder [when built] with a pool cover.

(A) Exception: Outdoor pools deriving over 20 percent of the energy [from] for heating [for] from non-depletable sources (computed over an operating season) shall not be required to be equipped by the builder [when built] with a pool cover.

(3) (No change.)

6. The following amendments are made to Article 7 of the Energy Subcode entitled "Alternative Systems:"

i. Section 700.[0]1 is amended to delete the words "this code" on line 6 and add "the energy subcode."

[7. The following amendments are made to Appendix A, entitled "Referenced Standards".]

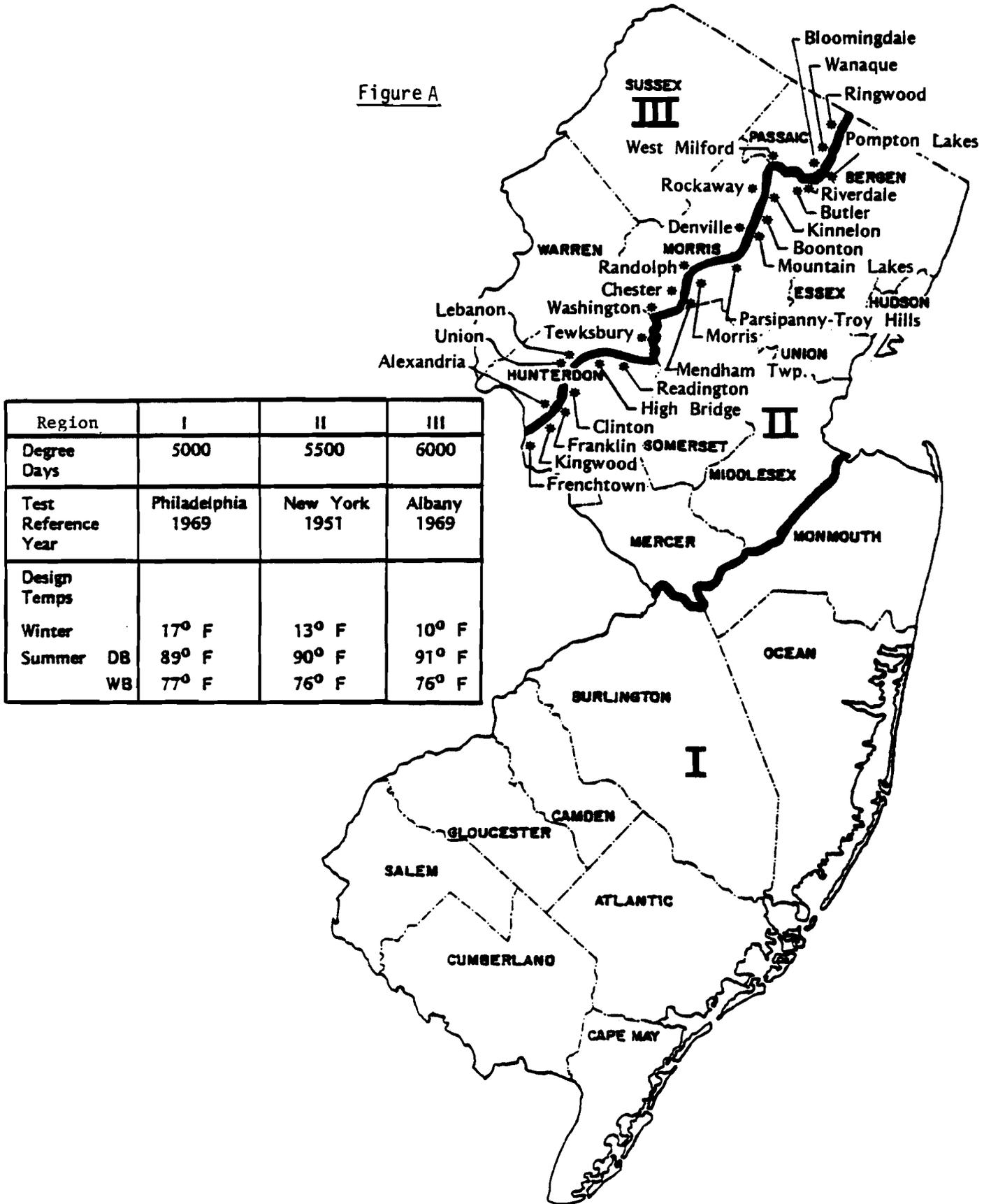
[i. ASHRAE Standard Reference Number is amended to delete the words "90-75" and add "90A-80.]

14A:3-4.5 Lighting efficiency standards

(a) The Department adopts the Illuminating Engineering Society's standard LEM-1, 1982, "IES Recommended Procedure for Lighting Power Limit Determination[,]" [including all subsequent revisions and amendments thereto]. Copies of LEM-1[, Lighting Power Budget Determination Procedure,] may be obtained from the sponsor at IES, 345 East 47th Street, New York, New York 10017.

(b) (No change.)

Figure A



(CITE 18 N.J.R. 1092)
ENERGY

Interested Persons see Inside Front Cover

PROPOSALS

(a)

Energy Conservation Program Development and Public Utility Planning Evaluations

Notice of Reproposal: N.J.A.C. 14A:20-1.9

Authority: N.J.S.A. 52:27F-11(g) and (q); 27F-18 and N.J.A.C. 1:30-4.2(d).

Proposal Number: PRN 1986-184.

The agency proposal follows:

Summary

The Department adopted and filed the Energy Conservation Program Development and Public Utility Planning Evaluations regulations on November 12, 1985 as R.1985 d.619 with substantive changes not requiring additional public notice and comments.

N.J.A.C. 14A:20-1.9, provides for the review of a utilities energy conservation plan by the Department of Energy and its transmittal to the BPU for its review. N.J.A.C. 14A:20-1.9 provides for 90 days for the BPU to take action on the plan and in the absence of such action the utility shall implement the conservation plan immediately. However, section 1.9 adopted and published in 18 N.J.R. 290, contained language changes from the same section transmitted to the OAL on November 12, 1985. The Attorney General has determined that these changes to section 1.9 were filed with the OAL more than one year after the publication of that section in the New Jersey Register on December 3, 1984. N.J.A.C. 1:30-4.2(d) requires an agency to resubmit a proposal for republication in the New Jersey Register when the same has been adopted outside of one year from its publication in the New Jersey Register.

N.J.A.C. 14A:20-1.9 deals with the administrative review and implementation of energy conservation plans submitted by utility companies. As such, it is the opinion of the Attorney General that such provision is severable from other portions of the regulation which deal with the development of energy conservation plans by utility companies and which were duly adopted and filed with the Office of Administrative Law in a timely fashion.

The economic, social and environmental impacts of the reproposal are the same as the impacts identified in the original proposal at 16 N.J.R. 3293(a).

Full text of the proposed new section of the rule follows:

14A:20-1.9 Departmental decision and enforcement

The department shall approve, approve with modifications, or reject each utility's energy conservation plans upon the completion of the report required by N.J.A.C. 14A:20-1.8(c). The department shall then transmit the utility conservation plan to the BPU for review consistent with the BPU's statutory authority. The BPU shall have 90 days to take action on the plan. No utility conservation plan may be implemented during this 90 day period. However, if within 90 days of receipt of the public utility conservation plan, the BPU does not take action then such plan shall be deemed approved by the BPU. The utility shall then implement the conservation plan immediately.

TRANSPORTATION

TRANSPORTATION OPERATIONS

The following proposals are authorized by Roger A. Bodman, Commissioner, Department of Transportation.

Submit comments by June 18, 1986 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

(b)

Speed Limits

Route 23 in Sussex County

Proposed Amendments: N.J.A.C. 16:28-1.25

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-98.

Proposal Number: PRN 1986-168.

The agency proposal follows:

Summary

The proposed amendment will establish a speed limit zone along Route 23 in Wantage Township, Sussex County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon a request from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of a speed limit zone was warranted.

The Department therefore proposed to amend N.J.A.C. 16:28-1.25 based upon the request from local officials and the traffic investigation.

Social Impact

The proposed amendment will establish a speed limit zone along Route 23 in Wantage Township, Sussex County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of speed limit zones signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28-1.25 Route 23

(a) The rate of speed designated for the certain parts of State highway Route 23 described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1. For both directions of traffic:

i.-v. (No change.)

vi. Zone six: (1) 30 mph to the southerly end of the Passaic River Bridge (milepost 4.5); thence

(2) 40 mph between the southerly intersection of Glenwood Road (Co. Rd. 565) and 200 feet south of Grove Street (Milepost 285 to 39.6); thence

vii.-x. (No change.)

2.-4. (No change.)

(c)

Restricted Parking and Stopping

Routes U.S. 9 in Ocean County; 54 in Atlantic County and 161 in Passaic County

Proposed Amendments: N.J.A.C. 16:28A-1.7, 1.85

Proposed New Rule: N.J.A.C. 16:28A-1.105

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

Proposal Number: PRN 1986-167.

The agency proposal follows:

Summary

The proposed amendments and new rule will establish "no parking" and "no parking bus stop" zones along Routes U.S. 9 in Tuckerton Borough, Ocean County; 54 in Buena Vista Township, Atlantic County and 161 in the City of Clifton, Passaic County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking" zones along Routes 54 and 161 and "no parking bus stop" zones along Route U.S. 9 were warranted.

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The Department therefore proposes to amend N.J.A.C. 16:28-1.7 and 16:28A-1.85 and add new rule N.J.A.C. 16:28A-1.105, based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments and new rule will establish "no parking" zones along Routes U.S. 9 in Tuckerton Borough, Ocean County; 54 in Buena Vista Township, Atlantic County and 161 in the City of Clifton, Passaic County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers of established bus stops. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no parking" zones signs and the local officials will bear the costs for "no parking bus stops" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.7 Route U.S. 9

(a) (No change.)

(b) The certain parts of State highway Route U.S. 9 described in this section [shall be] are designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-41. (No change.)

42. Along the northbound (easterly) side in Tuckerton Borough, Ocean County:

i. Far side bus stop:

(1) Green Street: Beginning at the northerly curb line of Green Street and extending 105 feet northerly therefrom.

43. Along the southbound (westerly) side in Tuckerton Borough, Ocean County:

i. Near side bus stop:

(1) Green Street: Beginning at the northerly curb line of Green Street and extending 105 feet northerly therefrom.

16:28A-1.85 Route 161

(a) The certain parts of State highway Route 161 described in this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Clifton City, Passaic County:

i. Along the northbound side:

(1)-(2) (No change.)

(3) From a point 122 feet north of the northerly curb line of Kowal Street to a point 128 feet south of the southerly curb line of Kowal Street.

ii.-iii. (No change.)

16:28A-1.105 Route 54

(a) The certain parts of State highway Route 54 described in this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Buena Vista Township, Atlantic County:

i. Along both sides:

(1) For the entire length within the corporate limits of Buena Vista Township including all ramps and connections under the jurisdiction of the Commissioner of Transportation.

(a)

**Restricted Parking and Stopping
Routes 35, 71 and 35 and 71 in Monmouth County
Proposed Amendments: N.J.A.C. 16:28A-1.25, 1.38
and 1.75**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-139.
Proposal Number: PRN 1986-169.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking" zones along Routes 35, 71 and 35 and 71 in Belmar Borough, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking" zones were warranted.

The Department therefore proposed to amend N.J.A.C. 16:28A-1.25, 1.38, and 1.75 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no parking" zones along Routes 35, 71, and 35 and 71 in Belmar Borough, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no parking" zones signs. Motorists who violate the rule will be assessed the appropriate fine.

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

16:28A-1.26 Route 35

(a) The certain parts of State [H]highway Route 35 described in this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-21. (No change.)

22. No stopping or standing in Belmar Borough, Monmouth County:

i. Along both sides:

(1) For the entire length.

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

16:28A-1.38 Route 71

(a) The certain parts of State highway Route 71 described in this section are designated and established as "no parking" zones where stopping and standing are prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-4. (No change.)

5. No stopping or standing in Belmar Borough, Monmouth County:

[i. Along the easterly (northbound) side:

(1) Between the Wall Township-Belmar Borough corporate line and the intersection of Route 35.

ii. Along the westerly (southbound) side:

(1) Between points 100 feet north of the northerly curb line and 100 feet south of the southerly curb line of Sixteenth Avenue.

iii. Along the northerly (westbound) side:

(1) Between Railroad Avenue and Highway 35.]

i. Along both sides:

(1) For the entire length.

6.-10. (No change.)

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

16:28A-1.75 Route[s] [35,] 35-71

(a) The certain parts of State highway Route[s] [35 and] 35-71 described in [(a) of] this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Belmar Borough, Monmouth County:
 - [i. Along the easterly (northbound) side of Route 35:
 - (1) Between the Wall Township Borough of Belmar corporate line and the intersection of "L" Street.
 - ii. Along both sides of Route 35.
 - (1) Between the intersections of "L" Street of Route 71 ("H" Street).]
 - [iii.]j. Along both sides: [of Route 35-71:]
 - (1) Between the intersection of Route 35 and Route 71 ("H" Street) to the intersection of Route 35 and 71 (Eighth Avenue).]
 - [iv. Along both sides of Route 35:
 - (1) Between the intersection of Route 35 and 71 (Eighth Avenue) and the bridge over Shark River]
- (1) For the entire length including all ramps and connections.

(a)

**Restricted Parking and Stopping
Route U.S. 130 in Camden County
Proposed Amendment: N.J.A.C. 16:28A-1.46**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-199.
Proposal Number: PRN 1986-198.

The agency proposal follows:

Summary

The proposed amendment will establish "no parking bus stop" zones along Route U.S. 130 in Pennsauken Township, Camden County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops.

Based upon a request from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of "no parking bus stop" zones along Route U.S. 130 in Camden County was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.46 based upon the request from local officials and the traffic investigation.

Social Impact

The proposed amendment will establish "no parking bus stop" zones along Route U.S. 130 in Pennsauken Township, Camden County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers of established bus stops. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The local officials will bear the costs for "no parking bus stop" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.46 Route U.S. 130

- (a) (No change.)
- (b) The certain parts of State highway Route U.S. 130 described in this section shall be established and designated as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect signs at the following established bus stops:
 - 1.-3. (No change.)
 4. Along the westerly (southbound) side in Pennsauken Township, Camden County:
 - i. Mid-block bus stop:
 - (1) Hilton Road—Between Hilton Road and John Tipton Boulevard beginning 200 feet south of the southerly curb line of Hilton Road and extending 135 feet southerly therefrom.
- (c) (No change.)

OTHER AGENCIES

(b)

**NEW JERSEY ECONOMIC DEVELOPMENT
AUTHORITY**

Fees

Proposed Repeal and New Rule: N.J.A.C. 19:30-2.

Authorized By: New Jersey Economic Development Authority,
Borden R. Putnam, Chairman;

James J. Hughes, Jr., Executive Director.

Authority: N.J.S.A. 34:1B et seq., specifically 34:1B-5(k) and (l).

Proposal Number: PRN 1986-178.

Submit comments by June 18, 1986 to:

Gary Nadler, Mgr. of Administration
New Jersey Economic Development Authority
200 S. Warren St.
CN 990
Trenton, N.J. 08625

The agency proposal follows:

Summary

The New Jersey Economic Development Authority (NJEDA) is an independent agency of the State of New Jersey created to retain and expand job opportunities and to enlarge the tax base of the State and its local governments. The NJEDA does not receive any funding through State appropriations and, therefore, is required to support its operations through fees.

NJEDA is proposing to revise its schedule of fees charged to potential borrowers who apply to NJEDA for financial assistance and/or receive financial assistance from NJEDA. The proposed fees are necessary to NJEDA in order to provide revenue to pay for the administrative expenses of NJEDA.

NJEDA provides financing to New Jersey firms which would not be able to go forward with their projects "but for" the assistance of NJEDA. Due to the nature of the firms assisted by NJEDA, the fees have been set at below market rates.

NJEDA has a schedule of fees at the present time (proposed for repeal); the new rule will replace the current rule. In some cases, fees are unchanged. However, certain new fees have been added and certain fees have been increased to reflect the increased cost to NJEDA. In addition, the format of the subchapter has been revised.

The following types of fees are being proposed:

1. **Application Fee:** This fee will be assessed to applicants for NJEDA financial assistance regardless of the type of assistance requested.
2. **Commitment Fees:** These fees will be assessed for loan guarantee and direct loan commitments made by NJEDA, and vary depending on the actual NJEDA program which is involved.
3. **Closing Fees:** These fees will be assessed for industrial development bond, loan guarantee and direct loan projects closed by the NJEDA and vary depending on the actual NJEDA program which is involved.
4. **Post Closing Fees:** These fees will be assessed for industrial development bond projects for processing the types of transactions identified.
5. **Sign Fee:** This fee will be assessed for all NJEDA where construction or renovations are involved.

Social Impact

NJEDA was established by Chapter 80, P.L. 1974 primarily to provide long-term, low-interest financing to private firms and companies for the purpose of maintaining and expanding employment opportunities in the State of New Jersey (State). To accomplish its objectives, NJEDA is empowered to issue tax-exempt industrial development bonds; to guarantee loans; to make direct loans; to buy and sell buildings and other property; and to conduct studies related to its legislative mandate to stimulate employment and investment in the State. From 1975 to present, NJEDA has provided in excess of \$6 billion in financing, in the form of industrial development bonds, loan guarantees and direct loans, stimulating over \$8.3 billion in total investment and creating over 114,000 permanent jobs and 102,000 construction jobs. NJEDA estimates that almost \$4 billion in ratables for the State's municipalities have also resulted. The social impact of the NJEDA's activities are apparent from the infusion of capital, creation of jobs and expansion of the New Jersey economy. Without the fees assessed by NJEDA, the social impact of

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NJEDA's programs would be reduced due to the lower level of financing services and other assistance which NJEDA would be able to provide to firms desiring to expand or locate in New Jersey.

Economic Impact

There are two aspects of economic impact.

The first, as described under Social Impact, is the expansion of the economy of the State as evidence by increased employment and ratables provided through NJEDA's programs. This expansion affects the State economically in a positive manner due to increases in income taxes, property taxes and reduction of unemployment. NJEDA believes that without the fees to be assessed herein it would not operate at a level which enables it to effectively help to expand the economy in New Jersey.

The second economic impact is on applicants for financial assistance from NJEDA. The applicants will be required to pay certain fees according to the proposed regulation. These applicants are requesting financial assistance from the Authority in order to benefit from lower cost financing and the proposed fees are below market. The lower financing cost and fee structure benefit applicants and enable them to move forward with projects which would not otherwise be feasible. It is not anticipated that the proposed with projects which would not otherwise be feasible. It is not anticipated that the proposed fees will impair the ability of applicants to avail themselves of NJEDA financing.

Full text of the proposed repeal and new rule follows (additions shown in boldface thus; deletions shown in brackets [thus]).

[SUBCHAPTER 2. FEES AND CHARGES]

[19:30-2.1 Application fees

An initial non-refundable payment of \$250.00 shall accompany every application for Authority assistance, which will be credited toward the administrative fee or guarantee fee if the project is approved by the Authority.]

[19:30-2.2 Administrative fees

(a) The administrative fee shall be equal to one-half of one percent of the amount of the bond issue for the first \$10,000,000 and 1/10 of one percent of the amount in excess of \$10,000,000. The administrative fee shall be fully paid at the time of closing of the bond. The administrative fee does not include bond counsel fees, other legal fees, finder's fees, real estate broker's fees or charges incurred by the Authority, the applicant, bondholders, trustees or agents in the processing and approval of an Authority loan or in the issuance of Authority bonds.

(b) The following additional administrative fees shall be charged:

1. For straight refunding bonds, one half of the administrative fees;
2. For refunding bonds with a supplemental issue, one half of the administrative fee for the refunding portion, the administrative fee for the supplemental portion;
3. For processing an approved change of ownership application, \$1,000,000;
4. For amending or modifying an outstanding body obligation, \$500.00. These fees shall be payable upon closing of the bond agreement upon approval of a change of ownership or modification of a bond agreement.]

[19:30-2.3 Guarantee fees

(a) The guarantee fee shall be equal to one-half of one percent of the initial dollar amount of the guaranteed portion of the loan multiplied by the number of years the guaranteed portion of the loan multiplied by the number of years the guarantee is to be in effect. Notwithstanding the above, the Authority may by resolution of its members determine to charge the following fees to manufacturing projects located in economically distressed municipalities as defined in N.J.A.C. 19:30-4.2:

1. For participatin guarantees, \$1,000 plus 2 percent of the initial Authority guaranteed portion of the loan;
2. For subordinated guarantees, \$1,000 plus 2 percent of the initial Authority guaranteed portion of the loan.

(b) The guarantee shall be fully paid at the time of issuance of the guarantee. The guarantee fee does not include bond counsel fees, other legal fees, finder's fees, real estate broker's fees, underwriting fees and any other fees or charges incurred by the Authority, the applicant, bondholders, trustees or agents in the processing and approval of an Authority loan or in the issuance of Authority bonds.]

SUBCHAPTER 2. FEES

19:30-2.1 Applicaton fee

A non-refundable fee of \$250.00 shall accompany every application for Authority assistance.

19:30-2.2 Commitment fees

(a) A non-refundable commitment fee of \$500.00 is charged with the acceptance by an applicant of a loan guarantee commitment from the Authority.

(b) A non-refundable commitment fee of \$300.00 is charged with the acceptance by an applicant of a direct loan commitment under the Urban Centers Small Loan Program.

(c) A non-refundable commitment fee of \$500.00, or one-half of one percent of the loan amount, whichever is greater, is charged with the acceptance by an applicant of any direct loan commitment other than as described in (b) above.

19:30-2.3 Closing fees

(a) For Authority-issued bonds, the fees, to be paid at closing, is one-half of one percent of the amount of the bond issue up to and including \$10,000,000 and one-tenth of one percent of the amount in excess of \$10,000,000.

(b) For guaranteed Authority-issued bonds or conventional loans, and guarantee fee, to be paid at closing, is one-half of one percent of the initial amount of the guaranteed portion of the loan multiplied by the number of years the guarantee is to be in effect. This fee is in addition to the fee described in (a) above if the Authority's guarantee relates to repayment of a bond issued by the Authority.

(c) For direct loans from the Authority, other than loans under the Urban Centers Small Loan Program, the fee, to be paid at closing, is \$500.00, or one-half of one percent of the loan amount whichever is greater.

19:30-2.4 Post closing fees

(a) For purposes of this section, the following definitions apply:

1. "Refunding bond" means:

- i. A bond, the proceeds of which are used to satisfy the outstanding obligation of a prior Authority-issued bond, and the term of which exceeds the term of the Authority-issued bond being satisfied; or
- ii. A modification agreement which extends the maturity date of an outstanding Authority-issued bond.

2. "Related entity" means a person or organization of persons previously identified to and approved by the Authority.

3. "Unrelated entity" means a person or organization of persons not previously identified to and approved by the Authority.

(b) The fees in this section are due and payable upon closing of the bond amendment, approval of change of ownership, or signing of modification consent, waiver, etc.

1. For refunding bonds, an amount equal to one-half of the closing fee (see N.J.A.C. 19:30-2.3(a)) shall be charged.

2. For refunding bonds with a supplemental issue, an amount equal to one-half of the closing fee (see N.J.A.C. 19:30-2.3(a)) shall be charged on the refunding portion and the closing fee (see N.J.A.C. 19:30-2.3(a)) shall be charged on the supplemental portion.

3. For processing an approved change of ownership application for the transfer of 50 percent or more of the project property or ownership interest in the borrower to an unrelated entity, a \$1,500.00 fee shall be charged.

4. For processing an approved change of ownership application for:

- i. The transfer of the project property or ownership interest in the borrower to a related entity; or
- ii. The transfer of less than 50 percent of the project property or ownership interest in the borrower to an unrelated entity (excluding a limited partner, or a shareholder holding or about to hold an ownership interest in the borrower of 10 percent or less), a \$750.00 fee shall be charged.

5. For amending or modifying but not extending the maturity date of an Authority-issued bond, a \$750.00 fee shall be charged.

6. For executing any agreement, consent, waiver, etc., amending loan documents executed in connection with an Authority-issued bond, a fee of \$100.00 shall be charged.

7. For executing substitute bonds in connection with a bond transfer, a fee of \$25.00 per project, per occurrence shall be charged.

19:30-2.5 Sign fee

Applicants requesting financial assistance from the Authority, where part of the project consists of construction or renovation, will be sent a sign, upon granting of preliminary approval by the members of the Authority, which is to be erected at the project site indicating that the financing was made available through the Authority. That applicant will be charged \$50.00 for the sign which is payable upon receipt of the sign.

(a)**CASINO CONTROL COMMISSION****Rules of the Games****Minibaccarat****Proposed New Rules: N.J.A.C. 19:47-7****Proposed Amendments: N.J.A.C. 19:45-1.11, 1.12;
19:46-1.12, 1.19 and 19:47-8.2**

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

Authority: N.J.S.A. 5:12-63(c), 5:12-69, 5:12-70(g)(1) and 5:12-101.

Proposal Number: PRN 1986-170

Submit comments by June 18, 1986 to:

William H. Delaney, Director
Division of Financial Evaluation & Control
Casino Control Commission
3131 Princeton Pike
Building No. 5, CN-208
Trenton, NJ 08625

The agency proposal follows:

Summary

Section 5 of the New Jersey Casino Control Act, N.J.S.A. 5:12-5, was recently amended to add the game of minibaccarat to the list of games which are authorized for use in New Jersey casinos. Pursuant to the terms of N.J.S.A. 5:12-70f and -100e., this new game may not be utilized by casino licensees until appropriate implementing rules have been promulgated by the Casino Control Commission; the proposed rules are intended to fulfill the Commission's responsibilities under the Act.

The proposed rules establish standards and procedures governing two primary areas: The personnel and equipment required for the conduct of the game; and the manner in which the game is actually presented and played.

Social Impact

Although not easily verifiable, the availability of a new casino game in Atlantic City casinos may have some social impact on the patrons who frequent these establishments. Any such impact, however, may be attributed to the legislative authorization of the game as opposed to the implementing regulations now being proposed by the Commission. Similarly, it is possible that the introduction of minibaccarat in Atlantic City may attract additional patrons to the casinos, thus fulfilling the underlying statutory goals of encouraging tourism and generating tax revenues for the benefit of the disabled and senior citizens of the State.

The proposed rules are intended to further the statutory goals of assuming fairness to the player while at the same time, protecting the viability of casino operations. By doing so, the proposed rules will also serve the broader goal of maintaining public confidence and trust in the operation and regulation of casino gaming in this State.

Economic Impact

The actual economic impact of the proposed rules will be difficult to ascertain until the new game is put into use, monitored and evaluated. Implementation of the new game through compliance with the proposed rules will require both the casino industry and the regulatory agencies to incur certain costs. It is not anticipated, however, that these costs will be significant.

It is possible that the introduction of the game of minibaccarat in Atlantic City will generate increased revenues for casino licenses and accordingly lead to increased tax revenues for the State. Any attempt to project this economic effect, however, would be highly speculative at this time.

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

SUBCHAPTER 7. [(RESERVED)] MINIBACCARAT**19:47-7.1 Cards: Number of decks; value; point count of hand**

(a) Minibaccarat shall be played with at least six decks of cards and two additional solid yellow or green cutting cards.

(b) The "Value" of the cards in each deck shall be as follows:

1. Any card from 2 to 9 shall have its face value;
2. Any Ten, Jack, Queen or King shall have a value of zero; and
3. Any Ace shall have a value of one.

(c) The "Point Count" of a hand shall be a single digit number from 0 to 9 inclusive and shall be determined by totaling the value of the cards in the hand. If the total of the cards in a hand is a two-digit number, the left digit of such number shall be discarded having no value and the right digit shall constitute the Point Count of the hand. Examples of this rule are as follows:

1. A hand composed of an Ace, a 2 and a 4 has a Point Count of 7; and

2. A hand composed of an Ace, a 2 and a 9 has a total of 12 but only a Point Count of 2 since the digit 1 in the number 12 is discarded.

19:47-7.2 Wagers

(1) The following wagers shall be permitted to be made by a participant at the game of minibaccarat:

1. A wager on the "Banker's Hand" which shall:

i. Win if the "Banker's Hand" has a Point Count higher than that of the "Player's Hand";

ii. Lose if the "Banker's Hand" has a Point Count lower than that of the "Player's Hand"; and

iii. Be void if the Point Count of the "Banker's Hand" and the "Player's Hand" are equal.

2. A wager on the "Player's Hand" which shall:

i. Win if the "Player's Hand" has a Point Count higher than that of the "Banker's Hand";

ii. Lose if the "Player's Hand" has a Point Count lower than that of the "Banker's Hand"; and

iii. Be void if the Point Counts of the "Banker's Hand" and the "Player's Hand" are equal.

3. A "Tie Bet" which shall win if the Point Counts of the "Banker's Hand" and the "Player's Hand" are equal and shall lose if such Point Counts are not equal.

(b) Unless otherwise approved by the Commission, no casino licensee, his employees or agents shall accept any wager at the game of minibaccarat other than those specified in (a) above.

(c) All wagers at minibaccarat shall be made by placing gaming chips or plaques on the appropriate areas of the minibaccarat layout except that verbal wagers accompanied by cash may be accepted provided they are confirmed by the dealer and casino supervisor at the table, and such case is expeditiously converted into gaming chips or plaques in accordance with the regulations governing the acceptance and conversion of such instruments.

(d) No wager at minibaccarat shall be made, increased or withdrawn after the dealer has announced "No More Bets".

(e) Each casino licensee shall submit to the Commission for review and approval, the minimum wagers permitted at each minibaccarat table. The minimum wagers as approved by the Commission, and the maximums as established by the casino licensee, shall be and remain conspicuously posted on a sign at each table.

(f) Once the first card of any hand has been removed from the shoe by the dealer, no participant shall handle, remove or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager.

19:47-7.3 Payout odds; vigorish

(a) A winning wager made on the "Player's Hand" shall be paid off by a casino licensee at odds of 1 to 1.

(b) A winning wager made on the "Banker's Hand" shall be paid off by a casino licensee at odds of 1 to 1 except that the casino licensee may extract a charge (to be known as a "commission" or "vigorish") on the amount won not to exceed five percent of such amount (provided, however, a casino licensee may round off the commission or vigorish to five cents or the next highest multiple of five cents when the commission or vigorish is not exactly five cents or multiple thereof.) A casino licensee may collect the vigorish from a participant at the time the winning payoff is made or may defer it to a later time provided, however, that all outstanding vigorish shall be collected prior to reshuffling the cards in a shoe and in no event shall the collection of any vigorish be deferred beyond such point. The amount of any vigorish not collected at the time of the winning payout shall be evidenced by the placing of a coin or marker button containing the amount of the vigorish owed in a rectangular space in front of the dealer on the layout imprinted with the number of the participant owing such vigorish.

(c) A winning tie bet shall be paid off by a casino licensee at odds of at least 8 to 1.

19:47-7.4 Opening of table for gaming

(a) After receiving the six or more decks of cards at the table, the dealer calling the game shall sort and inspect the cards and the floorperson assigned to the table shall verify the inspection, in accordance with N.J.A.C. 19:46-1.18(f).

(CITE 18 N.J.R. 1098)
OTHER AGENCIES

Interested Persons see Inside Front Cover

PROPOSALS

19:47-7.10 Announcement of result of round; payment and collection of wagers

(a) After each hand has received all the cards it is entitled to by these regulations, the dealer shall announce the final Point Count of each hand indicating which hand has won the round. If two hands have equal Point Counts, the dealer shall announce "Tie Hand".

(b) After the results of the round is announced, the dealer responsible for the wagers on the table shall collect all losing wagers, payoff all winning wagers and either collect or mark up any vigorish or commission owed in accordance with these regulations.

(c) At the conclusion of a round of play, all cards on the layout shall be picked up by the dealer and placed in the discard rack, in order and in such a way that they can be readily arranged to indicate the "Player's Hand" and the "Banker's Hand" in case of question or dispute.

(d) No participant or spectator shall handle, remove or alter any cards used to game at minibaccarat and no dealer or other casino employee or casino key employee shall permit a participant or spectator to engage in such activity.

19:47-7.11 Irregularities

(a) A third card dealt to the "Player's Hand", when no third card is authorized by these regulations, shall become the third card of the "Banker's Hand" if the "Banker's Hand" is obliged to draw by Table 2 of N.J.A.C. 19:47-7.9. If, in such circumstances, the "Banker's Hand" is required to stay, the card dealt in error shall become the first card of the next hand unless it has been disclosed. In such case, the disclosed card and an additional number of cards equal to the amount on this card shall be drawn face upwards from the shoe and placed in the discard rack.

(b) A card drawn in error from the shoe, if not disclosed, shall be used as the first card of the next hand of play. If the card has been disclosed, a burn card procedure as described in (a) above, shall be implemented.

(c) All cards found face upwards in the shoe shall not be used in the game and shall be placed in the discard rack, along with an additional amount of cards drawn face upwards, which agrees with the number on the cards found face upwards in the shoe.

(d) If there are insufficient cards remaining in the shoe to complete a round of play, that round shall be void and a new round shall commence after the entire set of cards are reshuffled and placed in the shoe.

19:47-7.12 Continuous shuffling shoe or device

In lieu of the dealing and shuffling requirements set forth in N.J.A.C. 19:47-7.5 and 7.6, a casino licensee may utilize a dealing shoe or other device designed to automatically reshuffle the cards provided that such shoe or device and the procedures for dealing and shuffling the cards through use of this device are approved by the Commission or its authorized designee.

19:45-1.11 Casino licensee's organization

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

(c) Each casino licensee shall, at a minimum, establish the following departments with respect to the casino operation:

1.-3. (No change.)

4. A casino department supervised by a casino manager who shall perform independently of all other departments and shall report directly to the Vice President of Casino Operations, or his equivalent, or the Chief Executive Officer. The casino manager shall be responsible for the operation and conduct of the following games:

- i. Craps;
- ii. Blackjack;
- iii. Baccarat;
- iv. Roulette; [and]
- v. Big Six[.]; and
- vi. Minibaccarat.

5.-9. (No change.)

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

19:45-1.12 Personnel assigned to the operation and conduct of gaming and slot machines

(a) The following personnel shall be used to operate and conduct table games in an establishment:

1. (No change.)

2. Dealers shall be the persons assigned to each craps, baccarat, blackjack, roulette, minibaccarat, and big six table to directly operate and conduct the game.

3.-4. (No change.)

5. Floorman shall be:

i.-ii. (No change.)

iii. The first level supervisor assigned the responsibility for directly supervising the operation and conduct of gaming at not more than one baccarat table[.] ; and

iv. The first level supervisor assigned the responsibility for directly supervising the operation and conduct of gaming at not more than two minibaccarat tables.

6. Pit boss shall be:

i. (No change.)

ii. The second level supervisor assigned the responsibility for the overall supervision of the operation and conduct of table games at not more than a total of 12 blackjack, roulette, minibaccarat, big six, or baccarat tables or a combination thereof.

7.-10. (No change.)

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

19:46-1.12 Baccarat and minibaccarat tables; physical characteristics

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

(c) Minibaccarat shall be played at a table having on one side places for the participants, and on the opposite side a place for the dealer.

1. The cloth covering the minibaccarat table shall have imprinted thereon the name of the casino, and shall have rectangular, circular, or oval areas to indicate boxes for the wagers on the "Banker's Hand" and "Player's Hand". Such boxes shall not exceed seven in number.

2. The following inscriptions shall appear on the cloth covering of the minibaccarat table:

i. Tie bets pay 8 to 1, and an area for such wagers to be placed;

ii. Boxes numbered one to seven that correspond to the seat numbers for the purpose of marking "vigorish" or "commission"; and

iii. An area designated for the placement of cards for the "Player's" and "Banker's" hands.

3. Each minibaccarat table shall have a drop box and a tip box attached to it at approximately the locations depicted in the following diagram:

OAL NOTE: The minibaccarat table diagram was filed as a part of this proposal but is not reproduced here. The table diagram may be reviewed at the Office of Administrative Law, Quakerbridge Plaza (Bldg. 9), Trenton, New Jersey; or at the Casino Control Commission, 3131 Princeton Pike (Bldg. 5), Trenton, New Jersey.

19:46-1.19 Dealing shoes

(a) Cards used to game at blackjack and minibaccarat shall be dealt from a dealing shoe which shall be securely chained to the gaming table during gaming hours and secured in a locked compartment during non-gaming hours. Cards used to game at baccarat shall be dealt from a dealing shoe which shall be secured in a locked compartment during non-gaming hours. A dealing shoe or other device which automatically shuffles cards may be utilized at the game of blackjack and minibaccarat, provided that such a shoe or device is submitted and approved by the Commission or its authorized designee.

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

19:47-8.2 Minimum and maximum wages

(a) (No change.)

(b) The spread between the minimum wager and the maximum wager at table games shall be as follows:

1.-5. (No change.)

6. Minibaccarat:

i. If the minimum wager at the table is five dollars (\$5.00) or less, the maximum wager shall be at least one hundred dollars (\$100.00).

(c) (No change.)

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF RURAL RESOURCES

Soil and Water Conservation Project Cost Sharing Procedural Rules: Extensions of Time

Adopted Amendments: N.J.A.C. 2:90-3.6 and 3.9

Proposed: March 3, 1986 at 18 N.J.R. 449(a).

Adopted: April 25, 1986 by Arthur R. Brown, Jr., Chairman,
State Soil Conservation Committee.

Filed: April 28, 1986 as R.1986 d.190, **without change**.

Authority: N.J.S.A. 4:24-3 and 4:1C-24.

Effective Date: May 19, 1986.

Expiration Date: June 24, 1990.

Summary of Public Comments and Agency Responses:

COMMENT: The amendment is unnecessary since language on an approved application specifies that funds are absolutely encumbered for three years and that a farmer may automatically receive a 12 month extension.

RESPONSE: The amendment provides the procedural basis for requesting and approving extensions which are not granted automatically. Further, the application agreement specifies that if work is not commenced within 12 months, the approval may be cancelled. The amendment clarifies the procedures to be followed for extension of time to commence project activity.

Full text of the adoption follows.

2:90-3.6 Preparation of conservation plan

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

(c) The plan may be modified at the landowners request subject to technical agency concurrence and SCD approval. If the applicant determines that the requested projects cannot be completed within the original schedule because of circumstances beyond his control, the applicant may request an extension of time. The request, including reasons why the extension is needed, shall be submitted, in writing, to the SCD. Upon its concurrence, the SCD shall forward such request to the SSCC for implementation. In no case shall extensions be granted for more than 12 months.

(d) (No change.)

2:90-3.9 State review and approval process

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

(e) Work must commence within 12 months of funding approval or the application may be cancelled unless the landowner submits a request for extension to the SCD providing reasons for such extension. Upon concurrence, the SCD shall forward the request to the SSCC for approval and implementation. In no case shall such extensions be granted for more than nine additional months.

COMMUNITY AFFAIRS

(b)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code

Revocation of Licenses

Adopted Amendment: N.J.A.C. 5:23-5.26

Proposed: January 6, 1986 at 18 N.J.R. 16(b).

Adopted: April 11, 1986 by Leonard S. Coleman, Jr.,
Commissioner, Department of Community Affairs.

Filed: April 21, 1986 as R.1986, d.173, **with substantive changes**
not requiring additional notice and comment (see: N.J.A.C.
1:30-4.3).

Authority: N.J.S.A. 52:27D-124.

Effective Date: May 19, 1986.

Expiration Date: April 1, 1988.

Summary of Public Comments and Agency Responses:

A comment supporting the proposal was submitted by the Northern New Jersey Chapter, Inc. of the National Electrical Contractors Association.

Comments in opposition were received from the Building Officials Association of New Jersey, Inc. and from several regional inspectors organizations and individual construction and subcode officials and inspectors.

The opponents of the proposal criticized the wording as "too broad and vague" and therefore subject to arbitrary interpretation, as conferring "totalitarian and dictatorial powers" upon the Bureau of Construction Code Enforcement, as adding to confusion and leaving open the question of who would make determinations of "unworthiness" and "bad faith" and who would rule on them; as "highly subjective" and likely to lead to unnecessary litigation; as unnecessary because existing remedies are sufficient to "protect public morals"; as a "political ploy" against code officials; as leading to "harassment and eventual disfranchisement" of licensees and applicants; and as lacking in "adequate protection and appeal under the code."

The Department remains of the view that general language is necessary in order to insure that only those persons who merit public confidence receive, and continue to hold, code enforcement licenses. Nevertheless, after consultation with the Code Advisory Board, the Department agrees that the words "unworthiness" and "bad faith", which had aroused the code enforcement community's fears of arbitrary punitive action, might be open to unreasonable interpretation and that the remaining grounds should be adequate. (The Department points out the language originally proposed was not its own creation but was, rather, taken from the statute governing the licensing of real estate brokers, where it serves a similar purpose.)

Full text of the adoption follows (deletions from proposal indicated in brackets with asterisks *[thus]*):

5:23-5.26 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;

Renumbered old 10. as 11. (No change in text.)

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

ENVIRONMENTAL PROTECTION

(c)

DIVISION OF WASTE MANAGEMENT

Standard Industrial Classification Code

Exemptions from Environmental Cleanup

Responsibility Act Program

Adopted Amendment: N.J.A.C. 7:1-3.20

Proposed: March 17, 1986 at 18 N.J.R. 529(a).

Adopted: April 25, 1986 by Richard T. Dewling, Commissioner,
Department of Environmental Protection.

Filed: April 28, 1986 as R.1986 d.188, **without change**.

Authority: N.J.S.A. 13:1K-8(f) and 10(a).

Effective Date: May 19, 1986.

Expiration Date: March 5, 1987.

DEP Docket No. 008-86-02.

Summary of Public Comments and Agency Responses:

The New Jersey Department of Environmental Protection ("NJDEP")

**(CITE 18 N.J.R. 1100)
ENVIRONMENTAL PROTECTION**

ENVIRONMENTAL PROTECTION

received five written comments during the comment period which ended on April 16, 1986. All five commenters supported NJDEP's effort to exempt certain Standard Industrial Classification ("SIC") numbers from the scope of the Environmental Cleanup Responsibility Act, N.J.S.A. 13:1K-6 et seq. ("ECRA"). NJDEP did not receive any negative comments on the proposed amendments to exempt 32 SIC sub-groups including an additional 33 industries under SIC sub-group 7699 from ECRA jurisdiction. The only substantive comments received by NJDEP concerned adding other SIC numbers to the SIC exemptions already proposed in the March 17, 1986 New Jersey Register.

COMMENT: Three commenters requested that NJDEP consider exempting the additional three SIC sub-groups listed below:

SIC No. 2448—Wood Pallets and Skids.

SIC No. 4811—Telephone Communication (Wire or Radio).

SIC No. 4941—Water Supply.

All three commenters requesting additional SIC exemptions stated their opinion that such an exemption would not pose an environmental risk to the public health and safety of the citizens of New Jersey. Therefore, the commenters suggested that an ECRA review by NJDEP's Bureau of Industrial Site Evaluation would not be necessary to protect New Jersey's environment.

RESPONSE: NJDEP plans to carefully consider other SIC exemptions, including the three sub-groups suggested during the written comment period, during the development of a second SIC exemption proposal tentatively planned for Summer or Fall of 1986. N.J.A.C. 7:1-3.20 allows for industrial establishments to apply to NJDEP as a class for an SIC exemption. The Department will consider all reasonable requests for SIC exemptions supported by all appropriate documentation, evidence and other proof available which justify exemption from ECRA jurisdiction. The continuation of the SIC exemption process will allow NJDEP to direct valuable resources to the areas of major environmental concerns.

Full text of the adoption follows:

7:1-3.20 Procedure for exemptions of sub-groups within SIC codes from definition of industrial establishment

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

(e) The following sub-groups or classes of operations within those sub-groups described in (a) above shall not be considered industrial establishments for the purposes of the Act and this subchapter:

SIC Industry Number	Industry Number Description
1. 4722	Arrangement of Passenger Transportation
2. 4723	Arrangement of Transportation of Freight and Cargo
3. 4821	Telegraph Communication (Wire or Radio)
4. 4832	Radio Broadcasting
5. 4833	Television Broadcasting
6. 4899	Communication Services Not Elsewhere Classified
7. 4971	Irrigation Systems
8. 5111	Wholesale Distribution of Printing and Writing Paper
9. 5112	Wholesale Distribution of Stationery Supplies
10. 5113	Wholesale Distribution of Industrial and Personal Service Paper
11. 5133	Wholesale Distribution of Woven Fabrics
12. 5134	Wholesale Distribution of Notions and Other Dry Goods
13. 5136	Wholesale Distribution of Men's and Boys' Clothing
14. 5137	Wholesale Distribution of Women's, Childrens and Infants Clothing
15. 5139	Wholesale Distribution of Footwear
16. 5141	Wholesale Distribution of Groceries, General Line
17. 5142	Wholesale Distribution of Frozen Food
18. 5143	Wholesale Distribution of Dairy Products
19. 5144	Wholesale Distribution of Poultry Products
20. 5145	Wholesale Distribution of Confectionary
21. 5146	Wholesale Distribution of Fish
22. 5147	Wholesale Distribution of Meats
23. 5148	Wholesale Distribution of Fresh Fruits and Vegetables
24. 5149	Wholesale Distribution of Groceries and Related Products, Not Elsewhere Classified
25. 5152	Wholesale Distribution of Cotton
26. 5153	Wholesale Distribution of Grain
27. 5154	Wholesale Distribution of Livestock

28. 5159	Wholesale Distribution of Farm-Products, Raw Materials, Not Elsewhere Classified
29. 5181	Wholesale Distribution of Beer and Ale
30. 5182	Wholesale Distribution of Wine
31. 5199	Wholesale Distribution of Nondurable Goods, Not Elsewhere Classified
32. 7631	Watch, Clock, and Jewelry Repair
33. 7699	Repair Shops and Related Services, Not Elsewhere Classified

(Only the list herein of repair services under 7699 are exempted from ECRA. All other repair services under 7699 *not* listed herein remain subject to ECRA)

- Awning Repair
- Bicycle Repair Shops
- Binoculars and Other Optical Goods Repair
- Caliper, Gauge and Other Machinists Precision Instrument Repair
- Camera Repair
- Fountain Pen Repair Shops
- Harness Repair Shops
- Horseshoeing
- Key Duplicating Shops
- Leather Goods Repair Shops
- Lock Parts Made to Individual Order
- Locksmith Shops
- Luggage Repair Shops
- Musical Instrument Repair Shops
- Organ Tuning and Repair
- Piano Tuning and Repair
- Picture Framing to Individual Order (Not Connected With Retail Stores)
- Pocketbook Repair Shops
- Precision Instrument Repair
- Reneedling Work
- Repair of Optical Instruments
- Repair of Photographic Equipment
- Repair of Speedometers
- Rug Repair Shops (Not Combined With Cleaning)
- Saddlery Repair Shops
- Scale Service Repair
- Sewing Machine Repair
- Tent Repair Shops
- Tuning of Pianos and Organs
- Typewriter Repair (Including Electric)
- Umbrella Repair Shops
- Venetian Blind Repair Shops
- Window Shade Repair Shops

(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
Adopted Amendments: N.J.A.C. 7:11-2.2, 2.3, and 2.9**

Proposed: January 6, 1986 at 18 N.J.R. 17(a).
Adopted: April 25, 1986 by Richard T. Dewling, Chairman, New Jersey Water Supply Authority, and Commissioner, New Jersey Department of Environmental Protection.
Filed: April 28, 1986 as R.1986 d.187, **without change.**
Authority: N.J.S.A. 58:1B-7.
Effective Date: May 19, 1986.
Operative Date: July 1, 1986.
Expiration Date: June 6, 1988.
DEP Docket No. 065-85-12.

Summary of Public Comments and Agency Responses:

The New Jersey Water Supply Authority ("Authority") conducted a pre-public hearing meeting concerning the adopted amendments, pursuant to N.J.A.C. 7:11-2.11(a)4, with contractual water customers on January 14, 1986. Six interested parties attended the January 14, 1986 pre-public hearing meeting conducted by Rocco D. Ricci, Executive Director of the Authority. In addition, the Authority held a February 7, 1986 public hearing attended by six interested parties. Two written comments were received by the Authority prior to the close of the written comment period, March 24, 1986. The adopted amendments received a general endorsement from all interested parties during the public comment period. The Authority received encouragement for their policy of providing adequate funds to properly operate, maintain and improve the Delaware and Raritan Canal and the Spruce Run/Round Valley Reservoir Systems. However, the public commenters encouraged the Authority to maintain careful control of all expenses involved in the administration of the Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir water supply systems. The few specific public comments on the adopted amendments and the Authority's responses follow:

COMMENT: One commenter asked if the adopted amendments applied to water to be sold from the proposed Manasquan Reservoir project.

RESPONSE: The adopted amendments do not apply to the Manasquan Reservoir project. A completely separate schedule of rates, charges and debt service assessments will be promulgated when the Manasquan Reservoir project becomes operational for water supply purposes.

COMMENT: A commenter questioned whether the adopted amendments include repayment of current expenses and debts.

RESPONSE: The adopted amendments provide for both payment of current expenses through the Operation and Maintenance Component of the General Rate Schedule, N.J.A.C. 7:11-2.2, and payment of long-term capital costs through the Debt Service Assessment, N.J.A.C. 7:11-2.3.

COMMENT: One commenter requested that the Authority explain the 15.7 percent increase in the Operation and Maintenance Component of the General Rate Schedule at N.J.A.C. 7:11-2.2 from the current \$81.80 per million gallons per day of water purchased to \$94.64 per million gallons per day of water purchased effective July 1, 1986.

RESPONSE: Interested parties should refer to the basis and background document prepared by the Authority in conjunction with the January 6, 1986 proposal for a detailed answer. The Authority's increased operating expenses are responsible for the 15.7 percent increase. In particular, increased premiums for insurance coverage and increased employee wages and benefits contribute the largest factor in the increased charges for operation and maintenance. This is the first such increase for operating expenses since January 1, 1983, a period of three and one-half years.

Full text of the adoption follows.

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 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)	\$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 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
7/1/86 to 6/30/88	Million gallons per day (mgd)	\$23.54

2. 1969 Bond Funds:

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

(c) 1981 Water Supply Bond Funds are to be borrowed from the State Treasurer 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 151.367 million gallons per day, in addition to that included in (b) above, will be applied to all customers:

Period	Allocation	Rate/Million Gallons
7/1/86 to 10/30/2006	Million gallons per day (mgd)	\$33.94

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.	\$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.	\$94.64 plus annual debt service assessment rates for 1958 Bonds, 1969 Bonds and 1981 Bonds.

(a)

**DIVISION OF WATER RESOURCES
Natural Resources Bond Act
Dam Restoration Grant Regulations
Adopted New Rule: N.J.A.C. 7:24**

Proposed: February 18, 1986 at 18 N.J.R. 395(a).
Adopted: April 22, 1986 by Richard T. Dewling, Commissioner, Department of Environmental Protection.
Filed: April 28, 1986 as R.1986 d.186, **without change**.
Authority: N.J.S.A. 13:1D-9, 13:1D-15, 58:4-1 et seq. and P.L. 1980, c. 70.

Effective Date: May 19, 1986.
Expiration Date: May 19, 1991.
DEP Docket No. 005-86-01.

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

Full text of the expired rules adopted as new appears in the New Jersey Administrative Code at N.J.A.C. 7:24.

HEALTH

(a)

NARCOTIC AND DRUG ABUSE CONTROL Controlled Dangerous Substances Temporary Placement of Eight Designer Drugs into Schedule I

Adopted Amendment: N.J.A.C. 8:65-10.1

Proposed: February 3, 1986 at 18 N.J.R. 254(b).

Adopted: April 21, 1986 by John H. Rutledge, M.D., Acting
Commissioner.

Filed: April 25, 1986 as R.1986 d.184, **without change.**

Authority: N.J.S.A. 24:21-3.

Effective Date: May 19, 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. (See proposal at 17 N.J.R. 2214(a).)

iii, and iv. (See proposal at 17 N.J.R. 2950(a).)

v. acetyl-alpha-methylfentanyl (N-(1-(1-methyl-2-phenyl) ethyl-4-pipe-
ridyl)-N-phenylacetamide), its optical isomers, salts, and salts of isomers
... 9615;

vi. alpha-methylthiofentanyl (N-(1-(1-methyl-2-(2-thienyl) ethyl-4-
piperidyl)-N-phenylpropanamide), its optical isomers, salts, and salts of
isomers ... 9832;

vii. benzylfentanyl (N-(1-benzyl-4-piperidyl)-N-phenyl-
propanamide), its optical isomers, salts, and salts of isomers ... 9818;

viii. beta-hydroxyfentanyl (N-(1-(2-hydroxy-2-phenyl)
ethyl-4-piperidyl)-N-phenylpropanamide), its isomers, salts, and salts of
isomers ... 9830;

ix. beta-hydroxy-3-methylfentanyl (N-(3-methyl-1-(2-hydroxy-2-
phenyl) ethyl-4-piperidyl)-N-phenylpropanamide), its isomers, salts, and
salts of isomers ... 9831;

x. 3-methylthiofentanyl (N-(3-methyl-1-(2-(2-thienyl) ethyl-4-pipe-
ridyl)-N-phenylpropanamide), its isomers, salts, and salts of isomers ...
9833;

xi. thienylfentanyl (N-(1-(2-(2-thienyl) methyl-4-piperidyl)-N-
phenylpropanamide), its isomers, salts, and salts of isomers ... 9834;

xii. thiofentanyl (N-(1-(2-(2-thienyl) ethyl-4-piperidyl)-N-phenyl-
propanamide), its isomers, salts, and salts of isomers ... 9835.

(b)

DRUG UTILIZATION REVIEW COUNCIL Interchangeable Drug Products

Adopted Amendment: N.J.A.C. 8:71

Proposed: December 2, 1985 at N.J.R. 2842(a).

Adopted: April 8, 1986 by the Drug Utilization Review Council,
James Perhach, Ph.D., Chairman.

Filed: April 21, 1986 as R.1986 d.183, **with portions** of the
proposal **not adopted, and portions** not adopted but still
pending.

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

Effective Date: May 19, 1986.

Expiration Date: April 2, 1989.

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

Full text of the adoption follows.

The following products and their respective manufacturers were
adopted:

Chlorthalidone tabs 25, 50 mg	P-D
Dipyridamole tabs 25, 50, 75 mg	Duramed
Ibuprofen tabs 400	Barr
Ibuprofen tabs 400 mg	Ohm
Indomethacin capsules 25, 50, mg	Duramed
Indomethacin caps 25	P-D
Betamethasone dipropionate lotion 0.05%	NPC, Pharmaderm, Fougera, Savage
Propoxyphene napsylate/APAP 50/325, 100/650 mg	Barr

The following products and their respective manufacturers were **not**
adopted:

Chlorthalidone tabs 25, 50 mg	Sidmak
Ibuprofen tabs 200, 400, 600 mg	Danbury
Quinidine sulfate tabs 200 mg	Superpharm
Quinidine sulfate tabs 200 mg	PFI

The following products were not adopted but are still **pending**:

Procainamide tabs slow-release 250, 750 mg	Danbury
Tolbutamide tabs 500 mg	Purepac
Hydralazine/Hydrochlorothiazide caps 25/25, 50/50	Superpharm
Isosorbide dinitrate oral tabs 5, 10, 20 mg	Superpharm
Indomethacin caps 25, 50 mg	Superpharm
Spiroolactone tabs 25 mg/hydrochlorothiazide 25 mg	Superpharm
Chlorpheniramine maleate 8 mg/pseudoephedrine HCl 120 mg caps, slow-release	Graham
Procainamide HCl tabs, slow-release, 500 mg	Copley
Temazepam caps 15, 30 mg	PharmBasic
Spiroolactone tabs 25 mg	P-D
Spiroolactone 25 mg/hydrochlorothiazide 25 mg tabs	P-D
Diazepam tabs 2, 5, 10 mg	Par
Sulfinpyrazone tabs 100 mg & caps 200 mg	Par
Methyl dopa 250/hydrochlorothiazide 25 mg tabs	Cord
Methyl dopa 500/hydrochlorothiazide 50 mg tabs	Cord
Methyl dopa 500/hydrochlorothiazide 30 mg tabs	Cord
Ibuprofen tabs 400, 600 mg	Danbury
Ergoloid mesylates oral tablet 1 mg	Superpharm
Ergoloid mesylates SL tabs 0.5, 1.0 mg	Superpharm
Diazepam tabs 2, 5, 10 mg	Superpharm
Metoclopramide tabs 10 mg	Chelsea
Disopyramide caps 100, 150 mg	Chelsea
Carbamazepine tabs 200 mg	PharmBasic
Methyl dopa tabs 250, 500 mg	Cord
Diazepam tabs, 2, 5, 10 mg	Barr
Disopyramide phosphate caps 100, 150 mg	Barr
Flurazepam caps 15, 30 mg	Barr
Nalidixic acid tabs 250, 500, 1000 mg	Barr
Oxytriphylline tabs 100, 200 mg	Barr
Phenylbutazone caps 100 mg & tabs 100 mg	Barr
Propranolol tabs 10, 20, 40, 60, 80 mg	Barr
Tolazamide tabs 100, 250, 500 mg	Barr

OAL NOTE: See related Notices of Adoption at 18 N.J.R. 417(a) and
984(b).

CORRECTIONS

(a)

DIVISION OF ADULT INSTITUTIONS

County Correctional Facilities

Adopted Repeal: N.J.A.C. 10A:34 (appears as 10:34 in Title 10A)

Proposed: October 21, 1985 at 17 N.J.R. 2525(a).

Adopted: April 23, 1986 by William H. Fauver, Commissioner, Department of Corrections.

Filed: April 24, 1986 as R.1986 d.182, **without change.**

Authority: N.J.S.A. 30:1-15 and 30:1B-10.

Effective Date: May 19, 1986.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the repeal appears in Title 10A of New Jersey Administrative Code at N.J.A.C. 10:34.

INSURANCE

(b)

DIVISION OF ACTUARIAL SERVICES

Reporting of Liquor Law Liability Loss Experience Statistics

Adopted New Rule: N.J.A.C. 11:4-27

Proposed: January 6, 1986 at 18 N.J.R. 45(a).

Adopted: April 10, 1986 by Hazel Frank Gluck, Commissioner, Department of Insurance.

Filed: April 28, 1986 as R.1986 d.189, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:23-16, 17 and 18.

Effective Date: May 19, 1986.

Expiration Date: December 2, 1990.

Summary of Public Comments and Agency Responses:

One comment was received from a law firm representing surplus lines insurers. The commenter argued that the scope of the proposed rule should be amended to exclude surplus lines insurers because the enabling statute, N.J.S.A. 17:23-16, requires only authorized insurers to maintain liquor law liability loss statistics; and, surplus lines insurers are not considered authorized insurers.

The Department agrees with the commenter's argument. The scope of the adopted rule has been amended to exclude surplus lines insurers.

The due dates of the reports required by this rule have been changed by the Department from May 15, 1986 and May 15, 1987 to June 10, 1986 and June 10, 1987. This change will give insurers more time to complete the reporting requirements.

This adoption also corrects the citation of N.J.A.C. 11:4-27.4 concerning the schedule and procedures for reporting liquor law liability loss experience statistics.

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 27. REPORTING A LIQUOR LAW LIABILITY LOSS EXPERIENCE STATISTICS

11:4-27.1 Purpose

The purpose of this subchapter is to implement the statutory intent on 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]**4* 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]**June 10*, 1986; for calendar-accident years 1984 and 1985, losses valued as of March 31, 1986; shall be due on *[May 15]**June 10*, 1986; for calendar-accident years 1984, 1985 and 1986, losses valued as of March 31, 1987 shall be due on *[May 15]* *June 10*, 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

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		Incurred Losses		Number of Claims*
		Written	Earned	Paid	Outstanding	
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

(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Special Concessionaire Permit

Adopted Amendment: N.J.A.C. 13:2-5.2

Proposed: March 17, 1986 at 18 N.J.R. 545(a).
Adopted: April 22, 1986, by John F. Vassallo, Jr., Director,
Division of Alcoholic Beverage Control.
Filed: April 23, 1986 as R.1986 d.181, **without change**.
Authority: N.J.S.A. 33:1-39, 1-42 and 1-74.
Effective Date: May 19, 1986.
Expiration Date: August 5, 1990.

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

Full text of the adoption follows.

13:2-5.2 Special concessionaire permit

(a) Application for a special concessionaire permit may be made to the director by any individual, partnership, or corporation who has entered into a contract with the State of New Jersey, or any political subdivision thereof, whereby said person or organization is authorized to sell alcoholic beverages for immediate consumption in any public building owned by or under the control of the State of New Jersey or any political subdivision thereof. Such permit may also authorize the sale of alcoholic beverages in original containers for off-premises consumption, provided the applicant, with the consent of the governmental agency, establishes to the satisfaction of the director that there is good cause for such sales.

(b)-(f) (No change.)

(g) The holder of a special concessionaire permit shall be entitled to purchase alcoholic beverages only from the holders of New Jersey wholesale or distributor's license, for resale at the authorized premises. Said holder is expressly prohibited from purchasing alcoholic beverages from retail licensees. Said holder is also expressly prohibited from selling or offering for sale alcoholic beverages for off-premises consumption, unless specifically authorized in the permit issued by the director upon a showing of good cause therefor.

(h) (No change.)

(i) The holder of a special concessionaire permit must abide by all provisions of the New Jersey Alcoholic Beverage Control Law, division rules and regulations and municipal ordinances as they pertain to retail licensees. Failure to do so may result in disciplinary proceedings against the permittee. Hours of sale shall not exceed those permitted in the municipality in which the public building is located.

(j) (No change.)

(b)

BOARD OF ACCOUNTANCY

Notification of Convictions

Adopted New Rule: N.J.A.C. 13:29-1.14

Proposed: February 3, 1986 at 18 N.J.R. 264(a).
Adopted: March 31, 1986 by Paul M. Kurisko, President, State Board of Accountancy.
Filed: April 21, 1986 as R.1986 d.172, **without change**.
Authority: N.J.S.A. 45:2B-6g.
Effective Date: May 19, 1986.
Expiration Date: June 3, 1990.

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

Full text of the adoption follows.

13:29-1.14 Notification of convictions

Any licensee of the Board of Accountancy, upon conviction of any crime, is required to notify the Board of Accountancy of such conviction in writing within 30 days.

(c)

NEW JERSEY RACING COMMISSION

Thoroughbred Racing

Time; Claims

Adopted Amendment: N.J.A.C. 13:70-12.16

Proposed: February 18, 1986 at 18 N.J.R. 402(a).
Adopted: April 14, 1986 by New Jersey Racing Commission,
Bruce H. Garland, Executive Director.
Filed: April 21, 1986 as R.1986 d. 171, **without change**.
Authority: N.J.S.A. 5:5-30.
Effective Date: May 19, 1986.
Expiration Date: February 25, 1990.

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

Full text of the adoption follows.

13:70-12.16 Time; claims

Claims must be deposited in the claim box at least 10 minutes before post time of each race.

TRANSPORTATION

(d)

TRANSPORTATION OPERATIONS

Speed Limits

Route I-80 including Littleton Road and Cherry Hill Interchange, Parsippany-Troy Hills Frontage Road Number 2, Paterson Landing Road Interchange, and Smith Road Interchange

Adopted Amendment: N.J.A.C. 16:28-1.2

Proposed: March 17, 1986 at 18 N.J.R. 546(b).
Adopted: April 18, 1986 by John F. Dunn Jr., Assistant Chief Engineer, Traffic and Local Road Design.
Filed: April 21, 1986 as R.1986 d.174, **without change**.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 1:30-1.13, 52:14B-4(c).
Effective Date: May 19, 1986.
Expiration Date: November 7, 1988.

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

Full text of the adoption follows.

16:28-1.2 Route I-80 including Littleton Road and Cherry Hill Interchange, Parsippany-Troy Hills Frontage Road Number 2, Paterson, Landing Road Interchange, and Smith Road Interchange

(a) The rate of speed designated for certain parts of Interstate Route I-80 described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1. (No change.)

(b) The rate of speed designated for certain parts of State Highway Route I-80, Littleton Road and Cherry Hill Road Interchange described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1.-4. (No change.)

(c) The rate of speed designated for the certain part of State highway Route I-80 (Frontage Road Number 2) described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1. (No change.)

Redesignate (e)-(f) as (d)-(e) (No change in text.)

(a)

Restricted Parking and Stopping Routes U.S. 22 in Warren County; U.S. 30 in Atlantic County; Routes 33, 36 and 79 in Monmouth County Adopted Amendments: N.J.A.C. 16:28A-1.13, 1.21, 1.23, 1.26 and 1.42

Proposed: March 17, 1986 at 18 N.J.R. 547(b).

Adopted: April 18, 1986 by John F. Dunn Jr., Assistant Chief Engineer, Traffic and Local Road Design.

Filed: April 21, 1986 as R.1986 d.179, **without change.**

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

Effective Date: May 19, 1986.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28A-1.3 Route U.S. 22

(a) (No change.)

(b) The certain parts of State highway Route U.S. 22 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-8. (No change.)

9. Along the eastbound (southerly) side in the Town of Phillipsburg, Warren County:

i. Mid-block bus stop:

(1) Miller Street—Beginning 120 feet east of the easterly curb line of Miller Street and extending 135 feet easterly therefrom.

16:28A-1.21 Route U.S. 30

(a) (No change.)

(b) The certain parts of State highway Route U.S. 30 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-16. (No change.)

17.-18. (See proposal at 18 N.J.R. 158(b).)

19. Along the eastbound (southerly) side in Galloway Township, Atlantic County:

1. Far side bus stop:

(1) Near Grube Avenue—Beginning at the prolongation of the easterly curb line of Grube Avenue and extending 100 feet easterly therefrom.

16:28A-1.23 Route 33

(a) (No change.)

(b) The certain parts of State highway Route 33 described in this section shall be designated and established as "restricted parking" zones

for use by persons who have been issued special Vehicle Identification Cards by the Division of Motor Vehicles. No other person shall be permitted to park in these areas.

1. (No change.)

(c) The certain parts of State highway Route 33 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-6. (No change.)

7. Along the eastbound (southerly) side in Howell Township, Monmouth County:

i. Near side bus stop:

(1) Howell Road—Five Points Road—Beginning at the westerly curb line of Howell Road—Five Points Road and extending 105 feet westerly therefrom.

8. Along the westbound (northerly) side in Howell Township, Monmouth County:

i. Far side bus stop:

(1) Howell Road—Beginning at the westerly curb line of Howell Road and extending 105 feet westerly therefrom.

16:28A-1.26 Route 36

(a) (No change.)

(b) The certain parts of State highway Route 36 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following bus stops:

1.-5. (No change.)

6. Along the westbound (northerly) side in Hazlet Township, Monmouth County:

i. Near side bus stop:

(1) Poole Avenue—Beginning at the easterly curb line of Poole Avenue and extending 105 feet easterly therefrom.

ii. Mid-block bus stop:

(1) Between Brown Avenue and Central Avenue beginning 153 feet east of the easterly curb line of Brown Avenue and extending 135 feet easterly therefrom.

16:28A-1.42 Route 79

(a) The certain parts of State highway Route 79 described in this subsection are designated and established as "no parking" zones where stopping and standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-3. (No change.)

4. No stopping or standing Marlboro Township, Monmouth County:

i. (No change.)

ii. Along both sides:

(1) Beginning at the northerly curb line of Girard Street (south intersection)—Newton Street, and extending northerly to a point 250 feet south of the southerly curb line of Conover Road.

(b) (No change.)

(b)

Restricted Parking and Stopping Routes 33 in Mercer County and 49 in Salem County Adopted Amendments: N.J.A.C. 16:28A-1.23 and 1.34

Proposed: March 17, 1986 at 18 N.J.R. 549(a).

Adopted: April 18, 1986 by John F. Dunn Jr., Assistant Chief Engineer, Traffic and Local Road Design.

Filed: April 21, 1986 as R.1986 d.178, **without change.**

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

Effective Date: May 19, 1986.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28A-1.23 Route 33

(a) The certain parts of State highway Route 33 described in this section shall be designated and established as "no parking" zones where

**(CITE 18 N.J.R. 1106)
TRANSPORTATION**

ADOPTIONS

stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in the Borough of Hightstown, Mercer County:

- i. (No change.)
- ii. Along the eastbound side:
(1)-(2) (No change.)

(3) Beginning at the easterly curb line of Grape Run Road to a point 75 feet east of the easterly curb line of South Street including all ramps and connections under the jurisdiction of the Commissioner of Transportation.

- iii. (No change.)
- 2.-7. (No change.)
- (b)-(c) (No change.)

16:28A-1.34 Route 49

(a) The certain parts of State highway Route 49 described in this subsection are designated and established as "no parking" zones where stopping and standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

- 1.-5. (No change.)
- 6. Within the Township of Pennsville, Salem County:
i.-iii. (No change.)

iv. Along the northerly (westbound) side:

(1) No stopping or standing:

(A) From the westerly curb line of East Pittsfield Street to a point 445 feet westerly therefrom.

- 7. (No change.)
- (b) (No change.)

(a)

**Restricted Parking and Stopping
Route U.S. 130 in Salem County**

Adopted Amendment: N.J.A.C. 16:28A-1.46

Proposed: March 17, 1986 at 18 N.J.R. 549(b).

Adopted: April 18, 1986 by John F. Dunn Jr., Assistant Chief Engineer, Traffic and Local Road Design.

Filed: April 21, 1986 as R.1986 d.176, **without change.**

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

Effective Date: May 19, 1986.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28A-1.46 Route U.S. 130

(a) The certain parts of Route U.S. 130 described in this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

- 1. (No change.)
- 2. No stopping or standing in Carneys Point Township and Penns Grove Borough, Salem County:
 - i. Along the northbound side:
(1)-(3) (No change.)
 - (4) From the northerly curb line of Grant Street to the southerly curb line of Regional Drive.
- ii. (No change.)
- 3.-8. (No change.)
- (b) (No change.)

(b)

**Miscellaneous Traffic Rules
One Way Street
Route 35 in Monmouth County**

Adopted Amendment: N.J.A.C. 16:30-1.6

Proposed: March 17, 1986 at 18 N.J.R. 551(a).

Adopted: April 18, 1986 by John F. Dunn Jr., Assistant Chief Engineer, Traffic and Local Road Design.

Filed: April 21, 1986 as R.1986 d.175, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-85.1, 39:4-197(h).

Effective Date: May 19, 1986.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:30-1.6 Route 35

(a) The certain parts of State Highway Route 35 described in this section shall be designated for one-way traffic.

1.-3. (No change.)

(b) The certain roadways along State Highway Route 35 described in this section shall be designated as Entrances/Exits.

1. In Shrewsbury Borough, Monmouth County:

i. Shrewsbury Office Plaza:

(1) Entrance—The northernmost driveway of the Shrewsbury Office Plaza shall be for Entrance only.

(2) Exit—The southernmost driveway of the Shrewsbury Office Plaza shall be for Exit only.

(c)

**Miscellaneous Traffic Rules
Through Streets, Stop and Yield Intersections
Columbia Street and Parkview Avenue, Elmwood
Park, Bergen County**

Adopted New Rule: N.J.A.C. 16:30-2.10

Proposed: March 17, 1986 at 18 N.J.R. 551(b).

Adopted: April 18, 1986 by John F. Dunn Jr., Assistant Chief Engineer, Traffic and Local Road Design.

Filed: April 21, 1986 as R.1986 d.177, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-140.

Effective Date: May 19, 1986.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:30-2.10 Columbia Street and Parkview Avenue

(a) The intersection of Columbia Street and Parkview Avenue, these portions being under the jurisdiction of the New Jersey Department of Transportation in Elmwood Park Borough, Bergen County and described in this section, shall be designated a STOP Intersection:

1. Columbia Street and Parkview Avenue: STOP signs shall be installed on Parkview Avenue.

(d)

**Miscellaneous Traffic Rules
Lane Usage
Route 35 in Monmouth County**

Adopted Amendments: N.J.A.C. 16:30-3.1

Proposed: March 17, 1986 at 18 N.J.R. 552(a).

Adopted: April 18, 1986 by John F. Dunn Jr., Assistant Chief Engineer, Traffic and Local Road Design.

Filed: April 21, 1986 as R.1986 d.180, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-183.6.

Effective Date: May 19, 1986.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:30-3.1 Route 35

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

NEW JERSEY REGISTER, MONDAY, MAY 19, 1986

(CITE 18 N.J.R. 1107)
TREASURY-GENERAL

(d) Turning movements of traffic on certain parts of Route 35 described in this section are regulated as follows:

1. Center Lane—Left turns only: Between 500 feet and 240 feet south of Avenue of the Commons in Shrewsbury Borough, Monmouth County.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Police and Firemen's Retirement System Election of Member-Trustee

Adopted Amendment: N.J.A.C. 17:4-1.4

Proposed: March 3, 1986 at 18 N.J.R. 468(a).

Adopted: April 24, 1986 by the Board of Trustees, Police and

Firemen's Retirement System, Anthony Ferrazza, Secretary.

Filed: April 28, 1986 as R.1986 d.185, **without change.**

Authority: N.J.S.A. 43:16A-13(7).

Effective Date: May 19, 1986.

Expiration Date: July 1, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

17:4-1.4 Election of member-trustee

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

(c) Nominating petitions:

1.-7. (No change.)

8. If only one candidate is nominated for a position, the candidate is deemed elected to the position without balloting. A notice to the respective membership will be distributed indicating no contest since only one candidate was nominated by petition.

(d) (No change.)

EMERGENCY ADOPTION

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

Food Stamp Program

Increased Income Deductions and Resource Limits

Adopted Emergency Amendment and Concurrent

Proposal: N.J.A.C. 10:87-4.13, 5.10 and 12.1

Emergency Amendment Adopted: April 16, 1986 by Geoffrey S. Perselay, Acting Commissioner, Department of Human Services.

Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): April 28, 1986.

Emergency Adoption Filed: April 29, 1986 as R.1986 d.191.

Authority: N.J.S.A. 30:4B-2, the Food Security Act of 1985 (P.L. 99-198), and 51 FR 11009 and 11086

Emergency Amendment Effective Date: April 29, 1986.

Emergency Amendment Operative Date: May 1, 1986.

Emergency Amendment Expiration Date: June 30, 1986.

Concurrent Proposal Number: PRN 1986-202.

Submit comments by June 18, 1986 to:

Audrey Harris, Director
Division of Public Welfare
CN 716
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. 1:30-4.5). Concurrently, the provisions of this emergency amendment are being proposed for re-adoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

The agency emergency adoption and concurrent proposal follows:

Summary

The Food Security Act of 1985 (P.L. 99-198), signed into law December 23, 1985, mandates several changes in Food Stamp Program regulations. These changes, which were published in the Federal Register of April 1, 1986, at 51 FR 11009 and 11086, are effective May 1, 1986 and necessitate changes to the N.J.A.C. 10:87.

N.J.A.C. 10:87-4.13 is being amended to reflect changes in resource eligibility standards. The maximum resource limit for nonelderly households is increased from \$1500.00 to \$2000.00. Thus, households with assets in excess of \$1500.00, but less than \$2000.00, which are currently ineligible for Program participation, will be resource eligible and may participate if otherwise eligible.

The maximum allowable resource limit for elderly households remains constant at \$3000.00. However, the rule is amended such that single person elderly households can also have \$3000.00 in resources and still be Program eligible. Formerly, to qualify for this standard, the household had to be comprised of at least two individuals. This worked to the disadvantage of elderly persons living alone who had resources in excess of \$1500.00 but less than \$3000.00. These individuals will now be resource eligible and may participate if otherwise eligible.

N.J.A.C. 10:87-5.10 and 12.1 are being amended to reflect changes in income deductions. The work allowance deduction is increased from 18 percent of monthly earned income to 20 percent. The deduction for the cost of dependent care is separated from the shelter deduction. The shelter deduction is capped at \$147.00. The dependent care deduction is capped at \$160.00 for nonelderly/nondisabled households and at \$147.00 for elderly/disabled households.

Social Impact

These amendments increase the number of potentially eligible food stamp recipients and the food purchasing power of potential and current participants by increasing benefit levels for many households as a result of the increases in deductions.

Economic Impact

The amendments at N.J.A.C. 10:87-4.13 regarding resource limits will result in additional households being determined eligible for the Food Stamp Program. Amendments at N.J.A.C. 10:87-5.10 and 12.1 regarding income deductions will result in increased benefits for a large segment of the food stamp population.

Approximately 15,000 households will potentially receive increased food stamp benefits (an average of \$1.00 for every \$150.00 in earned income) as a result of the increase in the earned income deduction. Nearly half of the currently participating households, subject to a cap on shelter expenses, are receiving the maximum shelter deduction of \$139.00. It is anticipated that a majority of those 47,000 households will be entitled to the new shelter deduction of \$147.00. This additional \$8.00 deduction will result in an average of \$2.00 per month in increased benefits. The dependent care deduction will impact only about 2,000 food stamp households. Those households that have monthly dependent care expenses equal to or greater than the increased maximum deduction of \$160.00, currently capped at \$139.00, will realize an additional \$21.00 in deductions for a monthly increase of \$7.00 in food stamp benefits. Some of these households will also benefit from the separate shelter deduction. Households entitled to full deduction for both dependent care and shelter will realize \$168.00 in increased deductions, for an increase of \$56.00 per month in food stamp benefits.

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

10:87-4.13 Resource eligibility standards

(a) The following resource eligibility standards apply to all applicant households.

1. Resource maximum of \$3,000: Participation in the program shall be denied or terminated if the total value of the household's nonexcluded resources exceeds \$3,000 and the household [is comprised of two or more members, one of whom] **includes an individual who** is at least 60 years of age.

2. Resource maximum of [\$1,500] **\$2,000**: Participation in the program shall be denied or terminated if the total value of the household's nonexcluded resources exceeds [\$1,500] **\$2,000** and the household does not meet the criteria of (a)1 above.

10:87-5.10 Income deductions

(a) Deductions from income will be allowed only for the following expenses of the household:

1. (No change.)

2. Work allowance deduction: An amount equal to [18] **20** percent of earned income as defined in N.J.A.C. 10:87-5.4, after application of income exclusions in N.J.A.C. 10:87-5.8 and 5.9, shall be deducted.

3-4. (No change.)

5. Shelter cost deduction: Monthly shelter costs in excess of 50 percent of the household's income after the deductions in (a)1, 2, 3 and 4 above have been allowed, shall be deducted. However, in no event shall the shelter deduction [alone or in combination with the dependent care deduction in (a)4] exceed the amount in N.J.A.C. 10:87-12.1 ([Appendix A,] Table I) unless the household contains a member who is elderly or disabled as defined in N.J.A.C. 10:87-2.38. These households shall receive an excess shelter deduction for the monthly cost that exceeds 50 percent of the household's monthly income after all other applicable deductions. Households receiving Title II disability payments for dependents of a disabled individual are not eligible for the unlimited excess shelter deduction unless the disabled individual is a member of the household.

i. iv. (No change.)

10:87-12.1 Income deduction table

TABLE I
INCOME DEDUCTIONS

Standard Deduction	\$ 98.00
[Dependent Care/] Shelter Deduction	[\$139.00] 147.00
Dependent Care Deduction (elderly/disabled)	\$ 147.00
Dependent Care Deduction (nonelderly/nondisabled)	\$ 160.00
Uniform Telephone Allowance	\$ 12.40
Standard Utility Allowance	\$ 111.00
Heating Utility Allowance	\$ 186.00

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Amendment to Upper Delaware Water Quality Management Plan

Public Notice

Take notice that on February 11, 1986 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 Upper Delaware Water Quality Management (WQM) Plan will allow for the Warren County (Pequest River) Municipal Utilities Authority 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, was adopted by the Department.

INSURANCE

THE COMMISSIONER

(b)

Listing of New Jersey Municipalities that have adopted Ordinances pursuant to P.L. 1978, C. 184 as amended by P.L. 1979, C. 369

Public Notice

Take notice that Hazel Frank Gluck, Commissioner of Insurance, in accordance with the provisions of N.J.S.A. 17:36-9, announces the publication of New Jersey municipalities that have adopted ordinances pursuant to the aforementioned statute. Those municipalities which have adopted said ordinances since the previous date of publication shall be designed by asterisk.

LIST OF MUNICIPALITIES REQUIRING PAYMENT OF LIENS BY COMPANIES WRITING FIRE INSURANCE

The following is a list of municipalities that have passed an ordinance requiring companies writing fire insurance on risks located in that municipality to pay unpaid liens out of any claimed payments in excess of \$2,500.

		Date Filed With The Department of Insurance	
1. City of Paterson	07505 (Passaic County)	February	16, 1979
2. City of East Orange	07019 (Essex County)	February	20, 1979
3. City of Jersey City	07302 (Hudson County)	February	23, 1979
4. Town of West Orange	07052 (Essex County)	February	26, 1979
5. Township of Jackson	08527 (Ocean County)	March	7, 1979
6. City of Bayonne	07002 (Hudson County)	March	12, 1979
7. Township of Washington	08215 (Burlington Cty)	March	12, 1979
8. Town of West New York	07093 (Hudson County)	March	16, 1979
9. Borough of South River	08882 (Middlesex County)	March	16, 1979
10. City of Newark	07102 (Essex County)	March	16, 1979
11. City of Atlantic City	08401 (Atlantic County)	March	19, 1979
12. Town of Irvington	07111 (Essex County)	March	20, 1979
13. Township of Howell	07731 (Monmouth County)	March	20, 1979
14. Borough of Eatontown	07724 (Monmouth County)	March	23, 1979
15. Borough of Somerville	08876 (Somerset County)	March	23, 1979
16. Town of Bloomfield	07003 (Essex County)	March	27, 1979
17. Township of Maplewood	07040 (Essex County)	April	4, 1979
18. Town of Montclair	07042 (Essex County)	April	5, 1979
19. City of Plainfield	07061 (Union County)	April	5, 1979
20. Borough of Sea Bright	08860 (Monmouth County)	April	10, 1979
21. City of Millville	08332 (Cumberland Cty)	April	10, 1979
22. City of Union City	07087 (Hudson County)	April	23, 1979
23. Township of Lawrence	08648 (Mercer County)	April	24, 1979

24. Borough of Florham Park	07932 (Morris County)	April	25, 1979
25. City of Elizabeth	07201 (Union County)	April	30, 1979
26. City of Bridgeton	08302 (Cumberland Cty)	April	30, 1979
27. City of Camden	08101 (Camden County)	May	4, 1979
28. Township of Randolph	07801 (Morris County)	May	10, 1979
29. Township of Riverside	08075 (Burlington Cty)	May	10, 1979
30. Township of Mannington	08079 (Salem County)	May	17, 1979
31. Township of Berkeley	08721 (Ocean County)	May	22, 1979
32. City of Cape May	08204 (Cape May County)	May	22, 1979
33. City of Asbury Park	07712 (Monmouth County)	May	25, 1979
34. Township of Washington	07853 (Morris County)	May	30, 1979
35. Township of Westhampton	08060 (Burlington Cty)	June	4, 1979
36. Township of Hillside	07205 (Union County)	June	4, 1979
37. City of Salem	08079 (Salem County)	June	20, 1979
38. Township of Lower	08204 (Cape May County)	June	25, 1979
39. Borough of Fanwood	07023 (Union County)	June	29, 1979
40. City of Orange	07050 (Essex County)	July	2, 1979
41. Township of Carneys Pt.	08069 (Salem County)	July	2, 1979
42. City of Vineland	08360 (Cumberland Cty)	July	6, 1979
43. Borough of Penns Grove	08069 (Salem County)	July	9, 1979
44. Town of Phillipsburg	08865 (Warren County)	July	13, 1979
45. Borough of Westwood	07675 (Bergen County)	July	16, 1979
46. Township of Pohatcong	08865 (Warren County)	July	20, 1979
47. Township Edgewater Pk.	08010 (Burlington Cty)	July	24, 1979
48. Town of Hammonton	08037 (Atlantic County)	August	3, 1979
49. Borough of Roselle	07203 (Union County)	August	8, 1979
50. Township of Cedar Grove	07009 (Essex County)	August	10, 1979
51. Borough of Keyport	07735 (Monmouth County)	August	15, 1979
52. Borough Victory Gardens	07801 (Morris County)	August	15, 1979
53. Twp. of Scotch Plains	07076 (Union County)	August	22, 1979
54. City of N. Wildwood	08260 (Cape May County)	August	24, 1979
55. Borough of Ft. Lee	07024 (Bergen County)	August	27, 1979
56. Township of Cinnaminson	08077 (Burlington Cty)	August	30, 1979
57. Township of Delran	08075 (Burlington Cty)	August	30, 1979
58. Township of Lopahatcong	08865 (Warren County)	August	30, 1979
59. Borough of Fair View	07022 (Bergen County)	September	5, 1979
60. Borough of Sayreville	08872 (Middlesex County)	September	19, 1979
61. Township of Egg Harbor	08221 (Atlantic County)	September	24, 1979
62. Township of Hopewell	08302 (Cumberland Cty)	September	26, 1979
63. Township of Dover	08753 (Ocean County)	September	26, 1979
64. City of Hoboken	07030 (Hudson County)	October	15, 1979
65. Twp. of Upper Pittsgrove	08318 (Salem County)	October	15, 1979
66. Borough of Berlin	08009 (Camden County)	October	18, 1979
67. Borough of Sussex	07461 (Sussex County)	October	24, 1979
68. Township of Ocean	07755 (Monmouth County)	November	27, 1979
69. Borough of Lavallette	08735 (Ocean County)	December	11, 1979
70. City of Rahway	07065 (Union County)	December	18, 1979
71. City of Pleasantville	08232 (Atlantic County)	December	27, 1979
72. Township of Mt. Holly	08060 (Burlington Cty)	January	29, 1980
73. Town of Secaucus	07094 (Hudson County)	March	5, 1980
74. Township of Berlin	08091 (Camden County)	March	20, 1980
75. City of Asbury Park	07712 (Monmouth County)	April	1, 1980
76. Town of Dover	07801 (Morris County)	April	16, 1980
77. Township of Willingboro	08046 (Burlington Cty)	April	17, 1980
78. City of Hackensack	07602 (Bergen County)	April	22, 1980
79. Township of Brick	08723 (Ocean County)	May	2, 1980
80. Township of Mt. Laurel	08054 (Burlington Cty)	May	27, 1980
81. City of Trenton	08608 (Mercer County)	June	12, 1980
82. Borough of Tenafly	07670 (Bergen County)	June	17, 1980
83. Township of Franklin	08873 (Somerset County)	June	20, 1980
84. Borough of Tinton Falls	07724 (Monmouth County)	June	20, 1980
85. Township of Readington	08889 (Hunterdon County)	June	23, 1980
86. Borough of Princeton	08540 (Mercer County)	July	16, 1980
87. Township of Maple Shade	08052 (Burlington Cty)	July	18, 1980
88. Twp. of S. Orange Village	07079 (Essex County)	August	19, 1980
89. Township of Fairfield	07006 (Essex County)	August	21, 1980
90. Town of Kearny	07032 (Hudson County)	August	26, 1980
91. Borough of Hightstown	08520 (Mercer County)	September	3, 1980
92. City of Passaic	07055 (Passaic County)	September	4, 1980
93. Township of Aberdeen	07747 (Monmouth County)	September	8, 1980
94. Borough of Red Bank	07701 (Monmouth County)	September	9, 1980

95. Township of Princeton	08540 (Mercer County)	September 25, 1980
96. Boro. of S. Plainfield	07080 (Middlesex County)	September 26, 1980
97. Twp. of Maurice River	08332 (Cumberland Cty)	September 26, 1980
98. Township of Byram	07860 (Sussex County)	October 9, 1980
99. Township of Fredon	07860 (Sussex County)	October 28, 1980
100. Township of Winslow	08037 (Camden County)	November 13, 1980
101. Borough of Bulter	07405 (Morris County)	November 14, 1980
102. Borough of Roselle Park	07204 (Union County)	March 5, 1981
103. Township of Piscataway	08854 (Middlesex County)	March 20, 1981
104. Borough of Paulsboro	08066 (Gloucester Cty)	May 7, 1981
105. Borough of Farmingdale	07727 (Monmouth County)	May 18, 1981
106. Township of Millburn	07041 (Essex County)	May 19, 1981
107. City of Egg Harbor	08215 (Atlantic County)	May 21, 1981
108. Borough of Spotswood	08884 (Middlesex County)	June 19, 1981
109. Borough of Matawan	07747 (Monmouth County)	June 19, 1981
110. Township of Lacey	08731 (Ocean County)	August 18, 1981
111. Township of Ewing	08618 (Mercer County)	November 10, 1981
112. Township of Clinton	08801 (Hunterdon County)	December 10, 1981
113. Borough of Eatontown	07727 (Monmouth County)	December 15, 1981
114. Township of Neptune	07753 (Monmouth County)	January 4, 1982
115. Borough of Pine Hill	08021 (Camden County)	March 2, 1982
116. Borough of Belmar	07719 (Monmouth County)	March 5, 1982
117. City of Ventnor City	08401 (Atlantic County)	March 30, 1982
118. Borough of Runnemede	08078 (Camden County)	May 6, 1982
119. Borough of Woodlynne	08107 (Camden County)	June 7, 1982
120. Township of Green	07821 (Sussex County)	July 20, 1982
121. Borough of Somerdale	08083 (Camden County)	July 28, 1982
122. Borough of Barrington	08007 (Camden County)	September 17, 1982
123. Township of Manchester	08733 (Ocean County)	September 21, 1982
124. City of Brigantine	08203 (Atlantic County)	October 14, 1982
125. Borough of Buena	08341 (Atlantic County)	November 1, 1982
126. Township of Hamilton	08330 (Atlantic County)	November 18, 1982
127. Borough of Neptune City	07712 (Monmouth County)	December 2, 1982
128. Borough of Jamesburg	08831 (Middlesex County)	March 2, 1983
129. Township of Jefferson	07849 (Morris County)	April 19, 1983
130. Borough of Woodstown	08079 (Salem County)	September 8, 1983
131. City of Absecon City	08201 (Atlantic County)	July 5, 1983
132. Twp. of Boro. of Verona	07044 (Essex Cty)	February 23, 1984
133. Borough of Keansburg	07734 (Monmouth County)	April 5, 1984
134. Borough of Little Silver	07739 (Monmouth County)	April 5, 1984
135. Borough of Wood-Ridge	07075 (Bergen County)	July 9, 1984
136. Township of Waterford	08004 (Camden County)	July 9, 1984
137. City of South Amboy	08879 (Middlesex County)	July 12, 1984
138. City of Wildwood	08260 (Cape May County)	December 5, 1984
139. Township of Alloway	08079 (Salem County)	December 20, 1984
140. Township of Mendham	07949 (Morris County)	January 16, 1985
*141. Township of Stafford	08050 (Ocean County)	May 2, 1985
*142. Township of Ocean	08758 (Ocean County)	May 29, 1985
*143. Borough of N. Plainfield	07060 (Somerset County)	July 1, 1985
*144. Township of Irvington	07111 (Essex County)	July 1, 1985
*145. Township of Howell	07731 (Monmouth County)	July 1, 1985
*146. Borough of Wenonah	08090 (Gloucester Cty)	July 1, 1985
*147. Township of Hanover	07981 (Morris County)	January 7, 1986
*148. City of Woodbury	08086 (Gloucester Cty)	January 7, 1986
*149. City of New Brunswick	08903 (Middlesex Cty)	January 30, 1986

(a)

Notice of Total Direct Written Premiums for All Insurers in New Jersey for No-Fault, Liability and Physical Damage Lines

Public Notice

Take notice that Hazel Frank Gluck, Commissioner of Insurance, pursuant to the requirement of N.J.A.C. 11:3-20.7(c), hereby lists the total direct written premiums for all insurers in New Jersey for no-fault,

liability and physical damage lines. This information is to be used by insurers to calculate their market shares as required by N.J.A.C. 11:3-20.7.

**PRIVATE PASSENGER AUTOMOBILE
DIRECT WRITTEN PREMIUMS (IN THOUSANDS)**

Lines	1985*	1984*	1983**
No-Fault	211,829	237,062	468,731
Liability	620,745	663,299	1,137,811
(Subtotal)	832,574	900,361	1,606,542
Physical Damage	461,555	435,116	664,543
(Total)	1,294,129	1,335,477	2,271,085

*Excludes business written through the New Jersey Automobile Full Insurance Underwriting Association. (The Department is interested in voluntary market share information for the purposes of N.J.A.C. 11:3-20. Thus, only voluntary market totals are provided.)

**Includes business written through the New Jersey Automobile Insurance Plan (AIP). (The Annual Statements, upon which these market totals are based, do not separate voluntary market data from AIP data.)

ENERGY

(b)

**THE COMMISSIONER
DIVISION OF ENERGY PLANNING AND
CONSERVATION**

**Energy Conservation Program Development and
Public Utility Planning Evaluations
Reproposal of N.J.A.C. 14A:20-1.9**

Public Notice

Take Notice that on November 12, 1985, the Department of Energy filed an adoption of the Energy Conservation Program Development and Public Utility Planning Evaluation rules. The proposal was published December 3, 1984 at 16 N.J.R. 3293(a); the adoption was published February 3, 1986 at 18 N.J.R. 290(a).

Subsequent to the filing of the energy conservation rules, the Attorney General concluded that the text of N.J.A.C. 14A:20-1.9, as published in the New Jersey Register, was not filed with the OAL within one year of its publication on December 3, 1984 and therefore expired. Consistent with that Attorney General advice, the Department of Energy has repropounded the text of N.J.A.C. 14A:20-1.9 (see this issue of the New Jersey Register).

This notice is published as a matter of public information concerning the reproposal of N.J.A.C. 14A:20-1.9.

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 Transmittal number and 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 April 7, 1986 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 adopt a proposed rule on a timely basis 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.1986 d.100 means the one 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 certifying 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.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: MARCH 17, 1986.

NEXT UPDATE WILL BE DATED APRIL 21, 1986.

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

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. 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	18 N.J.R. 129 and 234	January 21, 1986
17 N.J.R. 1701 and 1818	July 15, 1985	18 N.J.R. 235 and 376	February 3, 1986
17 N.J.R. 1819 and 1954	August 5, 1985	18 N.J.R. 377 and 446	February 18, 1986
17 N.J.R. 1955 and 2070	August 19, 1985	18 N.J.R. 447 and 506	March 3, 1986
17 N.J.R. 2071 and 2170	September 3, 1985	18 N.J.R. 507 and 582	March 17, 1986
17 N.J.R. 2171 and 2318	September 16, 1985	18 N.J.R. 583 and 726	April 7, 1986
17 N.J.R. 2319 and 2484	October 7, 1985	18 N.J.R. 727 and 868	April 21, 1986
17 N.J.R. 2485 and 2584	October 21, 1985	18 N.J.R. 869 and 1018	May 5, 1986
17 N.J.R. 2585 and 2710	November 4, 1985	18 N.J.R. 1019 and 1122	May 19, 1986
17 N.J.R. 2711 and 2814	November 18, 1985		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1, 1:2-1:21	Pre-proposal: Administrative hearings	18 N.J.R. 728(a)		
1:1-3.8	Attorney disqualification from a case	18 N.J.R. 2(a)		
1:1-14.6	Consolidated cases involving exempt agencies	18 N.J.R. 130(a)	R.1986 d.79	18 N.J.R. 634(a)
1:2-2.1	Civil Service cases: pre-proposal concerning conference hearings	17 N.J.R. 2072(a)		
1:6A-5.4	Special education hearings: placement of child pending an appeal	17 N.J.R. 2586(a)	R.1986 d.85	18 N.J.R. 634(b)
1:6A-5.4	Special education hearings: stay of decision implementation	18 N.J.R. 584(a)		
1:30	Agency rulemaking: correction	18 N.J.R. 3(a)	R.1986 d.60	18 N.J.R. 938(a)

(TRANSMITTAL 19, dated March 17, 1986)

AGRICULTURE—TITLE 2				
2:5-3	Avian influenza	18 N.J.R. 488(a)	R.1986 d.148	18 N.J.R. 938(b)
2:9-1.1, 1.2	Avian influenza and infected poultry flocks	18 N.J.R. 870(a)		
2:22-3.1	Africanized honeybee control	18 N.J.R. 585(a)		
2:24-1	Shipment of bees into State	18 N.J.R. 586(a)		
2:32-2	Sire Stakes Program	18 N.J.R. 236(a)	R.1986 d.84	18 N.J.R. 635(a)
2:69-1.11	Commercial values of fertilizers	18 N.J.R. 588(a)		
2:71-2.2-2.7	"Jersey Fresh" Quality Grading Program	18 N.J.R. 588(b)		
2:71-2.28, 2.29, 2.31	Fees for inspection and grading of fruit and vegetables	18 N.J.R. 448(a)	R.1986 d.147	18 N.J.R. 938(c)
2:76-3.12	Farmland preservation programs: deed restrictions	18 N.J.R. 508(a)		
2:76-4.11	Municipally-approved preservation programs: deed restrictions	18 N.J.R. 511(a)		
2:76-6.15	Acquisition of development easements: deed restrictions	18 N.J.R. 513(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)		
2:90-2.15, 2.17, 2.18, 2.24	Soil and water conservation projects	18 N.J.R. 131(a)	R.1986 d.105	18 N.J.R. 638(a)
2:90-3.6, 3.9	Time extensions to complete conservation projects	18 N.J.R. 449(a)	R.1986 d.190	18 N.J.R. 1099(a)

(TRANSMITTAL 38, dated March 17, 1986)

BANKING—TITLE 3				
3:1-2.24	Modification of Commissioner's Order restricting stock transfers	17 N.J.R. 2487(a)		
3:11-10	Savings banks: credit card services	18 N.J.R. 241(a)	R.1986 d.93	18 N.J.R. 639(a)
3:11-11	Leeway investments	18 N.J.R. 132(a)		
3:38-5.2	Return of borrower's commitment fee	17 N.J.R. 2488(b)		

(TRANSMITTAL 32, dated March 17, 1986)

NEW JERSEY REGISTER, MONDAY, MAY 19, 1986

(CITE 18 N.J.R. 1113)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
CIVIL SERVICE—TITLE 4				
4:1-2.1, 5.2, 11.2, 16.24	Separations, demotions, layoffs; review and appeals	18 N.J.R. 450(a)		
4:1-8.4	Promotional examinations	18 N.J.R. 591(a)		
4:1-10.1, 10.2	Noncompetitive and labor appointments	17 N.J.R. 2937(b)	R.1986 d.117	18 N.J.R. 639(b)
4:1-15	Assignments and transfers	18 N.J.R. 592(a)		
4:1-23	Grievances and minor discipline	17 N.J.R. 2587(a)	R.1986 d.126	18 N.J.R. 640(a)
4:2-15.1	Assignments and transfers	18 N.J.R. 592(a)		
4:2-16	Separations and demotions	18 N.J.R. 450(a)		
4:2-23	Grievances and minor discipline	17 N.J.R. 2587(a)	R.1986 d.126	18 N.J.R. 640(a)
4:3-16	Separations and demotions	18 N.J.R. 450(a)		
4:3-23	Grievances and minor discipline	17 N.J.R. 2587(a)	R.1986 d.126	18 N.J.R. 640(a)
4:6	Overtime compensation	18 N.J.R. 515(a)	R.1986 d.170	18 N.J.R. 939(a)

(TRANSMITTAL 28, dated January 21, 1986)

COMMUNITY AFFAIRS—TITLE 5				
5:11-2.1	Uniform Fire Code enforcement and relocation assistance	17 N.J.R. 2938(a)		
5:12-2.4, 2.5	Homelessness Prevention Program: eligibility and priorities	17 N.J.R. 2939(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)		
5:23-2.14, 4.18, 4.20	UCC: annual construction permits	17 N.J.R. 2490(a)		
5:23-3.2	Subcode exceptions	18 N.J.R. 757(a)		
5:23-3.11, 4.22, 4.24, 4.25	Uniform Construction Code: premanufactured construction	17 N.J.R. 1169(a)	R.1986 d.142	18 N.J.R. 945(a)
5:23-5.5, 5.7	Construction subcode licensure: transferability of experience	18 N.J.R. 594(a)		
5:23-5.26	Uniform Construction Code: revocation of licenses	18 N.J.R. 16(b)	R.1986 d.173	18 N.J.R. 1099(b)
5:23-7	Barrier Free Subcode: access for physically handicapped and aged	18 N.J.R. 757(a)		
5:23-8	Asbestos hazard abatement subcode	18 N.J.R. 378(a)	R.1986 d.143	18 N.J.R. 949(a)
5:25	New Home Warranties and Builders' Registration	17 N.J.R. 2816(a)	R.1986 d.141	18 N.J.R. 959(a)
5:25	New Home Warranty and Builders' Registration rules: waiver of sunset provision	18 N.J.R. 218(a)		
5:25	New Home Warranty and Builders' Registration rules: waiver of sunset provision	18 N.J.R. 490(a)		
5:26	Planned real estate full disclos	18 N.J.R. 392(a)	R.1986 d.129	18 N.J.R. 841(a)
5:29	Housing and Development: petitions for rules	18 N.J.R. 871(a)		
5:80-4	Housing and Mortgage Finance	17 N.J.R. 1174(b)		
5:80-8	Housing and Mortgage Finance Agency: housing project occupancy requirements	17 N.J.R. 1620(a)		
5:80-20	HMFA housing projects: applicant and tenant income certification	17 N.J.R. 2321(b)		
5:80-20	HMFA housing projects: applicant and tenant income certification	18 N.J.R. 523(a)		
5:91	Council on Affordable Housing: procedural rules	18 N.J.R. 821(a)		

(TRANSMITTAL 39, dated March 17, 1986)

DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

EDUCATION—TITLE 6				
6:11-2.1	Duties of State Board of Examiners	18 N.J.R. 595(a)		
6:12	Governor's Teaching Scholars Program	18 N.J.R. 135(a)	R.1986 d.158	18 N.J.R. 973(a)
6:20-2.13	Local districts: overexpenditure of funds	17 N.J.R. 2939(b)	R.1986 d.118	18 N.J.R. 643(a)
6:20-5.5	State aid for asbestos removal and encapsulation	18 N.J.R. 392(b)		
6:20-5.6	Minimum salaries and State aid	18 N.J.R. 393(a)		
6:21-16.1	Pupil transportation contracts	18 N.J.R. 138(a)	R.1986 d.156	18 N.J.R. 975(a)
6:22-1.6, 1.7, 2.4, 3.1	School facility planning; substandard facilities	18 N.J.R. 526(a)		
6:24	Controversies and disputes under school law	18 N.J.R. 404(b)	R.1986 d.157	18 N.J.R. 976(a)
6:30	Adult and community education	18 N.J.R. 871(b)		
6:43-1.3	Vocational and technical education: schools designated "other than full-time day"	17 N.J.R. 2940(a)	R.1986 d.119	18 N.J.R. 644(a)
6:68-5	Audio-visual public library services	18 N.J.R. 595(b)		
6:68-6	Institutional library services	18 N.J.R. 597(a)		
6:69-2	Library services to the disadvantaged	18 N.J.R. 599(a)		

(TRANSMITTAL 38, dated January 21, 1986)

(CITE 18 N.J.R. 1114)

NEW JERSEY REGISTER, MONDAY, MAY 19, 1986

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
ENVIRONMENTAL PROTECTION—TITLE 7				
7:1-3	Interim Environmental Cleanup Responsibility Act rules	18 N.J.R. 242(a)	R.1986 d.87	18 N.J.R. 645(a)
7:1-3.20	ECRA review process: exempt industrial categories	18 N.J.R. 529(a)	R.1986 d.188	18 N.J.R. 1099(c)
7:1-6	Disposal of solid waste	18 N.J.R. 883(a)		
7:1-7	Hazardous substance discharges: reports and notices	17 N.J.R. 1826(a)		
7:1E-2.3	Discharge of hazardous substances: department response	18 N.J.R. 456(a)	R.1986 d.161	18 N.J.R. 980(a)
7:2-11.22	Bear Swamp East natural area	18 N.J.R. 139(a)		
7:2-11.22	Bear Swamp East natural area: public hearing	18 N.J.R. 532(a)		
7:2-12	Open lands management	17 N.J.R. 866(b)	R.1986 d.124	18 N.J.R. 645(a)
7:6-1.4, 1.12, 1.14, 1.15, 1.42	Boating rules	18 N.J.R. 876(a)		
7:7-2.2	Wetlands maps in Ocean County	17 N.J.R. 1710(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)		
7:11-2.2, 2.3, 2.9	Sale of water from Delaware and Raritan Canal and Spruce Run/Round Valley Reservoirs	18 N.J.R. 17(a)	R.1986 d.187	18 N.J.R. 1100(a)
7:12-1.2-1.6, 1.8, 2.1, 2.15	Shellfish-growing water classification	18 N.J.R. 784(a)		
7:13-7.1(c)29	Floodway delineations within Maurice River Basin	17 N.J.R. 2186(a)		
7:13-7.1(d)	Flood hazard delineations for Raritan River and Peters Brook	18 N.J.R. 600(a)		
7:13-7.1(d)14	Flood hazard along Lamington River in Morris County	17 N.J.R. 2324(b)	R.1986 d.123	18 N.J.R. 652(a)
7:13-7.1(d)47	Redelineation of Pine Brook in Bergen County	17 N.J.R. 2074(a)	R.1986 d.125	18 N.J.R. 652(b)
7:13-7.1(d)49	Floodway delineations in Union County	17 N.J.R. 1965(a)	R.1986 d.122	18 N.J.R. 651(a)
7:13-7.1(i)	Floodway delineations in Central Passaic Basin Projects G and R	17 N.J.R. 1176(a)	R.1986 d.120	18 N.J.R. 650(a)
7:14A-4.4, 4.7	Dioxin-containing waste	18 N.J.R. 879(a)		
7:14A-6.16	Disposal of solid waste	18 N.J.R. 883(a)		
7:17	Hard shell clam depuration: pilot plant program	18 N.J.R. 140(a)	R.1986 d.83	18 N.J.R. 657(a)
7:17	Hard shell clam depuration: pilot plant program	18 N.J.R. 141(a)	R.1986 d.82	18 N.J.R. 653(a)
7:19-3	Water allocation permit fees	18 N.J.R. 789(a)		
7:22	Wastewater treatment facilities: construction grants and loans	18 N.J.R. 243(a)		
7:24	Dam restoration grants	18 N.J.R. 395(a)	R.1986 d.186	18 N.J.R. 1101(a)
7:25-4.17	Status of indigenous nongame wildlife	18 N.J.R. 601(a)		
7:25-8.1	Repeal clam dredging rule	18 N.J.R. 396(a)		
7:25-9	Minimum legal size for hard clams	18 N.J.R. 146(a)		
7:25-10	Possession of captive game animals and birds	18 N.J.R. 533(a)		
7:25-12.1	Sea clam quota			18 N.J.R. 711(b)
7:25-18	Marine fisheries	18 N.J.R. 102(a)	R.1985 d.121	18 N.J.R. 657(b)
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)	R.1986 d.160	18 N.J.R. 981(a)
7:26-1.4, 2, 2A, 2B, 5, 12.11, 12.12	Disposal of solid waste	18 N.J.R. 883(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, 7.5, 7.7, 8.13	Waste oil	18 N.J.R. 878(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)	R.1986 d.162	18 N.J.R. 982(a)
7:26-2.6, 2.7	Disposal of asbestos waste	17 N.J.R. 2719(a)		
7:26-2.9	Closure and post-closure of sanitary landfills	18 N.J.R. 252(a)		
7:36-2.9	Closure and post-closure of sanitary landfills	18 N.J.R. 924(a)		
7:26-2.13	Resource recovery facilities and transfer stations: recordkeeping			18 N.J.R. 983(a)
7:26-6.5	Solid waste flow: Ocean County	17 N.J.R. 2590(a)	R.1986 d.159	18 N.J.R. 983(b)
7:26-6.5	Solid waste flow: Camden County	17 N.J.R. 2591(a)	R.1986 d.164	18 N.J.R. 983(c)
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)	R.1986 d.135	18 N.J.R. 841(b)
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management	17 N.J.R. 2941(a)		
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management: extension of comment period	18 N.J.R. 254(a)		
7:26-8.3, 8.4, 8.13, 8.15, 10.5-10.8, 11.1, 11.5, 11.6, 12.2	Dioxin-containing waste	18 N.J.R. 879(a)		
7:26-8.16	Waste code numbers for hazardous constituents	18 N.J.R. 792(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
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)		
7:45	Delaware and Raritan Canal State Park: Review Zone rules	17 N.J.R. 1711(a)		
7:45-1, 2, 3	Delineation of Review Zone within Delaware and Raritan Canal State Park: reopening of comment period	18 N.J.R. 457(a)		

(TRANSMITTAL 40, dated March 17, 1986)

HEALTH—TITLE 8

8:9-1.11	Disposal of cremains: public hearing	17 N.J.R. 2835(a)		
8:21-10	Designated fluid milk products	18 N.J.R. 59(b)	R.1986 d.96	18 N.J.R. 660(a)
8:31-16.1	Hospital long-range strategic plans	18 N.J.R. 148(a)	R.1986 d.112	18 N.J.R. 675(a)
8:31-25.1	Mobile intensive care: administration of medications	18 N.J.R. 602(a)		
8:31-30.1	Health facilities construction: plan review fees	18 N.J.R. 795(a)		
8:31A-7.4, 7.5, 7.14	SHARE: Medicaid rates and transfer of ownership	18 N.J.R. 150(a)	R.1986 d.140	18 N.J.R. 843(a)
8:31B-3.5, 3.22, 3.54	Hospital reimbursement: "efficiency standard"	17 N.J.R. 2946(a)	R.1986 d.114	18 N.J.R. 676(a)
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	17 N.J.R. 2464(a)		
8:31B-3.31	Hospital reimbursement: transfer of residency positions	18 N.J.R. 795(b)		
8:31B-3.31, 3.51	Hospital reimbursement: graduate medical education	17 N.J.R. 2947(a)	R.1986 d.138	18 N.J.R. 843(b)
8:31B-3.76-3.82	Hospital reimbursement: URO performance evaluation; post-billing denial of payments	18 N.J.R. 150(b)		
8:33B-1.3, 1.12	Extracorporeal shock wave lithotripsy services	18 N.J.R. 798(a)		
8:33F-1.2, 1.6, App. B	Renal disease: regional end-stage services	17 N.J.R. 2948(a)	R.1986 d.113	18 N.J.R. 677(a)
8:34-1.8	Nursing home administrators: limitations on responsibility	18 N.J.R. 74(a)	R.1986 d.88	18 N.J.R. 678(a)
8:34-1.9	Reexamination for Nursing Home Administrator's License	18 N.J.R. 75(a)	R.1986 d.89	18 N.J.R. 678(b)
8:34-1.31	Licensing of nursing home administrators	17 N.J.R. 2212(a)		
8:41-8	Mobile intensive care: administration of medications	18 N.J.R. 602(a)		
8:42A	Alcoholism treatment facilities	18 N.J.R. 796(a)		
8:43B-8.16	Obstetric and newborn services: use of oxytocic agents	17 N.J.R. 2213(a)	R.1986 d.167	18 N.J.R. 984(a)
8:43E-1	Hospital Policy Manual: Certificate of Need rules	17 N.J.R. 1220(a)		
8:43E-1	Hospital Policy Manual	18 N.J.R. 825(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)		
8:57-1.19, 1.20, -6	Cancer registry	17 N.J.R. 2836(b)		
8:60-1.1, 4.2-4.8, 5.2, 5.4-5.7, 6.1, 6.3, 6.11	Asbestos licenses and permits	18 N.J.R. 156(a)		
8:65-10.1	Controlled dangerous substances: analogs of fentanyl	18 N.J.R. 254(b)	R.1986 d.184	18 N.J.R. 1102(a)
8:65-10.1	Controlled dangerous substances: Parafentanyl	18 N.J.R. 603(a)		
8:65-10.2	Removal of Nalmefene from Schedule II of controlled substances	18 N.J.R. 536(a)		
8:65-11	Narcotic treatment programs	18 N.J.R. 924(b)		
8:71	Generic drug list additions (see 17 N.J.R. 2042(b), 2556(b), 2769(a), 18 N.J.R. 182(a))	17 N.J.R. 1043(a)	R.1986 d.139	18 N.J.R. 845(a)
8:71	Generic drug list additions (see 17 N.J.R. 2557(a), 2769(b), 18 N.J.R. 183(a), 418(a))	17 N.J.R. 1733(a)	R.1986 d.151	18 N.J.R. 985(a)
8:71	Generic drug list additions (see 18 N.J.R. 417(a), 984(b))	17 N.J.R. 2842(a)	R.1986 d.183	18 N.J.R. 1102(b)
8:71	Generic drug list additions: public hearing	18 N.J.R. 537(a)		

(TRANSMITTAL 37, dated March 17, 1986)

HIGHER EDUCATION—TITLE 9

9:2-2	Fund for Improvement of Collegiate Education: policies and procedures	17 N.J.R. 2724(a)	R.1986 d.99	18 N.J.R. 679(a)
9:2-5	Management of computerized information	18 N.J.R. 799(a)		
9:2-11	Veterans Tuition Credit Program	17 N.J.R. 2844(a)	R.1986 d.103	18 N.J.R. 679(b)
9:7-2.2	Residency and student assistance	18 N.J.R. 801(a)		
9:7-2.3	Status of foreign nationals	18 N.J.R. 19(a)		
9:7-2.9	Student assistance programs: award combinations	17 N.J.R. 2725(a)		
9:7-3.1	Tuition Aid Grant Program: 1986-87 Award Table	18 N.J.R. 19(b)	R.1986 d.106	18 N.J.R. 680(a)
9:7-4.1, 4.2, 4.3, 4.5, 4.8	Garden State Scholarship Program	17 N.J.R. 2726(a)	R.1986 d.108	18 N.J.R. 680(b)
9:9-1.6	Guaranteed Student Loans and payment of insurance fee	17 N.J.R. 2727(a)	R.1986 d.102	18 N.J.R. 681(a)
9:9-1.16	Interest liability on defaulted student loans	17 N.J.R. 2728(a)	R.1986 d.101	18 N.J.R. 682(a)
9:9-9.2	Direct PLUS program and co-signer requirement	17 N.J.R. 2728(b)	R.1986 d.100	18 N.J.R. 682(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
9:11-1.2	Educational Opportunity Fund: student residency	18 N.J.R. 925(a)		
9:11-1.5	EOF: undergraduate grants	18 N.J.R. 926(a)		
9:11-1.7	EOF: grant amounts	18 N.J.R. 926(b)		
9:11, 12	Educational Opportunity Fund Program rules	17 N.J.R. 2214(b)	R.1986 d.107	18 N.J.R. 682(c)
9:12-1.4, 1.5	EOF program rules: correction	17 N.J.R. 2214(b)	R.1986 d.107	18 N.J.R. 682(c)
9:12-1.5, 2.3	Educational Opportunity Fund Program	17 N.J.R. 2214(b)		
9:12-1.5, 2.3	Educational Opportunity Fund Program	18 N.J.R. 801(b)		

(TRANSMITTAL 30, dated January 21, 1986)

HUMAN SERVICES—TITLE 10

10:36-1	Patient supervision at State psychiatric hospitals	17 N.J.R. 2593(a)		
10:36-1	Patient supervision at State psychiatric hospitals: public hearing	18 N.J.R. 20(a)		
10:36-2	Clinical review procedures for special status psychiatric patients	17 N.J.R. 2951(a)		
10:38	Interim assistance procedures for discharged clients of State hospitals	18 N.J.R. 802(a)		
10:42	Developmental Disabilities: Emergency Mechanical Restraint	17 N.J.R. 1832(a)		
10:49-1.1	Administration Manual: retroactive Medicaid eligibility	17 N.J.R. 2729(a)	R.1986 d.137	18 N.J.R. 845(c)
10:49-1.1, 1.2, 1.4	Medically Needy program	18 N.J.R. 803(a)		
10:50-1.5, 2.3	Medically Needy program	18 N.J.R. 803(a)		
10:51-1, App. B, D, E	Pharmaceutical Services Manual	18 N.J.R. 255(a)	R.1986 d.136	18 N.J.R. 846(a)
10:51-1.2, 1.14, 3.1	Medically Needy program	18 N.J.R. 803(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)	R.1986 d.127	18 N.J.R. 847(a)
10:52-1.2, 1.3, 1.6, 1.8, 1.19	Medically Needy program	18 N.J.R. 803(a)		
10:52-1.5, 1.17	Out-of-state inpatient hospital services	18 N.J.R. 538(a)		
10:52-1.16	Termination of pregnancy in licensed health care facilities	17 N.J.R. 1375(a)		
10:53-1.2, 1.3, 1.5, 1.7, 1.15	Medically Needy program	18 N.J.R. 803(a)		
10:53-1.14	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54-1.2, 1.4, 1.7, 1.9, 1.10	Medically Needy program	18 N.J.R. 803(a)		
10:54-1.23	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54-4	Physician's Services: common procedure coding (HCPCS)	18 N.J.R. 927(a)		
10:55-2.2	Medically Needy program	18 N.J.R. 803(a)		
10:56-1.12, 2.1	Medically Needy program	18 N.J.R. 803(a)		
10:56-3	Dental Services: procedure codes and descriptions	18 N.J.R. 154(a)	R.1986 d.128	18 N.J.R. 847(b)
10:57-1.3, 1.7, 1.13, 2.3	Medically Needy program	18 N.J.R. 803(a)		
10:59-2.3	Medically Needy program	18 N.J.R. 803(a)		
10:61-1, 2	Independent laboratory services	18 N.J.R. 540(a)		
10:61-2.2	Medically Needy program	18 N.J.R. 803(a)		
10:62-1.4, 3.3	Medically Needy program	18 N.J.R. 803(a)		
10:62-3	Vision Care Manual: billing procedures	17 N.J.R. 2731(b)	R.1986 d.90	18 N.J.R. 689(a)
10:63-1.16, 2.1	Medically Needy program	18 N.J.R. 803(a)		
10:63-3.2, 3.4, 3.5, 3.6, 3.8, 3.10-3.15, 3.18, 3.19	Long-term care facilities: CARE Guidelines	18 N.J.R. 257(a)		
10:65-1.2, 2.5	Medically Needy program	18 N.J.R. 803(a)		
10:66-1.6	Termination of pregnancy	17 N.J.R. 1375(a)		
10:66-1.6	Medically Needy program	18 N.J.R. 803(a)		
10:66-2, 3	Independent clinic services	18 N.J.R. 541(a)		
10:66-3	Independent Clinic Services: common procedure coding (HCPCS)	18 N.J.R. 927(a)		
10:67-2.3	Medically Needy program	18 N.J.R. 803(a)		
10:68-1.2	Medically Needy program	18 N.J.R. 803(a)		
10:68-2	Chiropractor billing procedures	18 N.J.R. 810(a)		
10:70	Medically Needy supplement	18 N.J.R. 831(a)		
10:81-6.3	PAM: transportation of client to fair hearing	18 N.J.R. 927(b)		
10:81-10.7	PAM: eligibility for refugee and entrant programs	17 N.J.R. 2227(a)		
10:81-11.3, 11.9	PAM: Social Security numbers; restriction of information	17 N.J.R. 2516(b)		
10:82-1.8, 1.9, 2.14, 2.20, 3.1, 3.2, 4.4, 4.6, 4.15, 4.17, 5.3, 5.10	ASH: conformity with Federal regulations	18 N.J.R. 260(a)		
10:82-2.3, 2.4, 4.3	ASH: AFDC eligibility requirements	18 N.J.R. 928(a)		

NEW JERSEY REGISTER, MONDAY, MAY 19, 1986

(CITE 18 N.J.R. 1117)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
0:82-3.9, 3.11, 3.14, 4.13	ASH: evaluation of legally responsible relatives in AFDC	18 N.J.R. 20(b)	R.1986 d.115	18 N.J.R. 689(b)
0:82-5.10	ASH: emergency assistance	17 N.J.R. 2336(a)		
0:82-5.10	ASH: emergency assistance	17 N.J.R. 2337(a)		
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12:235	Practice and procedure before Division of Workers' Compensation	17 N.J.R. 2081(a)	R.1986 d.144	18 N.J.R. 987(a)

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13:37-6.2	Delegation of nursing tasks by RPNs	17 N.J.R. 2354(a)		
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13:39A-1	Board of Physical Therapy: organization and administration	17 N.J.R. 2355(a)		
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13:39A-3	Unlawful practices by physical therapists	17 N.J.R. 2358(a)		
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