

NEW JERSEY REGISTER



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REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS, PAGE 1630.

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(Includes rules filed through July 14, 1986)

***MOST RECENT UPDATE TO ADMINISTRATIVE CODE: MAY 19, 1986.**
See the Register Index for Subsequent Rulemaking Activity.
NEXT UPDATE WILL BE DATED JUNE 16, 1986.

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RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **September 3, 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 September 3, 1986 to:

Steven L. Lefelt, Deputy Director
Office of Administrative Law
Quakerbridge Plaza, Building 9
Quakerbridge Road
CN 049
Trenton, N.J. 08625

(a)

Special Hearing Rules

Department of Community Affairs Council on Affordable Housing Hearings

Proposed New Rules: N.J.A.C. 1:5

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

Proposal Number: PRN 1986-297.

The agency proposal follows:

Summary

The Council on Affordable Housing was established by the Fair Housing Act, P.L. 1985 Chapter 222 (c. 52:27D-301), to evaluate municipal plans to meet low and moderate income housing needs. The statute provides that some matters before the Council may be referred to the Office of Administrative Law, if the Council does not hear the matters itself. Procedural rules for the Council, N.J.A.C. 5:91, were recently adopted, at 18 N.J.R. 1267, which in part detail which matters may be referred to the OAL. The special hearing rules proposed herein apply to those matters, which represent a new class of cases to be heard by the OAL.

There are two types of hearings that may be conducted by the OAL. One, pursuant to N.J.A.C. 5:91-8.1, is a contested case which arises when the Council's efforts to mediate a disputed municipal plan are unsuccessful. The hearings will generally follow the usual contested case process, except that the Fair Housing Act imposes some special requirements; the proposed hearing rules cover those requirements. For example, the statute requires cases to be concluded within 90 days after they are

transmitted to the OAL. The special hearing rules are tailored to meet this deadline by providing for expedited scheduling, limited discovery and limited pre-hearing motions. In addition, a special transcript rule is proposed in response to the statutory requirement that a complete hearing transcript be submitted to the Council along with the initial decision.

The second type of hearing that may be conducted by the OAL is the adjudication of particular issues that arise during Council mediation efforts, pursuant to N.J.A.C. 5:91-7.1(d). These are not contested cases, but the Council's rules require that full due process be provided. Therefore, the special hearing rules provide that these cases be filed as uncontested cases under N.J.S.A. 52:14F-5(o) but conducted pursuant to the Uniform Administrative Procedure Rules for the conduct of contested case hearings.

The proposed rules were prepared in cooperation with the Council on Affordable Housing.

Social Impact

The special hearing rules will enable the OAL to carry out its responsibility under the Fair Housing Act. Thus, the rules will help achieve the social benefit of the new statute, which is to ensure that there will be adequate low and moderate income housing in the State.

Economic Impact

The proposed rules will have no adverse economic impact. By facilitating implementation of the Fair Housing Act, the rules will help accomplish the economic benefits of the statute.

Full text of the proposed new rules follows:

CHAPTER 5 DEPARTMENT OF COMMUNITY AFFAIRS COUNCIL ON AFFORDABLE HOUSING

SUBCHAPTER 1. APPLICABILITY

1:5-1.1 Applicability

(a) The rules in subchapters 2 through 5 of this chapter shall apply to hearings arising under N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:91-8.1 concerning an objection to a municipality's petition for substantive certification.

(b) The rules in subchapter 6 of this chapter shall apply to hearings arising under N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:91-7.1(d) concerning the adjudication of an issue which may facilitate mediation efforts.

(c) Any aspect of the hearing not covered by these special hearing rules shall be governed by the Uniform Administrative Procedure Rules

NEW JERSEY REGISTER

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(UAPR) contained in N.J.A.C. 1:1. To the extent that these rules are inconsistent with the UAPR, these rules shall apply.

SUBCHAPTER 2. PREHEARING CONFERENCE; EXPEDITED SCHEDULING; ADMISSIBILITY OF EXPERT WITNESS REPORTS

1:5-2.1 Prehearing conference

(a) A prehearing conference shall be scheduled within 15 days of receipt of the case in the Office of Administrative Law.

(b) When the case is filed, the Clerk shall contact the parties to arrange a date, time and place for a prehearing conference.

1:5-2.2 Expedited scheduling

(a) At the prehearing conference, the judge shall set a schedule for the hearing, specifying the time which will be allowed for briefs, proposed findings of fact, conclusions of law, forms of order or other dispositions, or other supplemental material.

(b) The schedule shall provide for the completion of the hearing and the issuance of the initial decision no later than 90 days after transmittal of the matter to the Office of Administrative Law, unless the time is extended by the Director for good cause shown.

1:5-2.3 Admissibility of expert witness reports

(a) During the prehearing conference, the judge may consider requests to admit into evidence an expert witness report in lieu of direct examination, subject to cross-examination of the expert at the hearing.

(b) If an expert witness report is to be admitted pursuant to (a) above, such report shall be filed with the judge and served on each party by the offering party no later than five days before the scheduled hearing date.

SUBCHAPTER 3. DISCOVERY

1:5-3.1 Discovery

(a) At least five days before the scheduled hearing date, each party shall disclose to each other party the following:

1. Copies of any documents intended to be introduced at the hearing;
2. The names and addresses of all witnesses intended to be called at the hearing, including the qualifications of any expert witnesses; and
3. A summary of the testimony of each witness.

(b) Upon application of a party, the judge shall exclude any evidence at hearing that has not been disclosed to that party at least five days before the hearing, unless the judge determines that the evidence could not reasonably have been disclosed within that time.

(c) No other discovery need be provided.

SUBCHAPTER 4. MOTIONS

1:5-4.1 Motions

Other than motions resolved in the prehearing order and motions for emergency relief or for summary decision, a party may not file a motion in advance of the scheduled hearing date.

SUBCHAPTER 5. TRANSCRIPTS

1:5-5.1 Transcripts

(a) At the conclusion of the hearing, a transcript of the proceedings shall be prepared. The written transcript must be completed in time to be submitted to the Council on Affordable Housing simultaneously with the initial decision.

(b) Cost of the transcript shall be apportioned pursuant to N.J.A.C. 5:91-8.1.

SUBCHAPTER 6. ISSUE REFERRAL FROM COUNCIL'S MEDIATION PROCESS

1:5-6.1 Referral to the Office of Administrative Law

(a) The Council on Affordable Housing may under N.J.A.C. 5:91-7.1(d) request the OAL to conduct a hearing on any issue which the Council believes may facilitate the mediation process.

(b) The Council's requests shall be granted by the OAL under N.J.S.A. 52:14F-5(o) and the hearing conducted pursuant to this subchapter.

1:5-6.2 Scheduling

Issues transmitted under this subchapter shall be scheduled by the Clerk for a hearing within 20 days of their transmittal to this office.

1:5-6.3 Discovery

(a) At least five days before the scheduled date for the hearing, each party shall exchange with each other party the following:

1. Copies of any documents intended to be introduced at the hearings;
2. The names and addresses of all witnesses intended to be called at

the hearing, including the qualifications of any expert witnesses; and

3. A summary of the testimony of each witness.

(b) Upon application of a party, the judge shall exclude any evidence that has not been disclosed to that party at least five days before the hearing, unless the judge determines that the evidence could not reasonably have been disclosed within that time.

(c) No other discovery need be provided.

1:5-6.4 Conduct of hearing

Unless other arrangements are requested by the Council on Affordable Housing and agreed to by the Director of the Office of Administrative Law, hearings under this subsection shall be conducted pursuant to N.J.A.C. 1:1-13.7(a) through (g) as pre-proposed at 18 N.J.R. 728(a).

(a)

Special Hearing Rules Division of Medical Assistance and Health Services Applicant/Recipient Hearings

Proposed New Rules: N.J.A.C. 1:10B

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

Proposal Number: PRN 1986-303.

The agency proposal follows:

Summary

The special hearing rules being proposed will apply to matters transmitted to the OAL by the Division of Medical Assistance and Health Services which involve applicants for or recipients of Medicaid or Medically Needy benefits and services. The OAL has been using the proposed procedure for Medicaid hearings for some time and has found the procedure to be successful. The proposal codifies the existing procedure and makes clear that it will apply as well to Medically Needy cases, which the Division will begin transmitting to the OAL as a result of recently adopted legislation and regulations. See, 18 N.J.R. 803 and 18 N.J.R. 1287.

The rules are modeled on the special hearing rules for Public Welfare Hearings, N.J.A.C. 1:10. Because the issues involved require that cases be concluded as expeditiously as possible, the rules provide for limited discovery and an accelerated initial decision. In addition, although exceptions are permitted, no replies or cross-exceptions may be submitted. The rules also allow for special Federal requirements related to these cases, including the right to non-lawyer representation and to have the hearing held at the applicant's or recipient's residence if necessary because of illness or infirmity.

As noted, the procedures encompassed by the proposal are currently in use by the OAL as the result of continuing cooperation between the OAL and the Division. The Division participated in the development of the proposed rules.

Social Impact

The proposed new rules will have no new or additional social impact because they reflect a codification of existing procedures. Generally, the benefit of the rules is that they allow for the fair and expeditious conclusion of hearings relating to the Medicaid and Medically Needy programs.

Economic Impact

The proposed new rules will have no adverse economic impact because the OAL is currently using the procedures and no additional costs are necessary. The current complement of ALJs should be adequate to handle the number of Medically Needy cases the OAL expects to receive from this program.

Full text of the proposed new rules follows:

CHAPTER 10B DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES APPLICANT/RECIPIENT HEARINGS

SUBCHAPTER 1. HEARING APPLICABILITY

1:10B-1.1 Applicability

(a) The rules in this chapter shall apply to matters transmitted to the Office of Administrative Law by the Division of Medical Assistance and Health Services involving applicants for or recipients of Medicaid and Medically Needy benefits or services.

(b) This chapter shall not apply to matters involving providers.

(c) Any aspect of the hearing not covered by these rules of special applicability shall be governed by the Uniform Administrative Procedure Rules, (UAPR) contained in N.J.A.C. 1:1. To the extent that this chapter is inconsistent with the UAPR, this chapter shall apply.

SUBCHAPTER 2. DEFINITIONS

1:10B-2.1 Definitions

For purposes of this chapter, the following definitions apply.

"Applicant" means any person who has made an application to become qualified to receive Medicaid or Medically Needy benefits.

"Recipient" means a New Jersey resident who has been determined to meet the applicable eligibility criteria for either the Medicaid or Medically Needy Programs and is determined to need medical care and services authorized under the New Jersey Medical Assistance and Health Services Act.

"Provider" means any person, public or private institution, agency or business concern approved by the Division of Medical Assistance and Health Services that is lawfully providing medical care, services, goods and supplies and holding, where applicable, a current valid license to provide such services or to dispense such goods or supplies.

SUBCHAPTER 3. CLERK'S NOTICE; SCHEDULING OF HEARING

1:10B-3.1 Clerk's notice

(a) The Clerk shall send a written notice of filing and hearing to each party at least 10 days before the scheduled hearing date.

(b) The notice shall indicate that the applicant/recipient may represent himself/herself or use legal counsel, a relative, a friend or other spokesperson as per the Federal Fair Hearing Regulations at 42 C.F.R. 431.206(b)(3).

(c) The notice shall establish the hearing location, time and date.

1:10B-3.2 Scheduling of hearing

(a) The hearing shall be conducted at a reasonable time, date and place.

(b) Upon presentation of acceptable information regarding an applicant's/recipient's illness or infirmity which would prevent his or her appearance at a hearing location, the hearing shall be scheduled at the applicant's/recipient's current residence.

SUBCHAPTER 4. DISCOVERY

1:10B-4.1 Discovery

(a) The county welfare agency or the Division of Medical Assistance and Health Services shall provide the applicant/recipient or his or her authorized representative an opportunity to review the entire case file and all documents and records to be used in the hearing. The review shall occur at a reasonable time before the hearing as well as during the hearing.

(b) If a party wants information other than what is provided in (a) above, the party must request permission from the judge. The judge may permit the additional discovery only if there is good cause. The judge may not delay the hearing to allow for additional discovery.

SUBCHAPTER 5. CONDUCT OF HEARING

1:10B-5.1 Representation

An applicant/recipient may appear at a proceeding without representation or may be represented by an attorney or by a relative, friend or other spokesperson pursuant to the procedures set forth in N.J.A.C. 1:1-3.12.

1:10B-5.2 Attendance at hearing

The applicant/recipient or a representative and the county welfare agency or the Division of Medical Assistance and Health Services and their representatives, if any, shall attend the hearing.

SUBCHAPTER 6. DECISIONS

1:10B-6.1 Initial decision

An initial decision shall be issued within 21 days from the date of the hearing.

1:10B-6.2 Exceptions

(a) If the parties wish to take exception to the initial decision, such exception must be submitted in writing to the Director of the Division of Medical Assistance and Health Services, the OAL Clerk and to all parties.

(b) Exceptions must be received by the Division of Medical Assistance and Health Services no later than five business days after receipt of the initial decision.

(c) No replies and cross-exceptions shall be permitted.

AGRICULTURE

(a)

DIVISION OF ANIMAL HEALTH

Poultry and Turkey Improvement Plans General Provisions

Proposed Repeal and New Rules: N.J.A.C. 2:7-1.2, 1.3 and 1.4

Authorized By: Arthur R. Brown, Jr., Secretary, Department of
Agriculture.

Authority: N.J.S.A. 4:10-2 through 4:10-13.

Proposal Number: PRN 1986-294.

Submit comments by September 3, 1986 to:

Sidney R. Nusbaum, D.V.M., Director

Division of Animal Health

New Jersey Department of Agriculture

CN 330

Trenton, New Jersey 08625

Telephone: (609) 292-3965

The agency proposal follows:

Summary

The Division of Animal Health proposes amendments to the New Jersey Regulations implementing the National Poultry and Turkey Improvement Plans of the United States Department of Agriculture which were enacted to improve the quality of poultry in the nation and control the spread of hatchery-spread diseases.

The Department of Agriculture proposes new rules to amend testing procedures, regulatory processes and implementing an improved tester training program to enable the Department to specifically deal with the smaller backyard flocks and fancy birds.

Social Impact

The principal diseases that the Department of Agriculture is concerned with at this time, in this ongoing program are pullorum and fowl typhoid, which are bacterial diseases of poultry. These diseases are known scientifically as *Salmonella pullorum* and *Salmonella gallinarum*, respectively. These diseases may strike chickens, turkeys, guinea fowl, pheasants, sparrows, quail, geese, bitterns, doves, parakeets and canaries. The diseases have been known for over half a century as one of the worst diseases for poultry. The diseases cause heavy death losses to chicks and poults and reduces the productivity of adult birds. Infected chicks that do not die may remain lifetime carriers. By testing adult birds and eliminating disease carriers from the breeding flock, commercial chicken and turkey growers have virtually eliminated this costly disease. However, the diseases can be found in small breeding flocks of backyard and fancy growers. Further, the diseases have not been contained in all states and nations. Thus, an ongoing effort on the part of the Department of Agriculture is called for. At this time, it appears that by shifting the greater attention to backyard and fancy flocks, the Department may be able to eliminate the diseases and this would enable the State to become certified pullorum free.

Economic Impact

New Jersey has approximately 2.25 million chickens and four hatcheries which hatch in excess of 10 million birds annually. This population would benefit from New Jersey becoming pullorum free under this program. The Department estimates that the implementation of this program would cost approximately \$3,000 per year and require 10 to 20 testers who would be supplied with about \$100.00 worth of equipment and antigens. This equipment would be furnished by the State to insure uniform testing and procedures which would occur from the use of the same equipment. Further, the cost per bird for a test would be approximately \$.20 per bird. The bulk of the expenses in this program would be in the Department's training time to the inspectors, which would be a one-day course, the mandatory retraining would be required annually. The testers would be allowed to charge a reasonable fee for their expenses, if they wished, subject to the approval of the Department.

The advantages of early isolation and discovery of the disease that the improvements to this program should bring, and the benefits, including

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more readily acceptance of New Jersey poultry in interstate commerce, will lessen the loss to poultry growers. The rules should also lessen the expenditure of Departmental and State funds to control a possible indemnification of a widespread outbreak of any of these diseases.

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

2:7-1.2 General regulations

[(a) All breeding birds shall be selected and banded by a poultry inspector of the New Jersey Department of Agriculture or by a qualified flock selecting agent under Department supervision. Flocks entered in any of the breeding stages are required to be officially tested for pullorum-typhoid disease.

(b) The pullorum-typhoid testing shall be done by representatives of the New Jersey Department of Agriculture or qualified testing agents under Department supervision.

(c) Flock selection and testing agents and blood collectors shall take a course of training as prescribed by the New Jersey Department of Agriculture and shall pass satisfactorily an examination to prove their ability to select and test birds for pullorum-typhoid disease.

(d) The New Jersey Department of Agriculture shall designate and test the number of samples of blood to be taken from each flock.

(e) Applications for service shall be made in writing, sufficiently in advance, to permit the orderly scheduling of work by the Department. Notification before September 1 of intention to participate will be mutually helpful.]

(a) All poultry hatcheries and flocks within New Jersey must qualify as National Plan hatcheries. All hatcheries and flocks shipping to New Jersey must qualify as United States pullorum-typhoid clean; or they must meet equivalent requirements for pullorum-typhoid control under official supervision.

(b) All shipments of products, other than United States pullorum-typhoid clean or the equivalent, into the state are prohibited except for immediate slaughter.

(c) All poultry, except water fowl, shown in public exhibitions in New Jersey must originate from United States pullorum-typhoid clean or equivalent flocks, or have a negative pullorum-typhoid test within 90 days of the movement to the public exhibition.

[2:7-1.3 Breeding stages]

[(a) The following breeding classifications shall be used in New Jersey:

1. N.J.-U.S. Approved;
2. N.J.-U.S. Record of Performance (ROP).

(b) The work of flock selecting agents will be recognized in only the approved and certified stages.

(c) The purchase of ROP hatching eggs to produce ROP chicks will be permitted only when distance prohibits the shipment of chicks, and then only by ROP breeders or wing banded by State inspector or authorized selecting agent.]

2:7-1.3 Pullorum-typhoid disease testing and testing agents

(a) All breeding birds to be tested shall be selected and banded by a veterinarian or inspector of the New Jersey Department of Agriculture or by qualified testing agents under Department supervision.

(b) The pullorum-typhoid test shall be done by representatives of the New Jersey Department of Agriculture or qualified testing agents under Department supervision.

(c) Testing agents shall take a minimum one-day course of training as prescribed by the New Jersey Department of Agriculture and shall pass a written examination on National Poultry Improvement Plan (NPIP) rules and sanitation and a practical test to prove their ability to select and test birds for pullorum-typhoid diseases before being certified. A refresher training course shall be required annually for recertification.

(d) Applications for certification shall be made in writing, sufficiently in advance to permit the early scheduling of work by the Department of Agriculture.

(e) Certification or recertification will be denied pursuant to provisions of NPIP or violation of these rules.

(f) Any reactors must be submitted for bacteriological examination for pullorum-typhoid disease. The bacteriological examination must be done in one of the following laboratories:

1. New Jersey Department of Agriculture, Health and Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625; or
2. Poultry Pathology, Department of Animal Science, Cook College/New Jersey Experiment Station, Rutgers, the State University, New Brunswick, New Jersey 08903.

[2:7-1.4 Pullorum-typhoid disease testing]

[(a) The following stages for pullorum-typhoid disease control and eradication shall be used in New Jersey:

1. N.J.-U.S. Pullorum-Typhoid Passed (no reactors in last test of all breeders on farm);
2. N.J.-U.S. Pullorum-Typhoid Clean (no reactors on first test, or two consecutive tests not less than 21 days apart).

(b) Reactors must be retained for bacteriological examination for pullorum and typhoid disease.

(c) The examination must be done in one of the following laboratories:

1. New Jersey Department of Agriculture
Health-Agriculture Building
John Fitch Plaza
Trenton, N.J. 08625
2. Poultry Pathology
Dept. of Animal Sciences
College of Agriculture and Environmental Science
New Brunswick, N.J. 08903
3. Poultry Health Laboratory
East Landis Avenue
Vineland, N.J. 08360]

2:7-1.4 Reporting and quarantine provisions

(a) Pullorum-typhoid diseases are reportable diseases under N.J.A.C. 2:2-1.1 and must be reported by any veterinarian or other person to the New Jersey Department of Agriculture.

(b) Upon receipt of a report of pullorum-typhoid, the Division of Animal Health shall direct the immediate investigation by an authorized representative to determine the origin and avenue of transmission of the infection.

(c) The flocks or hatching eggs deemed to be infected with pullorum-typhoid shall be quarantined. Quarantined flocks or any portion thereof shall not be removed from the premises where the infection was detected or disposed of except in accordance with the written permission of the Department of Agriculture.

EDUCATION

(a)

STATE BOARD OF EDUCATION

Curriculum and Instruction

Health, Safety and Physical Education

School Health Services Procedures

Proposed New Rule: N.J.A.C. 6:29-4.4

Authorized By: State Board of Education, Saul Cooperman,
Secretary.

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:16-2, 18A:40-3,
18A:40-4 and 18A:40-16.

Proposal Number: PRN 1986-310.

Submit comments by September 3, 1986 to:

Patricia Joseph
Administrative Code Analyst
Department of Education
225 West State Street
Trenton, New Jersey 08625

Summary

The purpose of the proposed new rule is to expand N.J.A.C. 6:29-4.1 et seq., School Health Services Procedures, to establish a procedure for implementing the New Jersey State Department of Health regulations concerning children in grades K-12 with Human Immunodeficiency Virus (HIV), also known as HTLV-III or LAV, infection. These regulations provide that such children are entitled to attend school and shall not be excluded from attendance solely because of HIV infection and, further, that exclusion from school attendance may only be ordered if the affected student meets the specific criteria for exclusion as established by the State Department of Health. In the event a disagreement exists between the child's own physician and the school medical inspector concerning exclusion under the criteria, the rules provide that the disagreement be submitted to a Medical Advisory Panel established by the Department of Health for that purpose. (See companion proposal under Health (N.J.A.C. 8:61-1.1.) in this issue.)

In providing for conflict resolution, the proposed new rule delineates the data to be submitted to the Medical Advisory Panel as well as the process through which the submission is made. The proposed new rule also establishes those steps which are necessary to ensure confidentiality of both the pupil and family and requires the district board of education to provide a program of home instruction which is sufficient to meet the local or state requirements for promotion and graduation during the pending of an appeal.

Upon rendering of a written determination by the Panel, the rule provides opportunity for the parties to enter written exceptions to those findings which they believe are based upon disputed issues of fact or conclusions of law. All exceptions are submitted to the Commissioner of Education. After review of the Panel's determination and the written exceptions, the Commissioner is authorized to direct enrollment of the child in an appropriate educational setting or, confirming the board's determination to exclude, to direct an alternative program of education or a further finding of fact before the Office of Administrative Law.

Social Impact

The proposed new rule will have a significant social impact, because it ensures that pupils affected by HIV infection will be afforded an opportunity for attendance in regular educational programs. Previously, these pupils were excluded from such attendance solely upon the basis of their HIV infection.

Economic Impact

For the majority of school districts in the State, the rule will have little or no economic impact. Economic impact will occur in the form of additional legal fees for those school districts that find it necessary to appear before the Medical Advisory Panel or appeal the decision of that body to the courts.

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

6:29-4.4 Attendance at school by HIV (also known as HTLV-III or LAV) infected children

(a) For pupils with HIV infection who are enrolled or seeking enrollment in a school program, the regulations and procedures in this section shall apply.

(b) Pupils with HIV infection shall not be excluded from attending school unless they manifest those exceptional conditions identified by the State Department of Health and contained in N.J.A.C. 8:61-1.1.

(c) In accordance with N.J.A.C. 8:61-1.1:

1. The presence of HIV infection in a pupil does not constitute reason for exclusion of such pupil from school, nor may a pupil so infected be excluded for reason of his or her own protection against possible exposure to the infectious diseases of others.

2. The presence of HIV infection in and of itself may not serve as a basis of excluding a pupil by way of classification as eligible for home instruction in accordance with N.J.A.C. 6:28-3.5(e)2.ii.

3. No sibling or other person in the same household as a pupil who has been diagnosed to have HIV infection shall be excluded from attendance at school.

(d) A district board of education must reach a determination on the admissibility of a pupil to school no later than 10 days after the request to admit such pupil.

(e) A district board of education may act to exclude a pupil with HIV infection only when:

1. The district medical inspector, the pupil's parent(s) or guardian(s) and physician agree that he or she manifests those exceptional conditions delineated in N.J.A.C. 8:61-1.1. In such cases, the pupil must be provided an appropriate education pursuant to N.J.A.C. 6:28-1.1 et seq.

2. Conflicting medical opinion exists between the district medical inspector and the pupil's personal physician as to whether the pupil manifests those exceptional conditions set forth in N.J.A.C. 8:61-1.1. In such instances, the procedures delineated in (f) below must be immediately followed. A district board of education may not avoid compliance with the procedures in (f) below by excluding a pupil for reasons other than those listed herein.

(f) If, based upon advice of the district medical inspector, the pupil is deemed to manifest any of the exceptional conditions contained in N.J.A.C. 8:61-1.1 and the pupil's personal physician is in disagreement, the district board of education shall immediately submit a request for a review by the Medical Advisory Panel established by the Department of Health in accordance with the following procedures:

1. When conflicting medical opinion as to the admissibility of a pupil with HIV infection exists, the district board of education shall submit the entire medical record of the pupil and other pertinent information to the

county superintendent of schools for transmission to the Department of Education which shall include but not be limited to:

i. All information and data submitted to the district board of education by the pupil's parent(s) or guardian(s) and physician.

ii. A written statement of reasons for denying admission under the exceptional conditions for exclusion contained in N.J.A.C. 8:61-1.1.

iii. An evaluation of current behaviors which specifically address those characteristics which might be a basis for exclusion as contained in N.J.A.C. 8:61-1.1. An evaluation conducted within six months from date of submission of information to the county superintendent shall be considered as being current.

iv. All medical information, both current and historical, which is available to the district board of education from its medical inspector and the pupil's physician and upon which the district board of education made its determination to exclude the pupil.

(l) A statement of the qualifications/credentials, including board certification, of all experts whose evaluations/reports were reviewed by the district board of education/medical inspector shall be provided.

v. In the case of a classified pupil, full child study team evaluation reports, recommendations, the Individualized Education Program (IEP) and any other pertinent information which is available.

vi. All references to the names of the pupil and parent(s) or guardian(s) must be obliterated when submitted to the county superintendent. The Department of Education shall assign a numerical code number and advise the district board of education of such for all reference purposes.

vii. The district board of education shall provide the parent(s), guardian(s) or other legally responsible party a list of all documents submitted to the county superintendent of schools. Any document so listed and not already in the possession of the parent(s), guardian(s) or legally responsible party shall be provided by the district board.

2. Home instruction shall be provided as specified below during the pendency of a commissioner's determination.

i. Home instruction shall commence immediately upon the district board of education's determination to exclude the pupil.

ii. The teacher providing instruction shall be appropriately certified for the subject or level in which instruction is given.

iii. The pupil shall receive a program that meets the requirements of the district board of education for promotion and graduation.

iv. Instruction shall be provided for no fewer than five hours per week. The five hours of instruction per week shall be accomplished in no fewer than three visits by a teacher on three separate days. When instruction is provided by direct communication to a classroom program by telephone or television, such instruction shall be in addition to the basic five hours of instruction by a teacher.

3. Upon receipt of the information required above, the county superintendent shall immediately notify the assistant commissioner, Executive Services of the need for a review by the Medical Advisory Panel and shall transmit to him or her the information submitted by the district medical inspector.

4. The assistant commissioner shall immediately request the designated official within the State Department of Health to convene the Medical Advisory Panel according to N.J.A.C. 8:61-1.1 at the earliest possible time and shall transmit the information required in (f)1 above to the designated official for panel consideration.

5. The Medical Advisory Panel shall consider all written information submitted by the district board of education and such testimony as may be necessary to render its determination.

i. The district board of education shall be responsible for demonstrating that the pupil exhibits the behavior or manifests the symptoms deemed justifiable for exclusion contained in N.J.A.C. 8:61-1.1(b).

ii. The panel shall call for any oral and/or written information it deems necessary for it to reach a determination.

iii. Each party shall be permitted to submit to the panel any additional written information to provide support for its position.

6. The Medical Advisory Panel shall render a written determination to the commissioner as to whether the district board of education has demonstrated that the exclusion is warranted.

i. The Medical Advisory Panel's written determination shall include, but not be limited to, its conclusions, a statement as to how it reached those conclusions and its reasons for so concluding.

ii. The full details of the Medical Advisory Panel's determination shall be confidential, except to the parties, but a general summary of the conclusions shall be available.

7. The written determination of the Medical Advisory Panel shall be transmitted to the commissioner who shall forward the determination to the parties.

8. Within ten days of the receipt of the Medical Advisory Panel's written determination the parties may file with the commissioner written exceptions to those findings of the panel which the parties believe to be based upon disputed issues of fact or conclusions of law.

9. The commissioner shall review the determination of the Medical Advisory Panel and the exceptions of the parties and within ten days of the receipt of the exceptions or the expiration of the time for so filing issue a written determination which shall:

i. Direct the immediate enrollment of the pupil into an appropriate educational setting; or

ii. Confirm the district board of education's determination to exclude the pupil from such setting and direct an alternative program of education; or

iii. Direct that the matter be transmitted to the Office of Administrative Law for further determinations which are limited to those areas of material fact in dispute, if the commissioner shall determine that the exceptions raise questions as to disputed material facts. Any hearing into these matters shall be conducted on an expedited basis.

10. Copies of the commissioner's determination shall be forwarded to the parties, the Commissioner of Health, the Medical Advisory Panel and the county superintendent of schools.

6:29-4.[4]5 Record and reports
(No change in text.)

6:29-4.[5]6 Nursing services
(No change in text.)

(a)

DIVISION OF VOCATIONAL EDUCATION

Area Vocational Technical Schools

Proposed Redoption: N.J.A.C. 6:46-1

Authorized By: State Board of Education, Saul Cooperman,
Secretary.

Authority: 18A:1-1, 18A:4-10, 18A:4-15, 18A:7A-1 and 18A:54-6

Proposal Number: PRN 1986-311.

Submit comments by September 3, 1986 to:

Patricia Joseph
Administrative Code Analyst
Department of Education
225 West State Street
Trenton, New Jersey 08625

The agency proposal follows:

Summary

A local area vocational school district (LAVSD) serves the technical and industrial-oriented student by providing access to contemporary shops and machinery. The LAVSD provides experiences leading to the acquisition of skills required for entry into occupations. Categorical vocational aid is provided for full-time equivalent pupils who are enrolled in approved vocational programs in comprehensive high school districts designated LAVSDs. State aid is provided through a categorical cost factor for "local vocational pupils" in "approved vocational education" programs (N.J.S.A. 18A:7A-20). To be eligible for such categorical aid, a comprehensive high school district must complete a process of application and comply with criteria set forth in N.J.A.C. 6:46-1.4. Currently, there are 18 New Jersey school districts approved as LAVSDs.

During the past year, Department of Education staff met with representatives from the vocational education community in an effort to determine whether any inequities in rules and funding exist. The group is comprised of representatives from comprehensive high school districts, county vocational school districts, and local area vocational school districts.

In an effort to eliminate any identified inequities and the possibility of unequal educational opportunities for New Jersey's vocational students, the Department is continuing its discussions with these interested groups. A redoption of the existing code is requested so that the cooperative effort may continue and the rule not expire on December 1, 1986 under the provisions of Executive Order 66(1978).

The Division of Vocational Education anticipates that these discussions will conclude within the next year, and it is their intent to introduce new code, if necessary, for the regulation of LAVSDs into the rule-making process as soon as possible.

Social Impact

The proposed redoption will have a positive social impact in that the advantages afforded designated comprehensive high school districts, as

well as the opportunity for additional school districts to seek approved status, will continue without interruption. In addition, the proposed redoption will allow Department of Education staff adequate time to continue discussions with members of the vocational education community without concern that LAVSD designations will be shortly terminated. In this way, discussions will be more productive and results positive.

Economic Impact

Categorical vocational aid for the 1985-86 school year for districts designated as LAVSDs was \$8,111,930. The proposed code redoption will neither affect the State's current funding obligation to LAVSDs nor the cost of such programs to local districts.

Full text of the redoption appears in the New Jersey Administrative Code at N.J.A.C. 6:46-1.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF FISH, GAME AND WILDLIFE

Higbee Beach Wildlife Management Area

Proposed New Rule: N.J.A.C. 7:25-2.20

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

Authority: N.J.S.A. 23:2A-5, 23:2A-7 and 23:7-9.
DEP Docket No. 031-86-07.

Proposal Number: PRN 1986-305.

A public hearing on the proposal will be held on:

August 27, 1986 at 6:30 P.M.
Assunpink Wildlife Conservation Center
Assunpink Wildlife Management Area
Eldridge Road
Roosevelt, NJ

Submit comments by September 3, 1986 to:

JoAnn Frier-Murza, Chief
Endangered and Nongame Species Program
Division of Fish, Game and Wildlife
CN 400
Trenton, NJ 08625

The agency proposal follows:

Summary

This proposal reflects consideration of additional study data obtained since the promulgation of N.J.A.C. 7:25-2.20 adopted as an Emergency New Rule operative on September 22, 1985, which expired on November 21, 1985. The proposal implements the primary management objective on the Higbee Beach Wildlife Management Area (HBWMA) as described in the 1983 management plan—the maintenance and enhancement of the use of the HBWMA by migratory and resident endangered and threatened species of wildlife. Consumptive activities (such as hunting or trapping) are prohibited during the core period of use by those observing migratory birds (September 1 to mid-December). These birds include such sensitive raptors as the bald eagle and the peregrine falcon. Non-consumptive activities (such as bird watching) will be restricted to certain designated trails during their most concentrated period (September 15 to November 1), and group size will be monitored through a non-fee permit system. Limited use of the beach area by motor vehicles will be allowed, subject to a closely monitored non-fee permit system. This use may be circumscribed should environmental considerations so warrant.

Social Impact

The primary purpose of the proposal is to lessen the adverse impacts upon migrating birds that can result from unrestricted human use, whether consumptive or nonconsumptive, of the area used by these sensitive birds. Sportsmen may feel adversely affected by the prohibition of hunting activities from September 1 to mid-December. As use of the area by hunters discourages simultaneous use of the area by birders, this restriction is deemed necessary during the core period of use by those observing migratory birds. Likewise, nonconsumptive users may feel adversely affected by the substantial limitations on their freedom of action from September 15 to November 1. The restrictions on nonconsumptive users should contribute to higher quality study and recreational use by bird watchers in that the subjects of their observations (migrating birds)

should continue their undisturbed use of the area. The potential for dangerous conflict when hunters take to the field at the same time that large numbers of bird watchers are observing bird migrations will also be removed by these regulations. Restrictions on the beach use by motor vehicles may adversely affect a limited number of participants.

Economic Impact

No adverse economic effects are anticipated for users of the HBWMA. Increased costs to the department should be minimal especially when compared to the costs for enforcement that would be necessary with relatively unrestricted use of the area.

Environmental Impact

The proposal should have a substantially positive environmental impact in that the threat to critical habitat will be reduced through use restrictions. Additionally, potential harassment of birds during their migration by users of the area should be substantially reduced. Restrictions on the beach use by motor vehicles should reduce the environmental degradation of fragile habitats attributable to such use. Continuing scientific studies designed to assess the effects of human use on bird use of the same habitat will be facilitated by these restrictions. These studies should provide the basis for improved management contributing to further positive environmental impacts.

Full text of the proposed new rule follows:

7:25-2.20 Higbee Beach

(a) In addition to all regulations prescribed in this subchapter affecting the designated Wildlife Management Areas listed at N.J.A.C. 7:25-2.18, the following additional regulations shall apply to the public use of the Higbee Beach Wildlife Management Area (HBWMA):

1. From 12:01 A.M. on September 15 until 8:00 A.M. on November 1 of each year, use of the HBWMA shall be limited to trails designated on the map posted at the HBWMA parking lot, and on maps available at the division's Endangered and Nongame Species Program office located at the HBWMA.

2. Fields on the HBWMA shown on the map described at 1 above may be designated as "refuge areas" from 12:01 A.M. on September 15 until 8:00 A.M. on November 1 of each year. Observations of these refuge areas will be permitted only from blinds established and maintained by the division's Endangered and Nongame Species Program. Permits for observation from established trails within these refuge areas may be issued by the division's Endangered and Nongame Species Program office upon written request received in the division's Trenton office (CN 400, Trenton NJ 08625) at least five days in advance of the effective date of the permit and provided the specific permitted activity is consistent with the intent of this section.

3. During the time period specified at 1 above, group size will be limited to six people. Permits for groups numbering more than six people will be available at no charge from the division's Endangered and Nongame Species Program office located at the HBWMA.

4. No person may hunt or trap on the HBWMA from 12:01 A.M. on September 1 to 12:01 A.M. on the first Monday after the white-tailed deer (*Odocoileus virginianus*) six day firearm season ends in accordance with the provisions of N.J.A.C. 7:25-5.27.

5. Motor vehicles may be used on designated roads and on the beach area (the area seaward of the dunes) of the HBWMA only as follows:

i. The operator must have in possession a valid permit issued for use on the HBWMA and available at no charge upon written request received in the division's Trenton office (CN 400, Trenton, NJ 08625);

ii. Motor vehicles may not be present on the beach area from two hours before high tide to two hours after high tide, as the times of such tides are posted at the HBWMA parking lot;

iii. Motor vehicles may not be present on the beach area between Memorial Day (the last Monday in May) and Labor Day (the first Monday in September) from 10:00 A.M. to 5:00 P.M. and as further limited at ii above; and

iv. Motor vehicles may be excluded from the beach area upon departmental determination that this action is necessary to maintain and enhance the use of HBWMA by migratory and resident endangered and threatened species of wildlife.

HEALTH

(a)

DIVISION OF EPIDEMIOLOGY AND DISEASE CONTROL

Participation in School by Individuals with HIV Infection.

Attendance at School by Individuals with HIV Infection.

Proposed New Rule: N.J.A.C. 8:61-1.1

Authorized By: J. Richard Goldstein, M.D., Commissioner,
Department of Health.

Authority: N.J.S.A. 26:1A-15.

Proposal Number: PRN 1986-285.

A public hearing concerning this proposal will be held on August 28, 1986 at 9:30 A.M. at:

New Jersey Department of Health
Health-Agriculture Building
Board Room, 1st Floor
John Fitch Plaza
Trenton, New Jersey 08625

Submit comments by September 3, 1986 to:
Ronald Altman, M.D.

Assistant Commissioner
Division of Epidemiology and Disease Control
New Jersey Department of Health
CN 360
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rule states that individuals infected by Human Immunodeficiency Virus (HIV), the virus that caused Acquired Immunodeficiency Syndrome (AIDS), should be allowed to attend or work in a school setting with some specific exceptions. The regulation outlines the exceptional conditions that would lead to exclusion from school and the manner by which disagreement over the existence of these conditions will be resolved. (See companion proposal under Education, N.J.A.C. 6:29-4.4, in this issue.)

There has been a great deal of controversy regarding the risk of uninfected children created by allowing children infected by HIV to attend school. There is a great deal of evidence of various types which supports the position that there is no risk of transmission of HIV in the school setting.

None of the identified cases of HIV infection in the United States are known to have been transmitted in the school, day care or foster care setting, or through casual person-to-person contact. Studies of family members of adult and pediatric patients with HIV infection have failed to demonstrate transmission to other children or to other adults who were not sexual contacts of the infected individuals.

Infection with the HIV is acquired by intimate sexual contact involving transfer of body fluids, by transfer of infected blood or blood products, and by infants from their infected mothers in the perinatal period. Extensive data from surveillance, studies of health care workers and studies of household contacts have failed to show any evidence of transmission by any method other than these three methods.

Based on this information, casual person-to-person contact as would occur between children or adults or between children and adults in the school setting does not pose a health risk to non-infected children or adults. Since the theoretical possibility of transmission of infection would be limited to a few exceptional situations involving body fluids, these regulations have been developed to take an ultra-conservative position to exclude children who might have those exceptional situations.

Many individuals in our schools are immuno-suppressed, from either primary disease or by medical therapy. The health risks to individuals with HIV infection are not different than for other individuals who are also immuno-suppressed. It is the responsibility of the individual, his or her personal physician and, in the case of a child, his or her parent or guardian to protect that person against contracting infectious diseases which may be present in the school. For most individuals with HIV infection, the benefits of continuing normal activity would outweigh the risks of acquiring another illness.

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

Interior surfaces soiled with blood, vomitus, urine, feces, or saliva should be promptly cleaned with disinfectants, such as household bleach. Disposable towels or tissues should be used, and mops should be rinsed in the disinfectant. Cleaning personnel should always avoid exposing any open skin lesions to potential contaminants.

There is no evidence of transmissibility of the HIV virus in the school setting. Thus, there are no special precautions which need to be taken to protect children or school personnel which do not apply to all situations; for example, cleaning up a bloody nose, or not permitting a child or teacher with uncoverable oozing lesions to attend school.

Social Impact

There is widespread fear of AIDS, which is a fatal disease, and of infection by HIV, the virus that causes AIDS. This often leads to actions which are not supported by medical and public health knowledge. Children and adults with HIV infection have already entered the school setting and will continue to do so more frequently in the future. The proposed new rule determines the condition of school attendance according to scientific knowledge and presents a method, based on medical and psychosocial data, of resolving disputes.

Infected persons should only be excluded from normal activities if there is scientific evidence of the potential of spread of the infection. The new rule protects individuals from actions taken due to fear rather than data. However, since there is great fear of AIDS, application of this rule will not completely alleviate the fear, and there may be considerable public concern with decisions made under the rule. However, with the scientific data available, the rule provides appropriate protection to the infected individual, and to the children and adults in contact with infected individuals in the school setting.

Economic Impact

Refusal to admit a child to school will result in costs to the district to provide home instruction. These costs will be reduced by the proposed new rules. Removal of adult employees could result in litigation. These litigation costs would be avoided by adherence to the new rule. Loss of employment for an individual usually results in costs to society. Some of these costs would be avoided by the rule. Refusal to admit pupils as required by the regulation will result in litigation costs for the concerned parties.

Full text of the proposed new rule follows:

8:61-1.1 Attendance at school by pupils or adults infected by Human Immunodeficiency Virus (HIV), also known as HTLV-III or LAV

(a) For purposes of this section, the following words shall have the following meanings:

"Adult" means a teacher, administrator, food service employee or other school staff member.

"Pupil" means an individual who is entitled to attendance at school in grades K-12, as well as a pre-kindergarten child who is entitled to attendance at school.

(b) Pupils with HIV (Human Immunodeficiency Virus) infection shall not be excluded from attending school for reason of the infection unless the following exceptional conditions are evident as determined by the pupil's physician and/or the school medical inspector:

1. The pupil is not toilet-trained or is incontinent, or is unable to control drooling.

2. The pupil is unusually physically aggressive, with a documented history of biting or harming others.

(c) In the event that disagreement exists between the pupil's physician and the school medical inspector as to the existence of the excluding conditions in (b) above, an evaluation of the pupil from the Medical Advisory Panel should be sought regarding the pupil's admissibility in accordance with N.J.A.C. 6:29-4.4.

(d) Adults with HIV infection in all school settings shall not be restricted from their normal employment for reason of the HIV infection unless they have another illness which would restrict that employment.

(e) The New Jersey Commissioner of Health shall establish an expert Medical Advisory Panel, of no less than four members, to be comprised of persons with expertise in childhood behavior pediatrics and infectious disease.

(f) School districts, based upon advice of the school medical inspector, shall seek an evaluation from the Medical Advisory Panel of pupils with HIV infection whom a local school board deems have any of the conditions described in (b) above. This procedure shall be conducted in accordance with N.J.A.C. 6:29-4.4.

(g) The Panel shall render a report no later than four weeks from the time of referral by the Commissioner of Education.

1. The report shall be delivered by the Panel to the Commissioner of Education with a copy to the Commissioner of Health.

2. The report(s) by the Medical Advisory Panel shall be confidential except that a general summary of the conclusions shall be available.

(h) No pupil or adult shall be excluded from school solely by virtue of the fact of living with or being related to an infected individual.

(i) Any pupil or adult, with or without HIV infection, shall be removed from school if and when the individual has weeping skin lesions that cannot be covered.

(j) All schools and day care facilities, regardless of whether pupils or adults with HIV infection are present, should adopt routine procedures for handling blood and body fluids.

(k) It is not necessary that anyone in the school be notified that an HIV infected individual is present.

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual

Establishing Program Eligibility in AFDC; Continuing Eligibility in AFDC; Work Incentive Program (WIN); Legally Responsible Relatives (LRRs)

Proposed Amendment: N.J.A.C. 10:81-3.17, 3.18, 5.9, and 5.10

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

Authority: N.J.S.A. 44:7-6; 44:10-3; 45 CFR 224.20(c)(4); 45 CFR 224.50(b); and 45 CFR 233.100.

Proposal Number: PRN 1986-296.

Submit comments by September 3, 1986 to:

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

The agency proposal follows:

Summary

The amendments contained in this proposal clarify policy and procedures in the Aid to Families with Dependent Children (AFDC) program, primarily dealing with regulations concerning program eligibility and registration for the Work Incentive (WIN) program.

N.J.A.C. 10:81-3.17(c)5ii is expanded to include the National Guard in the definition of "uniformed service" for the purpose of establishing whether or not a parent is considered continuously absent from the home.

Language at N.J.A.C. 10:81-3.18(h)2iii is amended to provide that county welfare agencies (CWAs) shall deregister from the WIN program any individual whose WIN status changes from mandatory to exempt. For uniformity, the text includes reference to N.J.A.C. 10:81-5.9(c), which is also amended to provide that the previously mandatory WIN registrant may voluntarily register for WIN if he or she so chooses. The amendments are proposed for conformity with Federal regulations at 45 CFR 224.20(c)(4) and 224.50(b), which state that such persons shall be deregistered from WIN or may voluntarily register and withdraw such registration at any time without loss of AFDC benefits, provided their status has not changed in any way which would require registration.

Regulations are amended at N.J.A.C. 10:81-3.18(i) to provide that the WIN Employment and Grant Reduction Record (WEGRR) is to be completed when an individual's AFDC-C (for single parent households) or -F (for two-parent households) segment grant is reduced due to the loss of either the one-third or \$30.00 disregard of earned income provided at N.J.A.C. 10:82-4.4(c) and (d). The WEGRR reflects the amount of reduction in the AFDC grant of an individual who is employed through the WIN program.

In order to qualify for the AFDC-F segment of the program, certain criteria must be met. Current language inadvertently does not explicitly express some of these requirements. Therefore, revisions at N.J.A.C. 10:81-3.18(k)3-6 clarify these regulations. Additionally, N.J.A.C.

10:81-3.18(k)9 is amended to provide that CWAs shall reexamine Form PA-22 whenever the circumstances surrounding employment in a household change. Form PA-22 is used by CWAs to determine whether two-parent households in the AFDC program meet the employment criteria for the AFDC-F segment (eligible for Federal matching funds) of the program. The form lists the employment history of each parent to permit a determination of whether the principal wage earner meets the criteria for the Federal definition of unemployment. The amendment at N.J.A.C. 10:81-3.18(k)9 thus provides for continual evaluation of Form PA-22.

Text at N.J.A.C. 10:81-5.9(b) is amended to stipulate that for cases involved in WIN Interface, which is the automated exchange of WIN registration information between the Division of Public Welfare (DPW) and the Department of Labor (DOL), Part A of Form R-1 is not to be completed because DOL receives computer-generated monthly reports regarding such cases. Form R-1 is used to transfer information between CWAs and the WIN section of the Division of Employment Services (ES/WIN) in DOL. Part A of Form R-1 is used by CWAs to refer members of an AFDC eligible unit to ES/WIN for WIN registration. It lists the individual's name, address, telephone number, Social Security number (SSN), AFDC case number, and whether or not such individual is exempt from WIN. The amendment at N.J.A.C. 10:81-5.9(b) will eliminate the duplication of information.

N.J.A.C. 10:81-5.10(a) is revised to provide that for cases involved in Monthly Reporting (MR), i.e., cases which report their income and circumstances to the CWA on a monthly or bimonthly basis, the CWA shall evaluate a legally responsible relative's (LRR's) capacity to support as frequently as every six months, but no later than once every 12 months. An LRR is a relative who is considered legally responsible to provide support for an AFDC eligible unit. The amendment clarifies the procedure to be followed for MR cases with LRRs.

Social Impact

The anticipated social impact of these amendments to recipients is minimal. Positive impact will be felt by recipients deregistered from the WIN program who were previously required to register. By allowing such individuals to choose whether to continue such registration once they become exempt, the amendment thus provides such recipients the freedom to make whatever decision is in the best interest of their families.

Economic Impact

The amendments contained in this proposal have no adverse economic impact on the client population. They provide for conformity with Federal regulations, and clarify policy and procedures. As such, they may provide for a reduction in administrative costs, through more uniform administration of the AFDC program.

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

10:81-3.17 Continued absence of the parent from the home

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

(c) "Continued absence from the home" (see N.J.A.C. 10:81-2.7(d)) may be for any reason. The following are some of the ways to establish absence:

1.-4. (No change.)

5. **Military service:** A parent who is separated from his or her family because of uniformed service shall not be considered "continuously absent from the home" if such absence is occasioned solely by reason of active uniformed service. If, however, continued absence would exist irrespective of performance of uniformed service, (e.g., desertion of the family before or after entry into uniformed service or divorce) eligibility for AFDC-C may be established. Such findings shall be noted in the income maintenance file.

i. (No change.)

ii. "Uniformed service" is defined to mean the Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Sciences Services Administration, [and] Public Health Service of the United States, **and the National Guard.**

6.-7. (No change.)

(d)-(g) (No change.)

10:81-3.18 Employment and training requirements

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

(h) [ES/WIN is responsible for all WIN deregistrations.] **WIN Deregistration shall be accomplished as follows:**

1. (No change.)

2. The IM worker will initiate deregistration by the completion and transmittal of Part A of Form DR-1 to ES/WIN within five working days of any of the following actions:

i.-ii. (No change.)

iii. WIN status changes from mandatory to exempt [and, upon notification, the individual requests that he/she be deregistered] (see N.J.A.C. 10:81-5.9(c)).

(i) **WIN Employment and Grant Reduction Record:** The WIN Employment and Grant Reduction Record (WEGRR) is to be completed when:

1.-2. (No change.)

3. **A registrant's AFDC-C or -F grant is reduced as a result of the loss of either the one-third or \$30.00 disregard provided at N.J.A.C. 10:82-4.4(c) and (d);**

[3.]4. (No change in text.)

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

(j) (No change.)

(k) To qualify for AFDC-F, the following criteria must be met:

1.-2. (No change.)

3. [Voluntarily] **The principal earner has not voluntarily** terminated employment within the last 30 days;

4. [Refused] **The principal earner has not refused** to register with the WIN program (WIN counties), unless exempt;

5. [Refused] **The principal earner has not refused** to register with the Division of Employment Services (non-WIN counties), unless exempt according to [this subchapter] (b)2 above;

6. [Refuses] **The principal earner has not refused** to apply for or accept unemployment compensation for which [applicant] **he or she** qualifies;

7.-8. (No change.)

9. [A chart,] Form PA-22, **Employment Criteria for AFDC-F Families,** is [for the use of] **to be used by the CWA** in determining eligibility for AFDC-F. [The chart] **Form PA-22** may be reproduced by each CWA. **After the initial application, the CWA shall reexamine Form PA-22 whenever the circumstances surrounding employment in a two-parent household change.**

10. (No change.)

(l) (No change.)

10:81-5.9 Registration for WIN program in AFDC-C and -F

(a) (No change.)

(b) For persons who were previously exempt and now must register, the IM worker will complete and transmit to ES/WIN Part A of Form R-1, **WIN Registration Inter-Agency Referral.** For cases involved in **WIN-Interface, Form R-1 is not to be completed.** WIN Interface is the automated exchange of WIN registration information between the Department of Labor (DOL) and the Division of Public Welfare (DPW). If a person was previously registered as a volunteer, a letter shall be sent by the CWA to such individual advising that he or she is now a mandatory WIN registrant and, as a result, is subject to appropriate WIN sanctions. The letter shall also state the reason for loss of exempt status.

(c) For persons who were previously required to register but are now exempt, the CWA shall send a letter advising that he or she [is now a voluntary registrant] **has been deregistered. The letter shall also advise that he or she may choose to register voluntarily** and that he or she may withdraw such registration at any time without adversely affecting his or her assistance payments, provided WIN status does not change in a way which would again require WIN registration. The letter shall also state the reason for his or her change to [voluntary] **exempt status and deregistration.**

(d)-(g) (No change.)

10:81-5.10 Legally responsible relative's capacity to support

(a) Each legally responsible relative's capacity to support shall be reevaluated at least once in each six-month period and adjustments made as indicated (see N.J.A.C. 10:81-3.35).

1. **For cases participating in monthly reporting, each legally responsible relative's capacity to support shall be reevaluated as frequently as once in each six-month period, but no later than once in each 12-month period.**

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

LAW AND PUBLIC SAFETY

(a)

STATE BOARD OF DENTISTRY

Advertising; Referral Fees

Proposed Amendment: N.J.A.C. 13:30-8.6

Proposed New Rule: N.J.A.C. 13:30-8.15

Authorized By: Richard VanSciver, D.D.S., President, State Board of Dentistry.

Authority: N.J.S.A. 45:6-1 et seq.

Proposal Number: PRN 1986-308.

Submit comments by September 3, 1986 to:
William Gutman, Executive Secretary
State Board of Dentistry
1100 Raymond Boulevard, Room 321
Newark, New Jersey 07102

The agency proposal follows:

Summary

The State Board of Dentistry has long considered the payment or receipt of referral fees to constitute professional misconduct within the meaning of N.J.S.A. 45:1-21. The impermissibility of this conduct is currently addressed in the Board's advertising regulation at N.J.A.C. 13:30-8.6(c)7. This regulation prohibits the advertising of offers to fee split with dentists or to give or to receive referral fees from licensees. In reviewing the above regulation, the Board determined that such advertisements are unlikely to be placed and that the true purpose of the rule is to bar the practice of fee splitting or kickbacks, not merely the advertising of it. Therefore, the Board proposes to delete the provision from its advertising regulation and to propose a new rule under an independent heading which would expressly prohibit the practice of giving or receiving referral fees.

Social Impact

No social impact is expected because the rule does not alter the position of the Board, but only represents an express articulation of a previously implied prohibition.

Economic Impact

No economic impact is expected because the rule does not alter the position of the Board, but only represents an express articulation of a previously implied prohibition.

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

13:30-8.6 Professional advertising

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

(c) A licensee who engages in the use of advertising which contains the following shall be deemed to be engaged in professional misconduct. 1.-6. (No change.)

[7. Offers to give, receive or accept a fee or other consideration to or from a third party for the referral of a patient.]

Renumber 8.-12. as 7.-11. (No change in text.)

(d)-(l) (No change.)

13:30-8.15 Referral fees

A licensee shall neither pay nor accept a fee for the referral of a patient.

(b)

STATE BOARD OF VETERINARY MEDICAL EXAMINERS

General Rules of Practice; Referral Fees

Proposed New Rule: N.J.A.C. 13:44-2.5.

Authorized By: David Eisenberg, D.V.M., President, State Board of Veterinary Medical Examiners.

Authority: N.J.S.A. 45:16-9.9.

Proposal Number: PRN 1986-309.

Submit comments by September 3, 1986 to:
Maurice W. McQuade, Executive Secretary
State Board of Veterinary Medical Examiners
1100 Raymond Boulevard, Room 513
Newark, New Jersey 07102

The agency proposal follows:

Summary

Previously, the State Board of Veterinary Medical Examiners had a rule which prohibited advertisements which contained any offer to give or receive from a third party a fee for referral of a patient or client. This rule was premised on the Board's determination that the payment or receipt of referral fees constitutes professional misconduct. Upon reflection, the Board determined that in reality, licensees do not advertise payment of referral fees and that the advertising rule was unnecessary, and deleted it. However, by deleting the advertising regulation, the Board did not wish to imply approval of the practice which it continues to believe are "kick-backs" which disserve the public. Therefore, the Board voted to propose a new regulation, under an independent heading, which expressly prohibits the payment or receipt of referral fees.

Social Impact

No social impact is expected because the rule does not alter the position of the Board, but only represents an express articulation of a previously implied prohibition.

Economic Impact

No economic impact is expected because the rule does not alter the position of the Board, but only represents an express articulation of a previously implied prohibition.

Full text of the proposed new rule follows:

13:44-2.5 Referral fees

A licensee shall not pay a fee to obtain a patient nor accept a fee for the referral of a patient.

(c)

STATE ATHLETIC CONTROL BOARD

Point System Scoring

Proposed Amendment: N.J.A.C. 13:46-8.19

Authorized By: Larry Hazzard, Commissioner, State Athletic Control Board.

Authority: N.J.S.A. 5:2A-7(c).

Proposal Number: PRN 1986-307.

Submit comments by September 3, 1986 to:

Larry Hazzard, Commissioner
State Athletic Control Board
CN 180, Justice Complex
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.A.C. 13:46-8.19, which currently provides for a round system method of scoring for boxing contests, supplemented by a point system of scoring, is proposed for amendment. Under the amended regulation, boxing contests will be judged on a "ten-point must" system of scoring. Currently, of the 43 states which have established boxing commissions or other regulatory agencies to control the sport of boxing, 40 have adopted the "ten-point must" system of scoring, as opposed to the round system of scoring now used in New Jersey. The "ten-point must" system of scoring is also utilized by all of the nationally recognized boxing associations. The adoption of this scoring system for boxing contests held in New Jersey, therefore, will help to provide uniformity in the scoring of boxing contests in this country.

Furthermore, the State Athletic Control Board believes that a "ten-point must" system of scoring may be more equitable than the current round system of scoring. Under the round system of scoring, there is no method of measuring the quality of each round. No matter whether a boxer just barely wins a round or whether he wins the round decisively, he is still only credited for one round. It is thus possible for a boxer to decisively win a number of rounds in a boxing bout, yet still lose the bout if his opponent is able to just barely beat him in a greater number of rounds. The "ten-point must" system would give a boxer credit for the higher quality of boxing skills he may exhibit in a particular round.

Under the "ten-point must" system, the winner of a round would be credited with ten points, with the loser receiving nine or less points. If the round is even, each boxer would receive ten points. If the boxer is just slightly superior than his opponent in a round, he would receive ten points and his opponent would receive nine points. If the boxer wins a

round decisively, he would receive ten points and his opponent would receive eight points. If a boxer wins a round decisively with a knockdown or knockdowns, he would receive ten points and his opponent would receive seven points. In addition, unlike under the present scoring system where a boxer may lose a round because of a foul, the amended rule will provide that one point will be deducted from the boxer's score if he is penalized by the referee for a foul. At the discretion of the referee, where the foul is flagrant, repeated, or has the potential to cause injury to his opponent, the referee may order that more than one point be deducted from the boxer's score for that round. Pursuant to N.J.A.C. 13:46-5.21, 8.22, 8.23 and 8.29, the referee may also disqualify a boxer as the result of a foul.

Social Impact

The proposed amendment would have a positive social impact. The adoption of a "ten-point must" system of scoring will bring New Jersey into conformance with the scoring systems utilized in a majority of the boxing jurisdictions in the United States and, thus, will serve to provide some uniformity in scoring systems. Further, it is believed that the "ten-point must" system of scoring will be more equitable than the current round system of scoring.

Economic Impact

It does not appear that any discernible significant economic impact will result from the adoption of the "ten-point must" system of scoring.

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

13:46-8.19 **Point** [Round] system scoring [;supplemental point system]

(a) The **point** [round] system of scoring shall govern the decision and be rendered by three judges.

(b) The judges must mark their scorecards in ink or in indelible pencil at the end of each round, with the **winner of a round receiving 10 points in the boxer's column, and the loser receiving nine points or less in his column. An even round shall be indicated by scoring 10 points for each boxer.** [symbols of W or L or E; a capital W in a boxer's column indicates the win of that round, a capital L, the loss of that round, and a capital E that the round was even.]

1. **If the boxer is just slightly superior to his opponent in a round, 10 points must be scored for such boxer, and the score of nine points must be marked down for his opponent.**

2. **If a boxer wins a round decisively, 10 points must be scored for such boxer, and the score of eight points must be marked down for his opponent.**

3. **If a boxer wins a round decisively with a knockdown or knockdowns, 10 points must be scored for such boxer, and the score of seven points must be marked down for his opponent.**

4. **If neither boxer can be judged the winner of a round, 10 points must be scored for each boxer.**

[(c) At the conclusion of the bout, the boxer who has won the most number of rounds on the scorecards is the winner.]

(c) **If the referee penalizes a boxer for a foul during a round;**

1. **One point shall be deducted by the judges from that boxer's score for that round.**

i. **At the discretion of the referee, where the foul committed by the boxer is flagrant, repeated, or has the potential to cause injury to his opponent, the referee may order that more than one point be deducted from the boxer's score for that round.**

2. **The referee shall notify the judges and the announcer of the penalty imposed, and the announcer shall declare it to the public at the end of that round.**

[(d) At the end of each round, the judges will use ten points to supplement their scorecards.

1. If the boxer is just slightly superior to his opponent in such round, five points must be scored for such boxer, and the score of four points marked down for his opponent.

2. If a boxer wins a round decisively, five points should be scored for such boxer, and the score of three points marked down for his opponent.

3. If a boxer wins a round decisively with a knockdown or knockdowns, five points should be scored for such a boxer, and the score of two points marked down for his opponent.

If neither boxer can be judged the winner of such round, five points must be scored for each boxer.]

(d) **At the conclusion of the bout, the decision must be awarded to the boxer with the greatest number of points on the judges' scorecards. If the points for each boxer on the judges' scorecards are even, the decision shall be a draw.**

[(e) If a referee penalizes a boxer a round for a foul:

1. The round shall be credited to his opponent, and five points credited to his opponent.

2. The offender loses the round, with a score of four points or less.

3. The referee shall notify the judges and the announcer of the same and the announcer shall declare it to the public at the end of that round.]

(e) **At the conclusion of each round, the judges shall submit their scorecards to the Commissioner or his representative. At the conclusion of the bout, the points shall be tallied by the Commissioner or his representative and given to the announcer who shall announce the decision from the ring.**

[(f) If the scorecard when tallied does not establish a winner by rounds, the decision must be awarded to the boxer with the greatest number of points on the scorecard, or if the rounds and points are both inconclusive, the decision shall be a draw.]

(f) **In all boxing contests, when the decision is announced from the ring, the announcer shall call out the total points credited to each boxer by each judge.**

[(g) At the conclusion of each round, the judges shall submit their scorecards including the point supplementation, to the Commissioner or his representative. At the conclusion of the bout, the rounds shall be tallied by the Commissioner or his representative and given to the announcer who shall announce the decision from the ring.]

(g) **Decisions shall be given in all bouts.**

[(h) In all boxing contests, the announcer shall call out the rounds credited to a boxer by the judges, and when it becomes necessary, rounds and points credited to a boxer.]

[(i) Decisions shall be given in all bouts.]

(a)

NEW JERSEY RACING COMMISSION

Harness Rule; Deductions

Proposed Amendment: N.J.A.C. 13:71-21.8

Authorized By: New Jersey Racing Commission,

Charles K. Bradley, Deputy Director.

Authority: N.J.S.A. 5:5-30.

Proposal Number: PRN 1986-306.

Submit comments by September 3, 1986 to:

Charles K. Bradley, Deputy Director

New Jersey Racing Commission

CN-088, Justice Complex

Trenton, N.J. 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 13:71-21.8 will provide for the trainers of harness racing five percent of monies earned by harness horses in races in the State of New Jersey. The proposed rule change allows deductions from the owner's accounts in the same manner as provided for the drivers of harness horses. The deductions for the trainer will be handled by the racing associations in the same manner that they currently provide for in paying the driver's fees.

Social Impact

There is no direct social impact upon the public. The amendment will only affect owners and trainers of harness horses in the State of New Jersey.

Economic Impact

The economic impact of the proposed amendment will be minimal in that there are no increased costs to the State or the racing associations. The proposed amendment will allow for trainers to receive a deduction from purses earned in the race in a like manner as is currently provided for drivers of harness horses.

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

13:71-21.8 Deductions

All purses contested for shall be distributed according to the conditions of the race. No deduction, voluntary or involuntary, may be made from any purse or stake or futurity other than for payment to be made to owners, drivers, nominators or breeders of money winning horses and organization or promotion expenses stipulated for stakes and futurities. Five [(5%)] percent of the owner's payment shall be deducted and paid to the driver, **and five percent of the owner's payment shall be deducted and paid to the trainer.**

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

TRANSPORTATION

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

Submit comments by September 3, 1986 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

TRANSPORTATION OPERATIONS

(a)

Restricted Parking and Stopping Route U.S. 9 in Ocean County and 57 Warren County Proposed Amendments: N.J.A.C. 16:28A-1.7 and 1.36

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139,
39:4-199.

Proposal Number: PRN 1986-302.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking" and "no parking bus stop" zones along Routes U.S. 9 in Little Egg Harbor Township, Ocean County and 57 in Mansfield Township, Warren County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on and 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" and "no parking bus stop" zones along Routes 57 and U.S. 9, respectively were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.7 and 1.36 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amended rules will establish "no parking bus stop" and "no parking" zones along Routes U.S. 9 in Little Egg Harbor Township, Ocean County and 57 in Mansfield Township, Warren County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on and 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 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 stop" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.7 Routes U.S. 9

(a) (No change.)

(b) The certain parts of State highway Route U.S. 9 described in this section 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.-33. (No change.)

34. Along the southbound (westerly) side in Little Egg Harbor Township, Ocean County:

i. Far Side bus stop:

(1) (No change.)

(2) **Dock Street—Beginning at the prolongation of the southerly curb line of Dock Street and extending 145 feet southerly therefrom.**

ii. (No change.)

35. Along the northbound (easterly) side in Little Egg Harbor Township, Ocean County:

i. (No change.)

ii. **Mid-block bus stop:**

(1) **Between Dock Street and Railroad Avenue—Beginning 110 feet south of the southerly curb line of Dock Street and extending 135 feet southerly therefrom.**

36.-41. (No change.)

16:28A-1.36 Route 57

(a) The certain parts of State highway Route 57 described in [(a) of] this section 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.-4. (No change.)

5. **No stopping or standing in Mansfield Township, Warren County:**

i. **Along the southern side, that is the eastbound lane from the most westerly side of Hoffman's Bakery, east to the Mansfield Township line.**

ii. **Along the northerly side, that is the westbound lane from the most westerly corner of Hoffman's Bakery to the easterly end of Krauszer's store.**

(b) (No change.)

(b)

One-Way Street Route 57 in Warren County Proposed New Rule: N.J.A.C. 16:30-1.8

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-85.1.

Proposal Number: PRN 1986-301.

The agency proposal follows:

Summary

The proposed new rule will establish one-way traffic along the Ramp between Route 57 and East Washington Avenue (milepost 12.1) in Washington Township, Warren 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 one-way traffic along Route 57 in the area designated was warranted.

The Department therefore proposes new rule N.J.A.C. 16:30-1.8 based upon the request from local officials and the traffic investigation.

Social Impact

The proposed new rule will establish one-way traffic along Route 57 in Washington Township, Warren 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 mileage, personnel and equipment requirements. The Department will bear the costs for the installation of one-way signs. Motorists who violate the rule will be assessed the appropriate fine.

Full text of the proposed new rule follows:

16:30-1.8 Route 57

(a) The certain parts of State highway Route 57 described below shall be designated for One-Way Traffic:

1. At the ramp between Route 57 (milepost 12.1) and East Washington Avenue, northbound between Route 57 and East Washington Avenue in Washington Township, Warren County.

(c)

Through Street, Stop and Yield Intersection Route 57 in Warren County

Proposed New Rule: N.J.A.C. 16:30-2.11

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-140.

Proposal Number: PRN 1986-300.

The agency proposal follows:

Summary

The proposed new rule will establish STOP intersections along Route 57 (East Washington Avenue) in Washington Township, Warren 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 STOP intersections along the Route indicated were warranted.

The Department therefore proposes new rule N.J.A.C. 16:30-2.11 based upon the request from local officials and the traffic investigation.

Social Impact

The proposed new rule will establish STOP intersections along Route 57 (East Washington Avenue) in Washington Township, Warren County for the safe and efficient flow of traffic, the enhancement of safety, 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 mileage, personnel and equipment requirements. The Department will bear the costs for the installation of STOP signs. Motorists who violate the rule will be assessed the appropriate fine.

Full text of the proposed new rule follows.

16:30-2.11 Route 57

(a) The certain parts of Route 57 (East Washington Avenue) in Washington Township, Warren County, and described below shall be designated as STOP intersections.

1. At East Washington Avenue and Main Street, a ramp between Route 57 (milepost 12.1) and East Washington Avenue: STOP signs shall be installed on Main Street at the ramp between Route 57 (milepost 12.1) and East Washington Avenue.

2. At East Washington Avenue and Lock Street, a STOP sign shall be installed on Lock Street.

(a)

Lane Usage

Route U.S. 9 in Middlesex County

Proposed Repeal and New Rule: N.J.A.C. 16:30-3.4

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-88.

Proposal Number: PRN 1986-289.

The agency proposal follows:

Summary

The proposed repeal and new rule will establish a special reserve lane for Buses and High Occupancy Vehicles along Route U.S. 9 in Old Bridge Township, Sayreville Borough, Middlesex 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 a special reserved lane for Buses and High Occupancy Vehicles along Route U.S. 9 was warranted.

The Department therefore proposes to repeal the existing rule and propose a new rule at N.J.A.C. 16:30-3.4 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed new rule will establish a special reserve lane for Buses and High Occupancy Vehicles along Route U.S. 9 in Old Bridge Township, and Sayreville Borough, Middlesex 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 mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "reserved lane for Buses and High Occupancy Vehicles" signs. Motorists who violate the rules will be assessed the appropriate fine.

Full text of the proposed repealed and new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

16:30-3.4 Route U.S. 9

[(a) The right hand lane or curb lane is hereby established for use only by buses and vehicles with three or more occupants on Route U.S. 9 in

Old Bridge township and Sayreville Borough, Middlesex County from the Route 34 on ramp to Ernston Road, Milepost 126.8 to 128.0, in the northbound direction and from the Bordentown—Amboy Turnpike on ramp to Ernston Road, Milepost 128.0 to 128.8, in the southbound direction.

(b) This rule shall be in effect on weekdays or as otherwise posted between the hours of 6:30 A.M. to 8:00 A.M. in the northbound direction and 5:30 P.M. to 7:00 P.M. in the southbound direction.

(c) This rule is not intended to preclude right turning vehicles. "Right Turning vehicles" are defined as vehicles which must enter the curb lane for short distances to enter or exit driveways or intersecting roadways.]

(a) For purposes of this section, "High occupancy vehicles" shall be defined as those which are occupied by three or more persons.

(b) A special reserved lane for buses and high occupancy vehicles only is hereby established on the Northbound and Southbound RIGHT TRAVFL Lanes on Route U.S. 9 in Old Bridge Township and Sayreville Borough, Middlesex County as follows:

1. Northbound in Old Bridge Township, from a point 200 feet north of the northerly curb line of Poor Farm Road to a point 900 feet south of the southerly curb line of Ernston Road, from 6:30 A.M. to 8:00 A.M., Monday to Friday, and;

2. Southbound in Sayreville Borough, from a point 200 feet south of the southerly curb line of Bordentown Avenue to a point 500 feet north of the northerly curb line of Ernston Road, from 5:30 P.M. to 7:00 P.M., Monday to Friday.

(c) A special reserved lane for buses and high occupancy vehicles only is hereby established on the Northbound and Southbound SHOULDER lanes of Route U.S. 9 in Old Bridge Township and Sayreville Borough, Middlesex County as follows:

1. Northbound in Old Bridge Township, from a point 475 feet south of the southerly curb line of Ernston Road to a point 20 feet south of the southerly curb line of Ernston Road, from 6:30 A.M. to 8:00 A.M., Monday to Friday, and;

2. Southbound in Sayreville Borough, from point 335 feet north of the northerly curb line of Ernston Road to a point 20 feet north of the northerly curb line of Ernston Road, from 5:30 P.M. to 7:00 P.M., Monday to Friday.

(d) This section is not intended to preclude normal use of the shoulder by other vehicles. "Normal Use" is defined as emergency stopping or driving on the shoulder for short distances to enter driveways or intersecting roadways.

(b)

Turns

**Route 15 in Morris County and 57 in Warren County
Proposed Amendments: N.J.A.C. 16:31-1.14, 1.21**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-123, 39:183.6.

Proposal Number: PRN 1986-299.

The agency proposal follows:

Summary

The proposed amendments will establish "no left turn" movements along Route 15 in Jefferson Township, Morris County and 57 in Washington Township, Warren 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 left turn" movements along Routes 15 and 57 were warranted.

The Department therefore proposes to amend N.J.A.C. 16:31-1.21 and 16:31-1.14 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no left turn" movements along Routes 15 in Jefferson Township, Morris County and 57 in Washington Township, Warren 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 monitoring public.

Economic

The Department and local officials will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no left turn" signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:31-1.14 Route 57

(a) Turning movements of traffic on the certain parts of State highway Route 57 as described below are regulated as follows:

1. (No change.)

2. **No left turn East on Route 57 to north on Ramp between Route 57 (milepost 12.1) and East Washington Avenue in Washington Township, Warren County.**

16:31-1.21 Route 15

(a) Turning movements of traffic on certain parts of State highway Route 15 as described below are regulated as follows:

1. (No Change.)

2. **No left turn north on Route 15 to west on the Bowling Green Parkway in Jefferson Township, Morris County.**

(a)

PUBLIC TRANSPORTATION

Autobus Specifications for Small Bus

Proposed Amendments: N.J.A.C. 16:53-3.5, 3.19, 6.28 and 6.29

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 52:14D-1 et seq., Executive Order on Reorganization Plan for Board of Public Utilities, September 19, 1978.

Proposal Number: PRN 1986-298.

The agency proposal follows:

Summary

On December 6, 1982, the Department proposed, among other provisions, amendments to N.J.A.C. 16:53-3.5, 3.19, 6.28, and 6.29. Sections 3.5 and 6.28 concern specifications for bumpers on autobus equipment. Sections 3.9 and 6.29 pertain to specifications for driver partitions in autobuses.

The December, 1982 amendments to 3.5 and 6.28 have proven to be overly restrictive. Recently, autobuses have been structurally designed to address the safety concerns that prompted the adoption of said amendments, but without technically meeting the requirements of the amendments. The amendments were adopted to provide bus passengers with a suitable barrier in the event of a collision to a bus's rear end. The rear engine placement of recently designed buses will provide suitable protection in such a collision and therefore, the Department proposed to amend N.J.A.C. 16:53-3.19 and 6.29.

Recent autobus design changes have also been the root cause of the uncertainty that exists with respect to driver partition dimensions. The proposed amendments to N.J.A.C. 16:3.19 and 6.29 will end this confusion by providing specific guidelines for partition dimensions.

Social Impact

Sections 3.5 and 6.28 will have no social impact because they will not cause any change in the requirements for providing safe passenger compartments in the event of impact to the rear end of an autobus. Sections 3.5 and 6.28 will add clarity to the driver partition dimension requirements and thus enhance passenger and driver safety.

Economic Impact

The amendments will have a positive economic impact on the autobus industry. The proposed changes to Sections 3.5 and 6.28 will afford equipment manufacturers and purchasers added flexibility in terms of equipment choices. Manufacturers will be able to continue their recent design trends and be able to market such in New Jersey. Equipment purchasers will be able to take advantage of an expanded bus design market.

Sections 3.5 and 6.28 will also be positive in its economic impact in that the chance that a carrier will need to modify the driver partitions in its fleet of vehicles will be reduced because of the clarity added to the partition dimension standards.

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

16:53-3.5 Partition and curtain

All autobuses shall be equipped with a partition of wood, metal and wire glass, safety glass or plexiglass at least 3/8 inches thick or rigid plastic of the approved type. AS-4 [through AS-13] and AS-5, and located to

the rear of the driver's seat with a suitable curtain or tinting, if necessary, to shield the driver from the glare of inside lights. **The minimum dimensions of driver's partitions shall be 18 inches wide and shall extend upward from at least two inches below the top of the driver's seat back to not less than 18 inches from the ceiling.**

16:53-3.19 Bumpers

(a) (No change.)

(b) The rear bumper shall extend at least four inches beyond the body limits and be shielded on the top to prevent toehold[.], **except on an autobus constructed with its engine attached to the extreme rear end of the chassis frame or one having a similarly sized compartment between the extreme rear of the bus body and rear seat in the passenger compartment.**

16:53-6.28 Partition and curtain

All autobuses shall be equipped with a partition of wood, metal and wire glass, safety glass or plexiglass at least 3/8 inches thick or rigid plastic of the approved type AS-4 [through -13] or AS-5, and located to the rear of the driver's seat with a suitable curtain or tinting, if necessary, to shield the driver from the glare of inside lights. **The minimum dimensions of driver's partitions shall be 18 inches wide and shall extend upward from at least two inches below the top of the driver's seat back to not less than 18 inches from the ceiling.**

16:53-6.29 Bumpers

(a) (No change.)

(b) The rear bumper shall extend at least four inches beyond the body limits and be shielded on the top to prevent toehold[.], **except on an autobus constructed with its engine attached to the extreme rear end of the chassis frame or one having similarly sized compartment between the extreme rear of the bus body and rear seat in the passenger compartment.**

TREASURY-GENERAL

DIVISION OF PENSIONS

For the following proposals, submit comments by September 3, 1986 to:

Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions
20 West Front Street
CN 295
Trenton, New Jersey 08625

(b)

Teachers' Pension and Annuity Fund Retirement; Applications

Proposed Amendment: N.J.A.C. 17:3-6.1

Authorized By: Board of Trustees, Teachers' Pension and Annuity Fund, Anthony Ferrazza, Secretary.

Authority: N.J.S.A. 18A:66-56.

Proposal Number: PRN 1986-304.

The agency proposal follows:

Summary

The proposed amendment eliminates the requirement that retirement applications be filed with the Division of Pensions at least one month before the requested date of retirement. Under the current rule, the retirement date is advanced by one month if the member does not file the retirement application by the time limit. An application would still have to be filed before a retirement could become effective but it would not have to be filed 30 days in advance.

Social Impact

The proposed amendment will affect future retirees from the retirement system who will not be required to file retirement applications one month in advance of their requested retirement dates. The experience of the Division of Pensions indicates that most members do file their retirement applications more than one month before their requested retirement dates. Thus, in practice, a relatively small number of members will be affected.

Economic Impact

The proposed amendment will not have any significant cost impact on the retirement system. The amendment will permit some members to receive retirement benefits a month earlier than under the current rule.

However, it will eliminate an administrative burden of notifying members who did not file timely that their retirement dates were being advanced. It will also eliminate the necessity for members to appeal to the board of trustees for relief from the advance filing requirement in hardship situations.

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

17:3-6.1 Applications

(a) [An application] **Applications** for retirement must be made on [the] forms prescribed by the Fund. [(b)] Such forms must be completed in all respects and filed with the Fund [at least one month] before the requested date of retirement.

[(c) In the event a member does not file an application for one month prior to the requested date of retirement, the member's retirement date shall be advanced to the first day of the following month.]

[(d)](b) In the event a member files an incomplete application, the [deficiencies] **deficiency** shall be brought to his **or her** attention and he **or she** will be required to file a completed application with the Fund to enable acceptance for processing.

[(e) The minimum one-month advance filing shall not apply to cases involving disability; however, the application must be filed with the Fund before the effective date desired.]

[(f)](c) Before an application for retirement may be accepted for processing, it must be supported by a certificate from the employer setting forth the employment termination date, the salaries reported for contributions in the member's final years of employment and proof of age, if none is already in the member's record.

[(g)](d) In addition to the [requirements set forth in (a) above] **foregoing requirements**, an application for disability retirement must be supported by a report of the member's personal or attending physician and a statement from the employer regarding the member's incapacity for further duty.

(a)

State Police Retirement System Retirement; Applications

Proposed Amendment: N.J.A.C. 17:5-5.1

Authorized by: Board of Trustees, State Police Retirement System, Anthony Ferrazza, Secretary.

Authority: N.J.S.A. 53:5A-30h.

Proposal Number: PRN 1986-292.

The agency proposal follows:

Summary

The proposed amendment eliminates the requirement that retirement applications be filed with the Division of Pensions at least one month before the requested date of retirement. Under the current rule, the retirement date is advanced by one month if the member does not file the retirement application by the time limit. An application would still have to be filed before a retirement could become effective but it would not have to be filed 30 days in advance.

Social Impact

The proposed amendment will affect future retirees from the retirement system who will not be required to file retirement applications one month in advance of their requested retirement dates. The experience of the Division of Pensions indicates that most members do file their retirement applications for more than one month before their requested retirement dates. Thus, in practice, a relatively small number of members will be affected.

Economic Impact

The proposed amendment will not have any significant cost impact on the retirement system. It will permit some members to receive retirement benefits a month earlier than under the current rule. However, it will eliminate an administrative burden of notifying members who did not file timely that their retirement dates were being advanced. It will also eliminate the necessity for members to appeal to the board of trustees for relief from the advance filing requirement in hardship situations.

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

17:5-5.1 Applications

(a) Applications for retirement must be made on forms prescribed by the system. Such forms must be completed in all respects and filed with the system before the requested date of retirement.

(b) In the event a member files an incomplete application, the [deficiencies] **deficiency** shall be brought to his **or her** attention and he **or she** will be required to file a completed application with the system to enable acceptance for processing.

(c) Before an application for retirement may be accepted for processing, it must be supported by a certificate from the Division of State Police setting forth the employment termination date and the [salary] **salaries** reported for contributions in the member's final year of employment.

[In the event a member does not file an application for one month prior to the requested date of retirement, the member's retirement date shall be advanced to the first day of the following month.]

TREASURY-TAXATION

(b)

DIVISION OF TAXATION

Transfer Inheritance Tax

Pre-audit Payments; Resident Decedent's Estate Returns

Proposed Amendment: N.J.A.C. 18:26-8.7

Authorized By: John R. Baldwin, Director, Division of Taxation.

Authority: N.J.S.A. 54:50-1.

Proposal Number: PRN 1986-290.

Submit comments by September 3, 1986 to:

Emil Petrecca, Chief Auditor
Transfer Inheritance Tax Branch
Division of Taxation
50 Barrack Street, CN 269
Trenton, New Jersey 08646

The agency proposal follows

Summary

The proposed amendment relates to the Transfer Inheritance Tax Act, N.J.S.A. 54:33-1 et seq. and N.J.A.C. 18:26-8.7 with respect to the self-assessment of tax and the issuance of waivers when a gross estate is \$250,000 or less. The amendment would remove the \$250,000 monetary limit specified by the present rule and permit self-assessment for gross estates of **any** size, unless the distribution or valuation of the estate involves one of the following:

1. Closely held corporations
2. Inter-vivos trusts
3. Contingencies requiring compromise.

The proposed amendment would have the effect of allowing taxpayers to more quickly receive waivers, but would not limit the Division in any way from conducting audits of such estates.

Social Impact

The proposed amendment would expedite the issuance of tax waivers and obviate the necessity for the Division to amend its rule as inflation increases sizes of gross estates.

Economic Impact

There is minimal economic impact caused by the proposed amendment. The amendment should only result in the acceleration of inheritance tax revenue for the State's treasury since payment of self-assessed tax can be made without prior contact by the estate's representative with the Division or its personnel.

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

18:26-8.7 Pre-audit payment of inheritance tax; **resident decedent's estate returns**

(a) [Where the gross estate of a resident decedent is \$250,000 or less, the] **The** representative of [the] **an** estate may file form L-2 or L-3 (see N.J.A.C. 18:26-9.4(a)2 and 3) together with a certified or cashier's check in full payment of the tax and interest, if any, as computed by the taxpayer on form L-5, and immediately receive necessary waivers, unless the dis-

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tribution or valuation of the estate involves:

1. Closely held corporation; or
 2. Inter-vivos trust; or
 3. Contingencies requiring compromise.
- (b) (No change.)

OTHER AGENCIES

(a)

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Appeal Board

Proposed Amendment: N.J.A.C. 19:17-2.1

Proposed New Rules: N.J.A.C. 19:17-3.1 through 4.5

Authorized By: James W. Mastriani, Chairman, Public
Employment Relations Commission.

Authority: N.J.S.A. 34:13A-5.9.

Proposal Number: PRN 1986-295.

A public hearing will be held at 10:00 A.M. on September 11, 1986
at:

Public Employment Relations Commission
495 West State St.
Trenton, N.J. 08618

Submit comments by September 3, 1986 to:

James W. Mastriani, Chairman
Public Employment Relations Commission
CN 429
495 W. State Street
Trenton, NJ 08618; and
Gerald L. Dorf, Acting Chairman
Public Employment Relations Commission Appeal Board
CN 429
495 W. State Street
Trenton, NJ 08618

The agency proposal follows:

Summary

To satisfy the mandates of the United States Supreme Court in *Chicago Teachers Union v. Hudson*, ___ U.S. ___, 54 U.S.L.W. 4231, 106 S. Ct. 1066, 89 L.Ed 2d 232 (3/4/86), and the New Jersey Supreme Court in *Boonton Bd. of Ed. of the Town of Boonton v. Judith M. Kramer*, 99 N.J. 523 (1985), cert. den. ___ U.S. ___, 89 L. Ed. 2d. 613 (3/10/86), the Public Employment Relations Commission proposes to adopt N.J.A.C. 19:17-3.1 through N.J.A.C. 19:17-4.5. The Commission also proposes to amend N.J.A.C. 19:17-2.1 to provide a specific reference to existing rules of special applicability for hearings in contested cases before the Public Employment Relations Commission Appeal Board, which have been previously adopted by the Office of Administrative Law.

The proposed new rules would establish requirements for majority representative organizations which collect, in accordance with N.J.S.A. 34:13A-5.5 through 5.9, representation fees in lieu of dues from public employees who are represented by, but are not members of, the majority representative organization. The rules would implement court mandates that employees who pay a representation fee in lieu of dues receive, prior to the collection of the fee: (1) a statement showing the expenditures of the majority representative organization and its affiliates for its most recently completed fiscal year and the projected expenditures of the majority representative organization and its affiliates for the current year; (2) a statement describing the demand and return system established and maintained by the majority representative by means of which an employee paying a representation fee in lieu of dues can obtain review of the amounts assessed; (3) a period of at least 30 days in which to review the statement received from the majority representative and its affiliates and decide whether to request review of the amounts assessed in the majority representative's demand and return system.

The rules also establish time limits for the completion of demand and return system proceedings and for the filing of petitions by nonmember employees with the Appeal Board seeking review of the amounts returned by the majority representative. The rules would also require a written decision in demand and return system proceedings and would provide for the payment of interest on amounts returned to nonmembers.

A summary of the text of each section in N.J.A.C. 19:17-2.1 through 19:17-4.5 follows:

SUBCHAPTER TWO: PROCEDURES

N.J.A.C. 19:17-2.1, Rules to be read in conjunction with the rules of the Office of Administrative Law, explains that Appeal Board hearings will be conducted in accordance with the Uniform Administrative Procedure Rules of Practice (UAPRP, N.J.A.C. 1:1-1 et seq. as well as special rules applicable to Appeal Board hearings, N.J.A.C. 1:20-1 et seq.

SUBCHAPTER THREE: AMOUNT OF REPRESENTATION FEE IN LIEU OF DUES

19:17-3.1, Designation of fiscal year, requires every majority representative to establish a fiscal year system of accounting.

19:17-3.2, Designation of dues year, requires every majority representative to establish a dues year which will commence at the same time or later than the fiscal year.

19:17-3.3, Annual notice to nonmembers; copy to public employer, requires that prior to payroll deductions of representation fees in lieu of dues for any dues year the majority representative serve each nonmember with a statement that provides information concerning the expenditures of the majority representative and its affiliates for the most recently completed fiscal year, and the projected expenditures for the current fiscal year. The statement will describe the majority representative's demand and return system and how a nonmember who pays a representation fee in lieu of dues can initiate a proceeding in the system. The statement must also disclose the financial institution where the majority representative and its affiliates place in escrow portions of representation fees about which there is a reasonable dispute and the interest rate paid on such deposits. The notice must also identify the amount of the representation fee in lieu of dues, as both annual and per paycheck figures together with a schedule of deductions. The rule also requires that the public employer receive a copy of the statement together with a certification that the statement has been served upon all persons in the unit who are subject to the fee, but that the public employer shall have no obligation to verify any of the information contained in the statement.

19:17-3.4, Amount of representation fee in lieu of dues; annual adjustment, sets the maximum representation fee in lieu of dues which can be assessed in any dues year as the lowest figure among: (1) 85 percent of the regular membership dues; (2) regular membership dues reduced by the percentage amount actually spent by the majority representative and its affiliates on activities which are not chargeable to nonmembers during the most recently completed fiscal year and (3) regular membership dues reduced by the percentage amount projected to be spent by the majority representative and its affiliates on activities which are not chargeable to nonmembers during the current fiscal year. The section also requires that the representation fee in lieu of dues be readjusted annually.

SUBCHAPTER FOUR: REVIEW OF REPRESENTATION FEE IN LIEU OF DUES

19:17-4.1, Period for filing of rebate requests, requires the majority representative, prior to deducting representation fees, to allow each nonmember at least 30 days after receipt by the public employer or by the nonmember, whichever date is later, of the annual notice described in section 3.3 to file a request for review of the fee. A request filed within the timely period shall entitle the nonmember to a rebate, if any, for the entire dues year. A later filing will be effective from the date of the filing through the remainder of the dues year unless no fees have yet been collected in which case the filing would be effective for the entire year.

19:17-4.2, Fees of nonmembers requesting rebates; escrow of amounts reasonably in dispute, requires as a precondition to receiving representation fees in lieu of dues in any dues year, that the majority representative open an interest-bearing account in any financial institution in which to place in escrow the disputed portion of representation fees in lieu of dues to be collected from nonmembers who have filed timely requests for a rebate. The majority representative shall determine the portion of the representation fee in lieu of dues to be escrowed.

19:17-4.3, Time for completion of demand and return system, established 90 days from the date payroll deductions begin for the completion of proceedings in the majority representative's demand and return system. Allows a nonmember who has filed a request for review of the fee to file a petition with the Appeal Board at the expiration of the 90 day period or the completion of demand and return system proceedings, whichever date is earlier. Requires the majority representative to complete demand and return system proceedings unless all of the nonmembers who have filed claims have filed petitions with the Appeal Board or withdrawn their claims and makes the provisions of the section applicable to demand and returns system proceedings conducted by affiliates of the majority representative.

19:17-4.4, Results of demand and return system; payment of interest on amounts returned, requires a written decision to be issued at the end of demand and return system proceedings, accompanied by a check for any sums due the nonmember. Interest is to be paid on the amounts returned, at the rate paid on funds held in the escrow accounts, or if the refund exceeds the amount escrowed, at the judgment rate of interest set by court rule.

19:17-4.5, Time for filing petitions with Appeal Board; extension and tolling of time limits, provides a six month time limit on the filing of petitions with the Appeal Board, which will commence from the completion of demand and return system proceedings. The six month period will be extended if the nonmember was prevented from filing.

Social Impact

The adoption of the proposed subchapters will implement the mandates of the New Jersey and United States Supreme Courts that labor organizations which are the majority representatives of collective negotiations units of public employees in New Jersey adopt procedures which will safeguard the constitutional rights of public employees who pay representation fees in lieu of dues to such majority representative organizations. The courts have held that the right of nonmembers not to contribute toward activities of the labor organizations which are of an ideological or political nature unrelated to collective negotiations requires that majority representatives provide such employees, prior to receiving their representation fees, with information concerning the expenditures of the majority representative and its affiliates sufficient to gauge the propriety of the majority representative's fee. The decisions also suggest that majority representatives establish escrow arrangements to avoid the temporary use of representation fees to finance such activities. The procedures adopted by the majority representatives to allow nonmembers to challenge the propriety of the representation fee in lieu of dues must also provide for a reasonably prompt determination before an impartial tribunal. The Public Employment Relations Commission Appeal Board is such a tribunal and is required by law to be the last step in every demand and return system. These rules require majority representatives to adopt procedures to implement these mandates and will promote statewide uniformity in procedures adopted to implement agreements which allow majority representatives to collect representation fees in lieu of dues.

Economic Impact

The proposed rules require that majority representatives which receive requests for rebates of representation fees in lieu of dues place any amounts reasonably in dispute into interest-bearing escrow accounts pending a determination of the amounts to be refunded. The period of time such funds will remain in such accounts will vary with the amounts reasonably in dispute, the length of time needed for a determination by the majority representative, and whether there are appeals of that determination to the Appeal Board and then to the courts. Interest on such accounts will be payable to the majority representative and the nonmember employees who have requested rebates in the same percentage as the principal amounts to be rebated by the majority representative.

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

SUBCHAPTER 2. PROCEDURES

19:17-2.1 Rules to be read in conjunction with the rules of the Office of Administrative Law

These rules are to be read in conjunction with the Uniform Administrative Procedure Rules of Practice (UAPRP), N.J.A.C. 1:1 and [any] the rules of special applicability for hearings initiated in **contested cases** before the Public Employment Relations Commission Appeal Board, [hereafter adopted by the Office of Administrative Law]N.J.A.C. 1:20.

SUBCHAPTER 3. AMOUNT OF REPRESENTATIVE FEE IN LIEU OF DUES

19:17-3.1 Designation of fiscal year

(a) Every majority representative which collects a representation fee in lieu of dues shall establish a fiscal year system of accounting for the expenditures of such organization.

(b) The fiscal year may be the calendar year or any other 12 month period.

19:17-3.2 Designation of dues year

(a) Every majority representative which collects a representation fee in lieu of dues shall establish a dues year.

(b) The dues year may be the calendar year or any other 12 month

period, except that the dues year may not commence prior to the start of the fiscal year.

19:17-3.3 Annual notice to nonmembers; copy to public employer

(a) Prior to the commencement of payroll deductions of the representation fee in lieu of dues for any dues year, the majority representative shall personally provide each person subject to the representation fee in lieu of dues a written notice which shall include the following:

1. A statement of the expenditures of the majority representative for its most recently completed fiscal year, including similar statements for any affiliate of the majority representative which receives any portion of the representation fees in lieu of dues paid or payable to the majority representative. The statement shall contain categories of expenses sufficient to identify and distinguish between expenditures of the majority representative and its affiliates which benefit members only and/or that are in aid of activities or causes of a partisan political or ideological nature; and those expenditures which are chargeable to persons paying the representation fee in lieu of dues pursuant to N.J.S.A. 34:13A-5.5.

2. The projected expense budget of the majority representative for its current fiscal year, including similar budgets for any affiliate of the majority representative which receives any portion of the representation fees in lieu of dues paid or payable to the majority representative. The budget shall contain categories of expenses sufficient to identify and distinguish between expenditures of the majority representative and its affiliates which benefit members only and/or that are in aid of activities or causes of a partisan political or ideological nature; and those expenditures which are chargeable to persons paying the representation fee in lieu of dues pursuant to N.J.S.A. 34:13A-5.5.

3. A description of the demand and return system established by the majority representative pursuant to N.J.S.A. 34:13A-5.6, including instructions to persons paying the representation fee in lieu of dues as to how to request returns of any part of that fee which represents the employee's additional pro rata share of expenditures by the majority representative that is either in aid of activities or causes of a partisan political or ideological nature only incidentally related to the terms and conditions of employment or applied toward the cost of any other benefits available only to members of the majority representative.

4. The name and address of the financial institution where the majority representative and/or any affiliate of the majority representative which receives any portion of the representation fees in lieu of dues paid or payable to the majority representative maintains an account in which to escrow portions of representation fees in lieu of dues which are reasonably in dispute. The current interest rate of the account shall also be disclosed.

5. The amount to be deducted as a representation fee in lieu of dues, expressed in both annual and per paycheck amounts, and a schedule for the deduction of the fee, including the date on which deductions for the current dues year will commence.

(b) The majority representative shall provide a copy of the statement described in (a) above to the public employer, together with a certification that the statement has been served upon all nonmembers in the collective negotiations unit. The public employer shall have no obligation to verify any of the information contained in the statement.

19:17-3.4 Amount of representation fee in lieu of dues; annual adjustment

(a) The maximum representation fee in lieu of dues assessed nonmembers in any dues year shall be the lowest of:

1. Eighty-five percent of the regular membership dues, fees and assessments charged by the majority representative to its own members.

2. Regular membership dues, fees and assessments charged by the majority representative to its own members, reduced by the percentage amount actually spent by the majority representative and any affiliate of the majority representative which receives any portion of the representation fees in lieu of dues paid or payable to the majority representative during the most recently completed fiscal year on benefits available to or benefiting only its members and in aid of activities or causes of a partisan political or ideological nature only incidentally related to the terms and conditions of employment. The amount assessed shall be based upon the figures contained in the statement furnished to nonmembers prior to the start of the dues year in accordance with N.J.A.C. 19:17-3.3(a)1.

3. Regular membership dues, fees and assessments charged by the majority representative to its own members, reduced by the percentage amount projected to be spent by the majority representative and any affiliate of the majority representative which receives any portion of the representation fees in lieu of dues paid or payable to the majority representative during its current fiscal year on benefits available to or benefiting only its members and in aid of activities or causes of a partisan

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political or ideological nature only incidentally related to the terms and conditions of employment. The amount assessed shall be based upon the figures contained in the statement furnished to nonmembers prior to the start of the dues year in accordance with N.J.A.C. 19:17-3.3(a)2.

(b) Every majority representative shall annually recalculate its representation fee in lieu of dues in accordance with this section.

SUBCHAPTER 4. REVIEW OF REPRESENTATION FEE IN LIEU OF DUES

19:17-4.1 Period for filing of rebate requests

(a) Each nonmember shall be afforded a period of at least 30 days after receipt by the public employer or by the nonmember, whichever date is later, of the annual notice described in N.J.A.C. 19:17-3.3(a) within which to file a request for review of the amounts returned by the majority representative as the nonmember's additional pro rata share of expenditures that is either in aid of activities or causes of a partisan political or ideological nature only incidentally related to the terms and conditions of employment or applied toward the cost of any other benefits available only to members of the majority representative.

(b) Any request for review of a rebate filed within the time period set by the majority representative in accordance with (a) above will be deemed effective to entitle the employee to a rebate, if any, covering the entire dues year.

(c) Any request for review of a rebate which is filed beyond the period provided by (a) above will entitle the employee to a rebate, if any, which covers the period from the receipt of such request through the remainder of the dues year, except that if no fees have been collected when the request is filed, the request will be considered as timely for the entire dues year.

19:17-4.2 Fees of nonmembers requesting rebates; escrow of amounts reasonably in dispute

(a) Prior to receiving representation fees in lieu of dues in any dues year, the majority representative shall open an interest-bearing account in any financial institution in which to place in escrow all or part of representation fees in lieu of dues to be collected from nonmembers who have filed timely requests for a rebate pursuant to N.J.A.C. 19:17-4.1.

(b) The majority representative shall determine the portion of the representation fee in lieu of dues to be escrowed, but shall place in escrow any amount which is reasonably in dispute.

19:17-4.3 Time for completion of demand and return system

(a) Proceedings in the demand and return system established by the majority representative pursuant to N.J.S.A. 34:13A-5.6 shall be completed within 90 days after the commencement of payroll deductions of representation fees in lieu of dues for the current dues year.

(b) After expiration of the period set forth in (a) above, or the completion of demand and return system proceedings, whichever date is earlier, any nonmember who has a pending request for a rebate shall be deemed to have exhausted demand and return system proceedings pursuant to

N.J.A.C. 1:20-4.1 and N.J.A.C. 19:17-4.5 and may file a petition of appeal with the Appeal Board in accordance with N.J.A.C. 1:20-6.1.

(c) Any majority representative which has commenced, but has not completed, demand and return system proceedings within the time set forth in (a) above shall continue such proceedings to completion notwithstanding the filing of petitions with the Appeal Board by nonmembers who have requests for rebates pending with the majority representative, unless all pending requests have been withdrawn or presented to the Appeal Board.

(d) This section shall also apply to demand and return system proceedings conducted by any affiliate of the majority representative which receives any portion of the representation fees in lieu of dues paid or payable to the majority representative.

19:17-4.4 Results of demand and return system; payment of interest on amounts returned

(a) On completion of demand and return system proceedings, the majority representative and any affiliate of the majority representative which receives any portion of the representation fees in lieu of dues paid or payable to the majority representative, shall serve a written decision on each nonmember whose request for review of the fee is involved in such proceeding.

(b) If the demand and return system proceeding results in a determination that the nonmember is entitled to a rebate, such rebate shall accompany the written decision.

(c) If the rebate is equal to or less than the portion of the nonmember's representation fee held in the majority representative's escrow account, than the actual interest earned on the amount escrowed shall be paid to the nonmember.

(d) If the rebate is greater than the portion of the nonmember's representation fee held in the majority representative's escrow account, then the nonmember will receive interest payable at the judgment rate for the entire amount of the rebate. (See N.J. Court Rules, R. 4:42-11.)

19:17-4.5 Time for filing petitions with Appeal Board; extension and tolling of time limits

(a) A petition of appeal seeking review by the Appeal Board of a representation fee in lieu of dues charged by a majority representative pursuant to N.J.S.A. 34:13A-5.5 shall be filed within six months after a nonmember paying such fee has exhausted the demand and return system required to be maintained by the majority representative pursuant to N.J.S.A. 34:13A-5.6. If demand and return proceedings are not complete by the deadline set forth in N.J.A.C. 19:17-4.2(a), then the six month period shall begin to run from the date demand and return system proceedings are complete.

(b) A petition may be deemed timely even if filed more than six months after demand and return system proceedings are complete, if the nonmember was prevented from filing in a timely manner in which case the six month period shall be computed from the date the nonmember was no longer so prevented.

RULE ADOPTIONS

COMMUNITY AFFAIRS

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES Cooperative Pricing and Joint Purchasing Systems Adopted Amendment: N.J.A.C. 5:30-17

Proposed: May 19, 1986 at 18 N.J.R. 1022(a).
Adopted: Filed: July 10, 1986 by Barry Skokowski, Director,
Division of Local Government Services.
Filed: July 11, 1986 as R.1986 d.315, **without change**.
Authority: N.J.S.A. 40A:11-11.
Effective Date: August 4, 1986.
Expiration Date: June 1, 1988.

Summary of Public Comment and Agency Responses:

A single comment was received on the proposal.

COMMENT: A representative of a cooperative purchasing system questioned whether the language concerning performance bonds and certificates of insurance would permit their practice of the Lead Agency providing for such certifications to continue.

RESPONSE: The Division feels the language of the regulations is flexible enough to allow local discretion in assigning this responsibility to either a Lead Agency or to individual participants.

This individual also resubmitted previous comments made on the draft proposals which were circulated informally, prior to the final proposal's publication in the New Jersey Register. Since these also relate to the proposal as adopted, the comments and responses follow.

COMMENT: A suggestion was made to amend the regulations to permit a cooperative purchasing system with a Cooperative Purchasing Council as the Lead Agency and authorize it to delegate administrative duties to one of the system's members.

RESPONSE: This suggestion was not accepted. The enabling statute, N.J.S.A. 40A:11-11(5), directs that the Lead Agency must be a participating local unit of government.

COMMENT: Additional comments dealt with the applicability of various administrative requirements (passage of an ordinance to establish the system, execution of an agreement of participation, extension of bid prices to all members of the system) to a system where such a Council is Lead Agency.

RESPONSE: Since the Division does not accept the basis for such a system, the subsequent comments were not accepted.

COMMENT: A suggestion was made that the Division of Local Government Services notify the Lead Agencies of approved systems 60 days before their registration/approval expires, to facilitate renewal efforts.

RESPONSE: This will be done administratively and need not be a part of the regulations.

COMMENT: A renewal procedure was suggested whereby participants would ratify a current cooperative purchasing agreement by certified resolution, rather than passage of a new ordinance and execution of a new agreement.

RESPONSE: The Division accepted part of this suggestion. The regulations permit participants whose initial authorizing ordinance or resolution does not require change to pass a resolution affirming continued participation, however, participants must also execute a new cooperative purchasing agreement for the system.

It was suggested that the requirement for separating anticipated quantities to be purchased by the Lead Agency and other participating agencies be eliminated. It was labelled as cumbersome and counterproductive to break out separate quantities. The Division disagrees. The basis of cooperative pricing is the economy of scale achieved through aggregating purchases. In cooperative pricing programs, a separate contract is required between the vendor and each participant. This requires use of separate commodity amounts. In addition, the Local Public Contract Law Regulations concerning change orders, N.J.A.C. 5:30-14.4(e), require unit pricing and anticipated purchase quantities to be specified.

In a similar vein, it was suggested that the provisions which require inclusion of a vendor's option to decline extending prices to other program participants be deleted. Experience has shown this option to be

desirable in attracting bidders so it is being retained. In addition, it is desirable because of the separate contracting required in cooperative pricing systems.

A question was raised about the effect of N.J.A.C. 5:30-17.7(j). The commentator questioned if it precluded a participant from receiving bids on its own by requiring it to purchase all items available through the cooperative pricing system. This is not the case. The language of this section is intended to ensure communities avail themselves of the lowest prices available for their needs. Local units are allowed the option of purchasing independently or through the cooperative program.

The comment was also made that there may be cases where it is beneficial to pay slightly higher purchase prices in return for other benefits such as equipment standardization, lessened repair costs or reduced operating expenses. The Division does not believe that the language of the regulations prevents an award on such a basis. If a community can demonstrate the longer range benefits of an initially higher acquisition price, that can be considered within the meaning of N.J.A.C. 5:30-17.7(j).

Full text of the adoption follows.

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. 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.

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 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 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 participating contracting units, and notifies other participating contracting units, of the bid prices awarded. Those other 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 participating contracting units.

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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.

(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 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 in N.J.A.C. 5:30-17.8.

(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 this identification code 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.

5:30-17.7 Local administrative responsibilities

(a) (No change.)

(b) At the beginning of participation in any system 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

(Name of Lead Agency) acts as Lead Agency in a cooperative purchasing agreement in cooperation with (list all participating contracting units. Under this system, (Name of Lead Agency) solicits competitive bids for certain items purchased by participating contracting units. This is a (specified, 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) 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) 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 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 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 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 other 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.

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

**REQUIREMENTS OF OTHER PARTICIPATING
CONTRACTING UNITS**

Check here if willing to provide the item(s) herein bid upon to 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 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.

Check here if not willing to extend prices to 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).

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 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 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 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 participating contracting units.

(f) Note that a bidder shall not be required to extend his bid prices to participating 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 participating 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 contracting units, the Lead Agency shall request approval of the Director, Division of Local Government Services, for a Dedication by Rider per N.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 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 contracting agent of each of these participating contracting units (with authorization by resolution of the governing body if over 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 contracting units. The certificate shall be conditional with respect to the amounts due from the participating 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 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 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 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 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 participating contracting units of the cooperative pricing system copies of the specifications, name of the successful bidder, prices awarded and the contract identification number. 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. 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) 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 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.

5:30-17.8 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 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

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limit. 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 contracting units are authorized by the Division of Purchase and Property to purchase commodities directly from 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 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 the appropriate statutory bid limit from the State distribution center, the authority of the contracting agent shall be the same as applies to all other contracts under that limit.

5:30-17.9 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
CN 803
Trenton, NJ 08625
609-292-7843

(a)

NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

Substantive Rules

Adopted New Rules: N.J.A.C. 5:92.

Proposed: June 2, 1986 at 18 N.J.R. 1124(b).

Adopted: July 14, 1986 by Council on Affordable Housing,
Arthur R. Kondrup, Chairman.

Filed: July 14, 1986 as R.1986 d.333, with changes not requiring additional public notice (see: N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:27D-301 et. seq., specifically 52:27D-307.

Effective Date: August 4, 1986.

Expiration Date: June 16, 1991.

Summary of Public Comments and Agency Responses:

The Fair Housing Act provides a method to enable every municipality in the State to determine and to provide for its fair share of its region's need for low and moderate income housing. The Council's substantive rules implement this statutory purpose through criteria and guidelines which assess regional need, fair share and the adequacy of municipal measures. It must be noted, however, that these initial determinations of the Council may be revised from time to time in accordance with changing needs and circumstances. Therefore, in order to address further the range of issues which bear upon the State's need for affordable housing, the Council has established seven task forces to conduct further research and provide recommendations regarding the following subjects:

Requirements governing the affordability of low and moderate income housing units;

Affirmative marketing requirements for low and moderate income housing;

Tax status of low and moderate income housing units;

Rental and senior citizen housing as a component of a municipality's housing element, and the need for a range of bedroom types in developments;

Re-sale and re-capture provisions for low and moderate income housing;

Crediting;

Indigenous need estimates after the 1990 census.

The task forces, comprised of Council members and other experts in the field of low and moderate income housing, will report to the Council

in the near future. Thereafter, the Council will consider the task force recommendations, and the means to implement accepted recommendations.

COMMENT: By establishing affordability standards at 50 and 80 percent of median income, the Council has failed to address the housing needs of the majority of low and moderate income households who will be priced out of the housing market.

RESPONSE: The Council's rules establish upper ceilings for the pricing of low and moderate income housing units. The Council encourages housing that addresses the entire range of low and moderate income need and has established a task force to report back to the Council with recommendations concerning this issue.

COMMENT: The Council should expand its crediting policy and credit every municipality for each current unit of low and moderate income housing of adequate standard.

RESPONSE: The Council's estimates of need are based on data drawn from the 1980 census and are carried forward to 1987. Thus, the need estimates reflect municipal efforts to produce housing prior to April 1, 1980, which is the date of the 1980 census and despite these efforts, the need exists. Municipal housing efforts subsequent to 1980 are not included in the need estimates and are therefore recognized. Given the number of responses on this crediting criteria, the Council has established a task force to study this matter and report its finding to the Council as soon as possible.

COMMENT: The presence of steep slopes, inland wetlands and/or flood hazard areas should not automatically exclude entire sites from low and moderate income development.

RESPONSE: Only those specific portions of a site covered by those environmental factors shall be excluded from low and moderate income development.

COMMENT: The Council should require municipalities to reserve existing infrastructure for low and moderate income housing.

RESPONSE: The Council is empowered to require that municipalities preserve scarce resources essential to the satisfaction of their Mt. Laurel obligation. The Council will exercise this authority upon the application of a party as provided for in its procedural rules in N.J.A.C. 5:91-13.1 et seq.

COMMENT: The Council's determination of the percentage of gross income that may be devoted to owner-occupied and rental housing as expressed in N.J.A.C. 5:92-12.4 is too high.

RESPONSE: The Council has determined that 28 percent of gross monthly income for owner-occupied housing and 30 percent for rental housing, excluding utilities, are standards by which affordability will be judged. These standards are consistent with standard mortgage underwriting procedures and the economic realities of producing rental housing.

COMMENT: The Council should require that agricultural lands within agricultural development areas be excluded initially in establishing priorities for low and moderate income housing sites. In addition, it should be mandatory, when no other sites exist to address the municipal obligation, that the Council require municipalities to submit these agricultural lands to a county agricultural board to establish priorities of lands to be developed.

RESPONSE: Such mandatory language would limit municipal flexibility in addressing its housing obligation and could unduly restrict the farmland of a property owner interested in selling his/her land or developing it for low and moderate income housing. Moreover, such language could unfairly limit the development of land for low and moderate income housing when no other type of development would be subject to such controls.

COMMENT: The Council should require a mix of bedroom types that addresses the needs of all segments of the low and moderate income population including senior citizens and families.

RESPONSE: The Fair Housing Act requires that the municipal housing elements include an analysis of the municipality's demographic characteristics. Municipal housing elements should address the needs that result from this analysis. In addition, the Council has appointed a task force to study appropriate mixes of bedroom types within inclusionary developments.

COMMENT: Covered employment data from the New Jersey Department of Labor's Covered Employment Trends should not be used in distributing fair share due to employment location inaccuracies.

RESPONSE: Covered employment data are one of the few sources of data which detail the scale and change in employment at the municipal level. Data are available for each municipality regardless of size. As such, covered employment data are unique and valuable, albeit with limitations.

The Council recognizes that on occasion there are some discrepancies between the mailing address and actual location of businesses that result in employment being inaccurately attributed to some municipalities. In these cases, the Council will entertain substitute data (see N.J.A.C. 5:92-5.1(c)).

COMMENT: The 1977-1984 covered employment data should not have been used as a factor in distributing regional housing need.

RESPONSE: The fair share criteria recognize the link between employment and housing need. The concept of using regressed employment change data was used by the courts as one factor in distributing prospective need. The Council concurred in the courts' decision. The specific years of 1977-1984 were selected because of a change in the definition of covered employment. As a result of this change, employment data prior to 1977 were not comparable to data after that date. Also, the years 1977-1984, include an economic recession and recovery and as such, accurately reflect the ebb and flow of employment change within the State.

COMMENT: Does the term inclusionary development as used in N.J.A.C. 5:92-8 and 10 only refer to builder set-aside?

RESPONSE: No. Neither provision precludes the municipal option of building its own low and moderate income development or from undertaking such a development through a non-profit corporation.

COMMENT: The Council should not require 201/208 plans and previous municipal master plans in all cases.

RESPONSE: The Council only requires such documentation when the municipality is requesting an adjustment and/or specific circumstances make such documentation necessary.

COMMENT: The regulations improperly delegate to the New Jersey Department of Environmental Protection the authority to exercise zoning power.

RESPONSE: N.J.A.C. 5:92-8.5(f) and 8.6(h) provide that a municipality that has designated sites that lack adequate infrastructure for affordable housing shall rezone land if a developer demonstrates that he/she is willing and able to provide such housing on an alternate site. The zoning power remains at the local level but rezoning may be required by the Council, not the New Jersey Department of Environmental Protection, as a condition of substantive certification in order to facilitate the construction of affordable housing.

COMMENT: The proposed rules fail to recognize that if a builder is willing to provide infrastructure, there is no need for the adjustment.

RESPONSE: Where a developer can supply necessary infrastructure, the Council will not award an adjustment to a municipality's fair share. Regardless, the land still must be zoned to accommodate the municipality's fair share even though the rules provide for a durational adjustment due to lack of infrastructure.

COMMENT: The Council should define affordable infrastructure.

RESPONSE: The Council will devise an application for municipalities that claim that the cost of providing infrastructure is prohibitive. The Council will determine affordability based on the data contained in the application and a report of the Division of Local Government Services as provided in N.J.A.C. 5:92-8.6(e).

COMMENT: The Council should not impose a cap upon the fair share obligation of any municipality as provided in N.J.A.C. 5:92-7.

RESPONSE: The Fair Housing Act requires the Council to adjust municipal fair share when "the established pattern of development in the community would be drastically altered." In establishing a procedure in which a community's fair share could be "capped" at 20 percent of its existing housing stock, the Council recognized that it was possible that a municipality's entire obligation could be addressed through a conventional 20 percent set-aside. With such a set-aside, a municipality could double its housing stock during the period of substantive certification even with the 20 percent "cap." The Council views more than a doubling of the municipal housing stock as a burden for municipalities. Thus, the Council considers the 20 percent standard as a reasonable definition of drastic alteration. It should be emphasized that the 20 percent standard employed by the Council is estimated to result in a reduction of only 1,421 housing units from a total Statewide need of 145,707. Thus, the 20 percent cap reasonably limits the impact of the constitutional obligation on municipalities without drastically reducing the obligation.

COMMENT: The Council should provide for the adjustment of fair share based on other environmental factors beyond those enumerated in its rules.

RESPONSE: The Council's environmental policy is consistent with other State environmental regulations that restrict development in various areas of the State.

COMMENT: N.J.A.C. 5:92-8.2 describing inland wetland sites calls for delineation by the U.S. Army Corps of Engineers or the New Jersey Department of Environmental Protection. The more appropriate reference should be the National Wetlands Inventory Prepared by the U.S. Fish and Wildlife Service.

RESPONSE: The inventory prepared by the U.S. Fish and Wildlife Service is useful in determining the general location of inland wetlands. However, during the adjustment process outlined in N.J.A.C. 5:92-8, the Council requires specific site characteristics. For that level of detail, the Council requires the delineation provided by the U.S. Army Corps of Engineers or the New Jersey Department of Environmental Protection.

COMMENT: The Council should require an environmental resource inventory as part of every housing element.

RESPONSE: The Fair Housing Act requires certain information in a housing element. The Council has chosen to require such other documentation only as is necessary to determine appropriate sites for low and moderate income housing. Consequently, the Council will only require such environmental documentation as is necessary to determine appropriate sites.

COMMENT: The extension areas within the Coastal Zone should not be classified as growth areas.

RESPONSE: Extension areas within the Coastal Zone were classified as growth areas for purposes of distributing fair share after consultation with the Division of Coastal Resources, New Jersey Department of Environmental Protection.

COMMENT: The methodology does not properly evaluate the magnitude of downward filtration or its distribution among communities in the State. In addition, the methodology ignores the fact that the units that filter to low and moderate income households may be deficient.

RESPONSE: Housing experts have recognized that sound housing units "filter" or become available to low and moderate households. In reality, the fact that approximately 850,000 of 1.12 million low and moderate income households are in sound housing, which has come to them from private market sources, reinforces this concept. It has been recognized that this occurs principally in the urban areas. The Council has attempted to quantify filtering through use of the **American Housing Survey**. Through use of this document, the Council was able to trace the flow of sound units over time between income groups to determine the magnitude of filtering. It should be emphasized that in quantifying filtering resources by region, the Council only identified and relied upon sound housing units as described by the same census indicators used to determine present need.

In distributing the impact of filtering, the Council found a significant relationship between filtering and multi-family housing. Thus, municipalities received a share of the region's filtering based on their share of the region's multi-family housing. This concept recognizes that all types of housing filter but filtering takes place primarily in areas where the housing stock is characterized by the presence of multi-family housing units. Filtering will be enhanced by the increased volume of housing produced under the affordable housing mandate and regional demand will ensure its utilization. This procedure builds on the sensitivity employed in distributing reallocated present and prospective need and correctly distributes the impact of filtering primarily to the State's urban areas. These urban areas have the highest incidence rates of multi-family housing.

COMMENT: The Council should not recognize that filtering occurs in two to four family structures.

RESPONSE: The Council's statistical analysis demonstrates that filtering is most highly linked to multi-family housing, including two to four family units. The presence of two to four family units within a community's housing stock offers the opportunity for:

- 1) the filtering of existing units over time; and
- 2) the conversion to additional units of some share of this segment of the local housing stock.

COMMENT: It should be recognized that filtering does occur in townhouse development.

RESPONSE: Townhouses (single family attached dwellings) may filter down as may other single family detached dwellings but usually in locations where multi-family housing is present. Single family attached and detached dwellings usually do not filter in locations characterized by an absence of more intensive types of development.

COMMENT: The Council's treatment of residential conversion as a secondary source of supply does not provide an incentive for municipalities to zone for conversions or accessory apartments.

RESPONSE: As most conversion happens absent appropriate zoning, it is assumed that additional conversion will be garnered with zoning

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specifically in place for this purpose. To the degree that this zoning is implemented locally and units are converted with affordability controls, municipalities will be given credit for this activity in addition to the general level of conversion taking place in the housing stock as a whole.

COMMENT: The Council's criteria for excluding municipalities from the distribution of reallocated present need and prospective need is too restrictive.

RESPONSE: The Council determined that it would be inappropriate to distribute reallocated present need and prospective need to urban areas that were in special need of aid. It was determined that such areas have historically housed a disproportionate share of New Jersey's low and moderate income households and have special problems associated with poverty. The urban aid cities were the only general class of cities to meet these criteria. However, not all urban aid cities fit the traditional image of urban nor of cities in need of special aid. Therefore, an urban aid city must also satisfy the criteria presented in N.J.A.C. 5:92-5.3(b) to be excluded from reallocated present need and prospective need.

COMMENT: Because some of the municipal need will be reduced during the adjustment process, the Council should reallocate the adjusted need and/or inflate the original fair share allocation.

RESPONSE: It would be most difficult to fairly reallocate adjusted need. The Council has determined not to inflate the original need estimate of all municipalities, to compensate for potential downward adjustments in some towns. Such a practice would be inconsistent with the municipal obligation to provide an opportunity to meet its fair share and would compel municipalities to bear an additional obligation beyond its own fair share. Furthermore, it is impractical to reallocate adjusted need; such a reallocation, made on an on-going basis, would distort the allocation process and would effectively prevent the Council from ever finally certifying a housing element.

The Council will nevertheless monitor the adjustment process and its impact on the delivery of low and moderate income housing.

COMMENT: The Council's income factor distributes need based on population rather than a community's ability to accept the obligation.

RESPONSE: The income factor is statistically consistent with the other allocation factors employed by the Council and reflects a municipality's true regional share of income. The previous income factor employed by the courts unduly weighted the income factor and was employed in a manner that was viewed as statistically incorrect. The Council's income factor was specifically chosen to allow large areas or those better off economically or some combination of both to have somewhat more of a housing obligation. The factor deals specifically with the question of capacity, i.e. in what types of locations can units of low and moderate income housing be best supported. This measure was never meant to penalize affluent or poor locations. It does neither—but rather as one of three or four factors increases slightly an obligation in those locations of more aggregate wealth.

COMMENT: The number provided for 1983-1984 per capita regional aggregate income should be clarified since different numbers are used for the same index in N.J.A.C. 5:92-5.11 and Appendix C.

RESPONSE: The data provided in N.J.A.C. 5:92-5.11 are used to determine each municipality's share of a region's spontaneous rehabilitation. Since each municipality is eligible for some portion of the region's spontaneous rehabilitation, each municipality is included in the region's 1983/1984 aggregate per capita income. The data provided in Appendix C of the Technical Appendix are used to distribute reallocated present need and prospective need to growth area communities. Thus, only growth area communities are included in the regional totals.

COMMENT: In assigning prospective need, the Council should use either the Historical Migration or Economic Demographic Model, whichever results in the lower allocation for specific regions.

RESPONSE: The Council's mandate under the Fair Housing Act is to estimate present and prospective need at the State and regional level. In estimating prospective need, the Council selected the Historical Migration Model after listening to the advice of a task force that included representatives from the New Jersey Department of Labor responsible for State demography. The Council believes this model best estimates future population growth and thus prospective need to be defined in the Fair Housing Act, because it yields county population distributions by age cohort with few assumptions. This is important for purposes of projecting household formations accurately. The model is based primarily on what has happened in the past and not upon assumptions of future employment change, commuting and/or resulting migration at the local level. These are complex, judgmental and problematic demographic concepts subject to varying interpretations. Lastly, the Historical Migration Model is consistent with the use of past employment data (a factor influencing population migration) to distribute the projected population.

COMMENTS: Reallocated present need is very large in Regions 1 and 2. Some of it should be redistributed to other regions.

RESPONSE: The Fair Housing Act calls for the Council to determine regions and to develop criteria by which each municipality may determine and address its fair share of its region's need for low and moderate income housing. This has been done using commuting relationships, contiguity of counties, resource balance within counties and recognition of county groups by other governmental agencies for data purposes. While reallocated present need is large in Regions 1 and 2, prospective need is correspondingly small.

COMMENT: In determining need, the Council should include those households who are spending a disproportionate amount of their income on housing.

RESPONSE: The Council decided that present need should be a measure of low and moderate income households residing in deficient housing. Moreover this determination reflects the Council's statutory obligation to adopt criteria which make fulfillment of the municipal obligation realistically possible. To include within this estimate those low and moderate income households paying a disproportionate share of their income for housing would have resulted in a need that was beyond the possibility to implement during the six year certification period or during any period in the foreseeable future. Those households spending a disproportionate amount on sound housing exhibit an income problem as opposed to a housing problem. Moreover, the Council's definition of need is in keeping with the court's approach to low and moderate income housing need.

COMMENT: The concept of reallocated present need should not have been adopted by the Council because of the burden it places on growth municipalities.

RESPONSE: The concept of reallocated present need was adopted by the trial courts and the Council because it more equitably distributes the fair share obligation. It redistributes fair share obligation to growth areas throughout the State rather than further impacting the center cities. This concept begins to address the results of past exclusionary practices that have resulted in economic and racial segregation in New Jersey.

COMMENT: The Council should accept substitute data for Exhibit 2 in the Technical Appendix of its rules.

RESPONSE: Exhibit 2 represents data for the Council's six housing regions. The data are derived from the U.S. Census or from other specific documents. These data have been calculated using the same procedures for each region and each municipality. They must be centrally prepared in standardized fashion. If the data presented are clearly in error, the Council will entertain substitute data.

COMMENT: Inclusionary developments should not be permitted in conservation areas as delineated by the State Development Guide Plan.

RESPONSE: The Council's policy is to preclude inclusionary developments on steep slopes, inland wetlands and flood hazard areas. The Council shall also prioritize sites based on the availability of infrastructure. These policies offer environmentally sensitive areas an appropriate level of protection.

COMMENT: The Council should be open to adjusting growth areas as delineated in the State Development Guide Plan.

RESPONSE: Until the State Development Redevelopment Plan is completed, the State Development Guide Plan growth areas will be the focus of the regional fair share obligation. The Council views these growth areas as indicators of where development could and should take place. It does not view the boundaries as being so precise that they should not be expanded or contracted.

COMMENT: The Council should make it clear that its regulations apply to the Pinelands, Coastal Zone and Hackensack Meadowlands.

RESPONSE: The Council's rules apply to the entire State. Within the Pinelands, Coastal Zone and Hackensack Meadowlands, the Council will respect the environmental policies of the respective State regulatory agencies as part of its adjustment process.

COMMENT: The Council should not have designated Pinelands areas as growth areas for purposes of distributing housing need.

RESPONSE: The Pinelands Commission has designated specific areas for growth as part of its plan. The Council's designation of growth areas within the Pinelands is consistent with the Pinelands Plan.

COMMENT: The Council's 100 foot buffer surrounding sites on the State Historic Register discriminates against low and moderate income housing when other forms of development can take place within the buffer.

RESPONSE: The Council's criteria on historic sites were developed in concert with the State Historic Preservation Office. Based on these discussions, a 100 foot buffer surrounding historic sites was recognized.

However, it should be clear that if a site is bisected by the 100 foot buffer, only that portion of the site is eliminated from housing development.

COMMENT: N.J.A.C. 5:92-8.4(b) should be amended to give the Council the explicit authority to add as well as subtract sites.

RESPONSE: The adjustment process begins with an inventory of all possible sites and then permits a systematic elimination of sites based on factors enumerated in the Fair Housing Act. Only if a site meets the Council's criteria for one of those adjustment factors will it be eliminated from consideration. Consequently, all sites are considered for development, unless eliminated and there is no need to add sites.

COMMENT: N.J.A.C. 11.5(b) and (c) state a minimum amount for rehabilitation and for internal subsidization in an inclusionary development. These amounts are subject to wide variation and it is recommended that these amounts be excluded from the final rules.

RESPONSE: The Council is aware that the amounts in N.J.A.C. 11.5(b) and (c) may vary significantly based on region, zoning and numerous other factors. Nevertheless, as required by the Fair Housing Act, the Council has established these guidelines for Regional Contribution Agreements. These guidelines are illustrative; specific project costs shall be an integral part of negotiating a Regional Contribution Agreement as well as the internal subsidy in an inclusionary development.

COMMENT: Municipalities need guidelines in implementing a housing survey.

RESPONSE: The Council is in the process of preparing a housing survey guide complete with operational instructions and shall have it available upon request.

COMMENT: Rental housing should be required as part of every housing element.

RESPONSE: Such a requirement may run counter to economic realities given the uncertainty of the tax laws and the Council's requirement that rental property maintains controls on affordability. The Council encourages the production of rental housing but is not convinced that mandating a percentage of rental housing in each housing element will result in its construction. The Council has appointed a task force to further explore this and make recommendations.

COMMENT: The regulations should require affirmative marketing.

RESPONSE: The Council agrees that advertising for low and moderate income units must extend beyond the borders of a specific municipality and a task force has been appointed to determine and recommend the precise form of marketing the Council should require.

COMMENTS: The Council should include housing for the handicapped and developmentally disabled in its definition of alternative living arrangement.

RESPONSE: The Council considers this housing to comport with its definition of alternative living arrangement, provided a person's income falls within the low and moderate income guidelines and there are affordability controls in place.

COMMENT: The Council should amend its regulations to require a municipality that alleges inadequate infrastructure capacity to demonstrate as part of its housing element that it has made all feasible efforts to develop a satisfactory expansion plan with the appropriate authority.

RESPONSE: The Council shall require such a demonstration prior to granting an adjustment for lack of infrastructure.

COMMENT: The Council should give developers that are willing to build housing, a priority to induce them to participate in the housing element review process.

RESPONSE: The Council has provided incentives for the building community. Specifically, the Council will require sites to be prioritized based in part on availability, as defined in N.J.A.C. 5:92-1.3. An available, suitable, developable and vacant site that has an owner or contract purchaser committed to the construction of low and moderate income housing will be seriously considered by the Council when it reviews the municipal prioritizing of sites.

COMMENT: The age of housing, specifically housing constructed prior to 1940, should not be used as an indicator of deficient housing.

RESPONSE: Of all the census surrogates used to estimate indigenous need, the age of the housing structure is most highly correlated with the incidence of deterioration. Two other factors are also included before a unit is classified deficient because of age. The unit must be occupied by a low and moderate income family and it must have at least one serious housing deficiency.

COMMENT: The Council should provide guidance to tax assessors in assessing low and moderate income units.

RESPONSE: The Council has formed a task force to provide such guidance.

COMMENT: The Council should adjust the minimum density of six units per acre for inclusionary developments as established in N.J.A.C. 5:92-8.4(c).

RESPONSE: This is a guideline to be used in inclusionary developments by the Council and to determine a community's holding capacity. However, it should be clear that the Council views this guideline as a point departure and will adjust this guideline upon the merits of a specific case.

COMMENTS: The Council should recognize that its maximum set-aside of 20 percent in inclusionary developments may not be necessary in all cases.

RESPONSE: In inclusionary developments that rely on a builder's set-aside, the Council shall not entertain set-asides in excess of 20 percent. Where a municipality or a non-profit corporation is the sponsor of an inclusionary development, the Council shall consider set-asides in excess of 20 percent.

COMMENT: In approving a phasing plan, the Council should consider priorities based on the availability of infrastructure and a developer's willingness to build.

RESPONSE: Under the Act, municipalities may exercise discretion in the selection of sites. However, in prioritizing sites, the Council shall require that available, developable, suitable and approvable sites, as defined in N.J.A.C. 5:92-1.3, be selected first. The same shall be true in approving a phasing plan. It should also be noted that phasing plans shall be approved only if they are sensitive to the economics of development. A municipality may not so segment a developer's "build out" as to render the development of a parcel of land economically infeasible or undesirable.

COMMENT: When the fair share obligation is large enough to warrant phasing for more than six years, the Council should not require municipalities to zone sites for the construction of housing past the sixth year of the phasing schedule.

RESPONSE: All specific sites designated by municipalities to address their fair share obligation must be zoned in their entirety as a condition for granting substantive certification. This zoning must take place within 45 days after the granting of substantive certification.

COMMENT: The Council should provide guidance regarding the meaning of the phrase "Market Conditions Shall Prevail" in N.J.A.C. 5:29-10.2(c).

RESPONSE: This phrase is used to describe the processing of final approvals within inclusionary developments. Any developer eligible to receive final approval during a given phasing schedule may apply for such approval at any time within the phasing schedule.

COMMENT: Municipalities should be able to consider such factors as soil suitability, conformance with the local master plan, impact on infrastructure and impact on surrounding neighborhoods in prioritizing sites.

RESPONSE: The above factors may and should be considered by municipalities in prioritizing sites. Under the Fair Housing Act, municipalities may exercise discretion in prioritizing sites as long as they target available, developable, suitable and approvable sites first.

COMMENT: The Council's standards for reserving recreational land used in the adjustment process should be more flexible.

RESPONSE: These standards were developed after consultation with the New Jersey Department of Environmental Protection's Green Acres Program. They are consistent with the standards recommended by the New Jersey Department of Environmental Protection.

COMMENT: Municipalities that have designated open space in their master plans and have submitted a Green Acres application for specific lands should be able to exclude such lands from low and moderate income development.

RESPONSE: Municipalities may exclude such lands within the parameters provided in N.J.A.C. 5:92.8.3(a) of the Council's rule. This rule provides for the reservation of adequate recreational land.

COMMENT: The regions as delineated by the Council do not provide a balance of land availability.

RESPONSE: The regions as delineated reflect existing commuting patterns, offer data partitions consistent with the U.S. Census and represent housing markets as defined in New Jersey. Although some regions appear to lack substantial vacant land, these same regions have significant infrastructure which does and can continue to support development at higher densities than other regions with less extensive infrastructure.

COMMENT: Receiving municipalities in a Regional Contribution Agreement should receive substantive certification in order to participate in the process.

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RESPONSE: The Fair Housing Act does not require that a receiving municipality in a Regional Contribution Agreement receive substantive certification. To preclude particular cities from Regional Contribution Agreements would undermine the marketability of Regional Contribution Agreements and run counter to the intent of the Act.

COMMENT: Sending municipalities should be restrained from future Regional Contribution Agreements if their percentage of low and moderate income households is decreasing as a result of the contractual agreement.

RESPONSE: Maintaining the percentage of low and moderate income households within a sending municipality is not required by the Fair Housing Act. As long as the fair share obligation is met, such a requirement is an unnecessary intrusion into the Regional Contribution Agreement process.

COMMENT: A sending municipality's indigenous need should not be transferred via a Regional Contribution Agreement.

RESPONSE: The Council agrees with this comment. Every municipality has a responsibility to provide for its indigenous need. The Council will not approve a Regional Contribution Agreement that proposes to transfer a portion of this indigenous need.

COMMENT: Sending and receiving municipalities should both receive credit against their municipal fair share obligations as part of a Regional Contribution Agreement.

RESPONSE: Regional Contribution Agreements offer sending municipalities the opportunity to address part of their obligation outside of their boundaries and offer receiving municipalities the opportunity to revitalize and/or create neighborhoods. To give both parties credit as part of a Regional Contribution Agreement, would result in a double count that would seriously undermine the constitutional obligation.

COMMENT: Can a municipality enter into a Regional Contribution Agreement at any time?

RESPONSE: Yes, subject to the Council's approval.

COMMENT: The Council should provide that resale price controls extend for 30 years or for such longer period as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation may permit.

RESPONSE: The concept of 20 year controls as presented in the Council's rule is consistent with the time periods expressed in the Fair Housing Act for the New Jersey Department of Community Affairs and New Jersey Housing and Mortgage Finance Agency funding programs.

COMMENT: There should be recapture of the subsidy at the expiration of controls on affordability.

RESPONSE: The Council has appointed a task force to review this and make recommendations to the Council.

COMMENT: The Council should require standardized documentation to assure controls on affordability.

RESPONSE: The New Jersey Housing and Mortgage Finance Agency is developing a document that will serve as a model to assure controls on affordability. A certain degree of flexibility regarding the precise form of controls on affordability is permissible provided that alternative documentation is approved by the New Jersey Housing and Mortgage Finance Agency.

COMMENT: New rental housing should be exempt from controls on affordability. To require such controls would discourage the construction of rental housing.

RESPONSE: The Fair Housing Act requires municipalities to determine measures that will assure that low and moderate income units remain affordable for an appointment period. The Act does not exclude rental housing from this requirement.

COMMENT: The urban areas should not have a low and moderate housing obligation.

RESPONSE: The Mount Laurel II decision states that *all* municipalities are responsible for at least some portion of their low and moderate income population living in deficient housing. The Council's criteria place a cap on the magnitude of urban responsibility for present need and exclude many urban areas from prospective need.

COMMENT: The Council's allocation methodology has shifted the burden to the cities.

RESPONSE: The allocation methodology is very similar to the methodology developed in *AMG Realty Company vs. Warren Township*; 207 N.J. Super. 388 (Law Div. 1984). A major difference is in the choice of regions. Consistent with the Fair Housing Act, the Council developed regions of two to four contiguous counties. These regions permit municipal fair share numbers to add correctly to regional and statewide totals while honoring commuting distances which determine a housing market. The regions as constructed, result in six regional housing deficiency

"caps" for indigenous need which may result in more or less housing need reallocated within specific regions. However, this is a function of the housing characteristics of a region rather than a break with past methodological decisions. It should be noted that three-quarters of the urban aid cities are excluded from reallocated present and prospective need. Further, filtering and conversions favor intensely developed urban areas. Finally, the concept of reallocated present need has been maintained thus further reducing the obligation of urban areas.

COMMENT: The Council's criteria for distributing need are flawed in that they do not consider vacant land within each municipality.

RESPONSE: Reliable vacant land estimates are not available at the municipal or even county level for much of the State and thus could not be included in the criteria. However, the adjustment process outlined by the Council is very sensitive to the available and developable land within a community. Thus, each municipality may come forward and present a case for an adjustment based on the lack of vacant land.

COMMENT: The Council's use of conversions as a secondary source of supply is flawed in that it does not consider the difference between urban and non-urban markets. It also overstates the availability of converted units for low and moderate income households.

RESPONSE: Conversions take place in submarkets throughout the State most often in locations where the housing stock contains two to four family units. To the degree two to four family units are more of an urban than suburban phenomenon (which they are) the method is sensitive to urban-suburban distinctions. Most conversions affect the low end of the housing market and, since the incidence rate is only applied to the indigenous portion of the fair share, the low and moderate income share of conversions is well within the number of units likely to flow to this sector of the population.

COMMENT: The Council's use of spontaneous rehabilitation as a secondary source of supply fails to consider the impact of "gentrification" and should be eliminated.

RESPONSE: Gentrification is considered in the concept of net filtering. In the filtering estimates, only those units net of those filtering up are counted as filtered units. The spontaneous rehabilitation estimates are units which receive significant repair or alteration that are and continue to be occupied by low and moderate income households. The continued availability of housing units to low and moderate income households is documented over time by the *American Housing Survey*.

COMMENT: The Council should provide a process whereby the public may object to provisions of a housing element before the Council.

RESPONSE: Both the Fair Housing Act and the Council's procedural rules in N.J.A.C. 5:91 permit and provide direction to the public in registering specific objections with the Council.

COMMENT: The Council should require counties to consider environmental constraints in their review of Regional Contribution Agreements.

RESPONSE: The focus of the counties' review of Regional Contribution Agreements is to determine if the agreements represent sound, regional comprehensive planning. The Council has devised a checklist to guide county review and the checklist includes appropriate regional, environmental concerns.

Summary of Changes:

The rule adopted by the Council was modified through the addition or deletion of language to clarify various provisions.

The definition of "Available site" was modified to reflect the Council's intent that municipalities need not document, in all cases, a landowner's absolute willingness to convey land. Rather, the Council will look to such proof when necessary under the circumstances of the case. N.J.A.C. 5:92-1.3.

The Council clarified that it shall not adjust a municipality's indigenous need. N.J.A.C. 5:92-8.2(a).

The Council has clarified that adjustments for environmentally sensitive areas will not exclude an entire site, but only that part of a site unsuitable for development. N.J.A.C. 8.2(b)3.ii.

The rules were clarified to indicate that phasing will not apply to developments constructed pursuant to a Regional Contribution Agreement, and units not constructed within inclusionary developments. N.J.A.C. 5:92-10.1.

The Council has also provided for a mechanism to waive provisions of the regulations. N.J.A.C. 5:92-13.1.

Full text of the adoption follows (additions shown in boldface with asterisks *thus*: deletions shown in brackets with asterisks *[thus]*).

CHAPTER 92
SUBSTANTIVE RULES OF THE NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING

SUBCHAPTER 1. GENERAL PROVISIONS

5:92-1.1 Short title

The provisions of this chapter will be known as "the substantive rules and regulations of the New Jersey Council on Affordable Housing."

5:92-1.2 Severability clause

If any part of this chapter shall be held invalid, the holding shall not affect the validity of remaining parts of these rules. If a part of these rules is held invalid in one or more of their applications, the rules shall remain in effect in all valid applications that are severable from the invalid application.

5:92-1.3 Definitions

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

"Act" means the Fair Housing Act of 1985, L.1985, c.222 (C.52:27D-301 et seq.).

"Adjustment" means a reduction and/or deferral of the municipal low and moderate income housing obligation.

"Agency" means the New Jersey Housing and Mortgage Finance Agency established by L.1983, c.530 (C.55:14K-1 et seq.).

"Affordable" means a sales price or rent within the means of a low or moderate income household as defined in Subchapter 12, Controls on Affordability.

"Alternative living arrangement" means a structure in which households maintain private rooms yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes but is not limited to Class C boarding houses as regulated by the New Jersey Department of Community Affairs, residential health care facilities as regulated by the New Jersey Department of Health, and congregate living arrangements.

"Approvable site" means a site that may be developed for low and moderate income housing in a manner consistent with the regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low and moderate income housing.

"Available site" means a site with clear title, free of encumbrances which preclude development for low and moderate income housing*.**[, upon which the owner has expressed a willingness to build low and moderate income housing, or to convey the land for this purpose, at a reasonable price, in keeping with comparable land sales in the area.]*

"Census subregion" means a geographic subdivision of the State by the United States Bureau of the Census.

"Conversion" means the conversion of existing commercial, industrial or residential structures for low and moderate income housing purposes where a substantial percentage of the housing units is provided for a reasonable income range of low and moderate income households.

"Council" means the New Jersey Council on Affordable Housing established under the Act and which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning considerations in this State.

"Covered employment" means those employees covered by the New Jersey Unemployment Compensation Law, P.L.1936, c.270, as amended, (C.43: 21-1, et seq.), and as further described in *New Jersey Covered Employment Trends*, December 1985, New Jersey Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis.

"Covered employment change" means the yearly change in covered employment from 1977 through 1984 as measured by a linear regression equation.

"Deficient unit" means a housing unit that is not decent, safe or sanitary as further determined through census surrogates or on-site inspection and does not comply with local codes or other housing standards and is determined pursuant to the method described in N.J.A.C. 5:92-5.2.

"Developable site" means a site that has access to appropriate water and sewer infrastructure, and has received water consistency approvals from the New Jersey Department of Environmental Protection or its designated agent authorized by law to issue such approvals.

"Fair Share Plan" means that plan or proposal, which is in a form that may readily be converted into an ordinance, by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low and moderate income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low and moderate income housing, as provided in sections 9 and 14 of the Act.

"Gross density" means the total number of dwelling units existing or permitted on a housing site divided by the total area of the tract. The result is expressed as dwelling units per acre.

"Growth area" means the lands so designated by the 1980 State Development Guide Plan as updated by the State Development *[and]* Redevelopment Plan. "Growth area" shall also refer to lands designated as Regional Growth Areas and Pinelands Towns by the Pinelands Commission and areas designated as Development Regions and Extension Regions (including Central Corridor Barrier Islands) by the Division of Coastal Resources.

"Household" means the person or persons occupying a housing unit.

"Housing element" means that portion of a municipality's master plan consisting of reports, statements, proposals, maps, diagrams and text designed to meet the municipality's fair share of its region's present and prospective housing needs, particularly with regard to low and moderate income housing and which contains at least those items identified in section 10 of the Act.

"Housing Region" means a geographic area, determined by the Council, of no less than two nor more than four contiguous, whole counties which exhibit significant social, economic and income similarities and which constitute, to the greatest extent practicable, the Primary Metropolitan Statistical Areas (PMSA) as last defined by the United States Census Bureau prior to July 2, 1985.

"Inclusionary development" means a residential housing development in which a substantial percentage of the housing units is provided for a reasonable income range of low and moderate income households.

"Indigenous need" means deficient housing units occupied by low and moderate income households within a municipality and is a component of present need. Municipal indigenous need, as a percentage of the total 1987 occupied housing stock, shall not exceed the percentage derived from dividing the deficient housing units occupied by low and moderate income households by the total 1987 occupied housing stock for the housing region in which the municipality is located.

"Inventory" means that calculation undertaken by a municipality in developing its housing element which accounts for its housing stock by age, condition, purchase or rental value, occupancy characteristics and type, including the number of units affordable to low and moderate income households in substandard housing capable of being rehabilitated, as provided for in section 10a of the Act.

"Low income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located, and is subject to *[affordability]****affordability*** controls.

"Moderate income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to or more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located, and is subject to affordability controls.

"Multifamily unit" means a structure containing two or more dwelling units.

"Municipal present need" means the sum of indigenous need and the municipal share of reallocated present need.

"Net density" means the total number of dwelling units within a designated portion of a tract divided by the total land area of the designated portion of the tract, including the open-space, roadways, parking areas and common facilities devoted exclusively to that portion of the tract. The result is expressed as dwelling units per acre.

"Open-space" means any parcel or area of water or land essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space: provided that such areas may be improved with only those buildings, structures, streets and offstreet parking and other improvements that are designed to be incidental to the natural openness of the land.

"Petition for Substantive Certification" means that petition which a municipality files, or is deemed to have filed, which engages the Council's mediation and review process.

"Present need" means the total number of deficient housing units occupied by low or moderate income households as of July 1, 1987. "Present need" is the sum of indigenous need and reallocated present need*.[.] * as determined by N.J.A.C. 5:92-5.5.*

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"Prospective need" means a projection of low and moderate housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as determined and further described in Subchapter 4, Estimated Present and Prospective Need, and Subchapter 5, Municipal Determination of Present and Prospective Need. In determining prospective need, consideration shall be given to approvals of development applications, real property transfers and economic projections prepared by the State Planning Commission established by P.L.1985, c.398 (N.J.S.A. 52:18A-196 et seq.).

"Reallocated present need" means that portion of a housing region's present need that is redistributed to designated growth areas.

"Receiving municipality" means, for purposes of a RCA, a municipality which agrees to assume a portion of another municipality's fair share obligation.

"Rehabilitated unit" means a previously deficient housing unit which has undergone significant renovation to meet municipal or other applicable housing code standards as further described in Subchapter 11, Regional Contribution Agreements (RCAs).

"Resolution of Participation" means a resolution adopted by a municipality in which the municipality chooses to prepare a fair share plan and housing element in accordance with the Act.

"Section 8 Income Limits" means a schedule of income limits that define 50 percent and 80 percent median income by household size. When used herein, Section 8 income limits shall refer to the "uncapped" schedule as contained in the Technical Appendix.

"Sending municipality" means for purposes of a RCA, a municipality which transfers a portion of its fair share obligation to another willing municipality.

"Set-aside" means the percentage of housing units devoted to low and moderate income households within an inclusionary development.

"State Development Guide Plan (SDGP)" means the officially recognized State plan for development, dated 1980, and promulgated by the New Jersey Department of Community Affairs pursuant to P.L.1961 c.47 (C.13:1B-15.52.).

"State Development *[/]* Redevelopment Plan (SDRP)" means the State plan for development promulgated by the State Planning Commission pursuant to P.L. 1985 c. 398 (C.52:18A-196 et seq.).

"Statement of Intent" means a resolution adopted by a municipal governing body expressing an intent to enter into a RCA.

"Substantive certification" means a determination by the Council approving a municipality's housing element and fair share plan in accordance with the provisions of the Act and the rules and criteria as set forth herein. A grant of substantive certification shall be valid for a period of six years in accordance with the terms and conditions contained therein.

"Suitable site" means a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in Subchapter 8, Municipal Adjustments.

"Surrogate" means a census indicator of deficient housing used in the calculation of present need as defined in Subchapter 5, Municipal Determination of Present and Prospective Need.

"Survey" means that independent determination of need undertaken by a municipality in preparing its housing element, which is developed and produced in a manner and in such form as is acceptable to the Council.

"Vacant land" means:

1. Undeveloped and unused land area;
2. Any non-residential areas with significant amounts of land not covered by impervious surfaces on site, as determined by the Council;
3. Land suitable for redevelopment or infill at higher densities; and
4. Residential areas with lot sizes in excess of two acres where environmental factors permit higher densities.

5:92-1.4 Housing element

(a) A municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing, and shall contain at least:

1. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated;

2. A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the next six years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;

3. An analysis of the municipality's demographic characteristics, including but not limited to, household size, income level and age;

4. An analysis of the existing and probable future employment characteristics of the municipality;

5. A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing;

6. A consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including *CJ**a* consideration of lands of developers who have expressed a commitment to provide low and moderate income housing;

7. The location and capacities of existing and proposed water and sewer lines and facilities relevant to the designated sites;

8. Copies of necessary applications for sewer service and water quality management plans submitted pursuant to Sections 201 and 208 of the Federal Clean Water Act, 33 U.S.C. §1251, et seq.

9. A copy of the most recently adopted municipal master plan and *where required* the immediately preceding, adopted master plan;

10. A copy of appropriate National Wetlands Inventory maps provided by U.S. Fish and Wildlife Service for designated sites;

11. A copy of appropriate U.S.G.S. Topographic Quadrangles for designated sites; and

12. Any other documentation as may be required by the Council.

5:92-1.5 Substantive certification

Any grant of substantive certification may contain such conditions and terms as the Council considers necessary and which makes the achievement of a municipality's fair share obligation realistically possible.

SUBCHAPTER 2. HOUSING REGIONS

5:92-2.1 Regions defined

The housing regions of the State shall be composed of the following counties:

Region	Constituent Counties
1. Northeast	Bergen; Hudson; Passaic
2. Northwest	Essex; Morris; Sussex; Union
3. West Central	Hunterdon; Middlesex; Somerset; Warren
4. East Central	Monmouth; Ocean
5. Southwest	Burlington; Camden; Gloucester; Mercer
6. South Southwest	Atlantic; Cape May; Cumberland; Salem

5:92-2.2 Uses of regions

(a) The housing regions as set forth in N.J.A.C. 5:92-2.1 provide a definitive geographic base for the following uses:

1. The regions provide a housing market framework for determining population and household estimates and projections, as set forth in N.J.A.C. 5:92-3; and

2. The regions provide a framework within which estimates of the present and prospective need for low and moderate income housing may be made, as set forth in N.J.A.C. 5:92-4; and

3. The regions provide a structure for the allocation of fair share to the municipal level, as set forth in N.J.A.C. 5:92-5; and

4. The regions provide a basis for the negotiation of RCAs, as set forth in N.J.A.C. 5:92-11; and

5. The regions provide a framework for the appropriation of State funds made available under section 20 of the Act.

SUBCHAPTER 3. POPULATION AND HOUSEHOLDS

5:92-3.1 Purpose

This subchapter establishes population and household projections for the State and housing regions. These projections are drawn from the historical migration model, New Jersey Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis, "Population Projections for New Jersey and Counties: 1990 to 2020, Volume 1, November 1985." See: Technical Appendix.

5:92-3.2 Population and household estimates and projections

The Council establishes the following population and household estimates and projections for the State and housing regions:

Region	Population		
	April 1 1980	July 1 1987	July 1 1993
1. Northeast	1,849,900	1,845,841	1,820,525
2. Northwest	1,879,100	1,880,134	1,880,199
3. West Central	971,700	1,021,999	1,057,058
4. East Central	849,400	945,499	1,046,059
5. Southwest	1,342,000	1,418,557	1,484,565
6. South-Southwest	473,900	507,749	542,858
New Jersey	7,366,000	7,619,779	7,831,264

Region	Households		
	April 1 1980	July 1 1987	July 1 1993
1. Northeast	663,080	693,661	704,281
2. Northwest	647,760	679,679	703,785
3. West Central	323,880	366,051	397,744
4. East Central	299,360	356,037	412,151
5. Southwest	454,280	510,636	555,293
6. South-Southwest	172,960	193,974	214,628
New Jersey	2,560,320	2,800,038	2,987,882

Source: The April 1, 1980 population and household estimates have been aggregated from the 1980 New Jersey Public Use Sample, U.S. Census Bureau.

SUBCHAPTER 4. ESTIMATED PRESENT AND PROSPECTIVE NEED

5:92-4.1 Need

The Council establishes the following estimation of present and prospective need for low and moderate income housing at the State and regional levels:

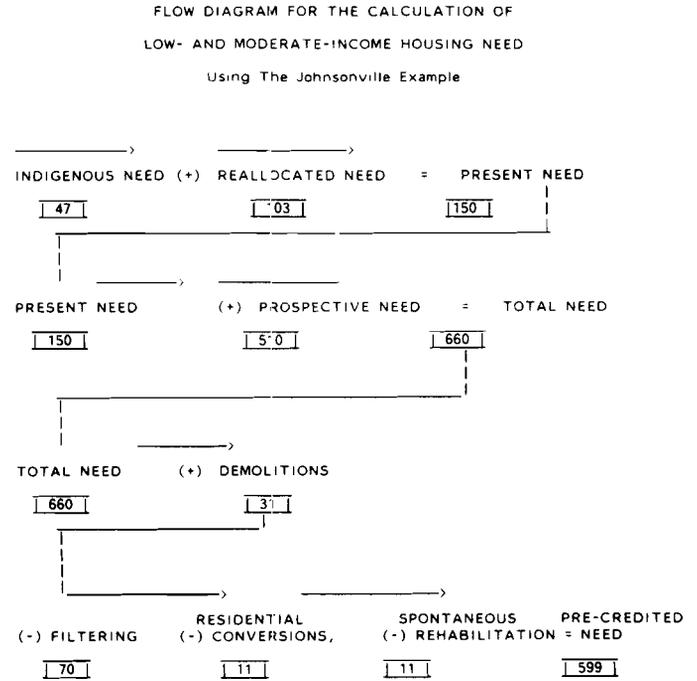
1987-1993 Present and Prospective Need
(Statewide and by Region)

Region	Need
1. Northeast	42,534
2. Northwest	28,773
3. West Central	14,720
4. East Central	23,247
5. Southwest	21,884
6. South-Southwest	14,549
New Jersey	145,707

SUBCHAPTER 5. MUNICIPAL DETERMINATION OF PRESENT AND PROSPECTIVE NEED

5:92-5.1 General

(a) Municipal present and prospective need shall be calculated by summing municipal indigenous need and the municipal share of the appropriate housing region's reallocated present need and prospective need. The resulting total shall be modified for secondary sources of supply/demand as described in this subchapter (see Technical Appendix). The result of this process is the determination of municipal pre-credited need. This is the figure municipalities shall address in their housing elements. An example for Johnsonville is provided to illustrate each of the specified calculations. The following flow diagram summarizes the sequence of calculations enroute to the determination of pre-credited need.



(b) Exhibit 1 in the Technical Appendix provides municipal-specific base data that may be employed to determine municipal present and prospective need. Data for a hypothetical municipality, "Johnsonville," precedes the municipal base data for illustrative purposes. Exhibit 2 in the Technical Appendix duplicates the base data for each housing region that is presented in Columns A through I in this subchapter.

(c) The data contained in Exhibit 1 shall be used by parties appearing before the Council unless it can be shown that more appropriate data exist that justify a substitution. The Council shall determine, based on the documentation presented, which data shall be used to determine municipal present and prospective need.

(d) Selected municipalities receiving state aid (urban aid cities) pursuant to P.L.1978, c.14 (N.J.S.A. 52:27D-178 et seq.) as defined in N.J.A.C. 5:92-5.3(b) shall calculate municipal pre-credited need as per the procedures delineated in N.J.A.C. 5:92-5.13.

(e) Filtering, residential conversions and spontaneous rehabilitation estimates by housing region as expressed in this subchapter differ slightly from those presented in the Technical Appendix. This is because a municipality's total pre-credited need cannot be reduced below zero. Therefore, if the reduction to pre-credited need due to filtering, residential conversions and/or spontaneous rehabilitation reduces municipal pre-credited need to less than zero, the need for this municipality is maintained at zero.

5:92-5.2 Indigenous need (as of 1987)

(a) Indigenous need in a municipality is actual or capped deficient housing occupied by low and moderate income households as further defined in 5:92-1.3. Municipal indigenous need shall be determined from the total of deficient housing units occupied by low and moderate income households for the census subregion in which the municipality is located. The data, derived from a multiple-index approach, are not available at the municipal level. To determine the municipal share of need from the census subregion total, it is necessary to use a single-index approach using surrogates of deficient housing available at both the municipal and census subregion level. To calculate municipal indigenous need:

1. Locate the appropriate municipality in Exhibit 1 in the Technical Appendix. Example: Johnsonville in Region 5 (Southwest).

2. Divide Column 2 (municipal single-index need) by Column 3 (subregional single-index need). The resulting percentage yields the municipal share of the census subregion's total of deficient housing units occupied by low and moderate income households. Example:

$$\frac{\text{Johnsonville single index need}}{\text{Subregional single index need}} = 144/984 = .146.$$

3. Multiply the result of the quotient obtained in *[(*)2. above*])* by the number in Column 1 (subregional multiple index need). Example:

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Subregional
*[Multiple]**Multiple*
Index Need
323 x .146 = 47

This is the count of actual low and moderate income deficient units in a municipality.

4. Column A, below, displays the percentage for each housing region that is obtained by dividing the actual deficient housing units occupied by low and moderate income households in the region by the estimated total of 1987 occupied housing units in the region.

COLUMN A
1987 Regional Average
Percent Deficiency

Region	Percent Deficiency
1. Northeast	.075
2. Northwest	.047
3. West Central	.025
4. East Central	.015
5. Southwest	.026
6. South-Southwest	.042

Multiply this percentage by the municipal projection of 1987 occupied housing stock in Exhibit 1, Column 4. Example:

Johnsonville Total
Occupied Housing Estimate 8,992 x Region 5 Percentage of Low and Moderate Income Deficiency .026 = 232

5. Municipal indigenous need shall be the smaller number resulting from the calculations in 3 and 4 above. Example: Johnsonville's indigenous need = 47.

6. If the calculation in 3 above is larger than 4 above, the difference between the two shall be distributed throughout the housing region as reallocated present need as per N.J.A.C. 5:92-5.3 and 5:92-5.4. The results of this calculation are displayed for each housing region in Column B.

(b) Municipal indigenous need may also be determined through a survey of the municipality's housing stock when such survey is deemed adequate and accepted by the Council for identifying deficient housing units occupied by low or moderate income households.

5:92-5.3 Distribution of need

(a) The distribution of each housing region's reallocated present need and prospective need shall be accomplished through use of economic and land use factors expressed as a percentage representing the municipal share of the housing region's total for each factor, as displayed in Exhibit 1 of the Technical Appendix. The factors employed to distribute the housing region's need are growth area (Column 5), covered employment (Column 6), aggregate per capita income (Column 7) and covered employment change (Column 8). All but covered employment change are summed, averaged and displayed in Column 9. This is the average of the present need allocation factors. All four economic and land use factors are summed, averaged and displayed in Column 10. This is the average of the prospective need allocation factors.

(b) Reallocated present need and prospective need shall be distributed to municipalities designated in whole or in part as growth areas unless the municipality receives state aid pursuant to P.L. 1978, C.14 (C.52:27D-178 et. seq.) *[at the time of substantive certification]**as of July 1, 1986* and exhibits one of the following (see attachment in Appendix A, Technical Appendix, infra for a listing of current selected urban aid cities that meet the following):

1. A percentage of actual housing deficiency to total occupied housing stock in excess of the same percentage for the region in which the municipality is located; or

2. A population density in excess of 10,000 persons per square mile; or

3. A density of 6,000 to 10,000 per square mile and less than five percent of vacant, non-farm municipal land as measured by the average percentage of vacant land valuation and parcels in the 1984 *Statement and Financial Condition of Counties and Municipalities* (Trenton, N.J.: New Jersey Department of Community Affairs, 1985).

(c) Only those municipalities designated herein to receive reallocated present need and prospective need shall be included in the housing region totals of growth area, covered employment, per capita aggregate income and covered employment change for purposes of distributing need.

5:92-5.4 Reallocated present need

(a) Reallocated present need is the share of excess deficient housing which must be distributed to municipalities designated in whole or in part as growth area as delineated in N.J.A.C. 5:92-5.3. The following Column B displays the reallocated present need by housing region.

COLUMN B
1987 Regional Pool of
Excess Deficient Housing Units

Region	Excess Deficient Housing Units
1. Northeast	17,676
2. Northwest	8,829
3. West Central	1,631
4. East Central	750
5. Southwest	4,060
6. South-Southwest	1,465
New Jersey	34,411

(b) Divide the municipal number in Column 9, Exhibit 1 in the Technical Appendix, by 100 and multiply the resulting quotient by the total reallocated present need for the housing region in which the municipality is located to yield municipal reallocated present need. Example:

Regional Pool of Excess Deficient Units (Region 5) 4,060 x Average of Johnsonville's Present Need Allocation Factors (*[c]**C*olumn 9) $\frac{2.549}{100}$ = 103

5:92-5.5 Present needs (as of 1987)

Present need is the sum of indigenous need and reallocated present need. To determine municipal present need add indigenous need (as calculated in N.J.A.C. 5:92-5.2) and reallocated present need (as calculated in N.J.A.C. 5:92-5.4). Example: Johnsonville's present need = indigenous need (47) + reallocated present need (103) = 150.

5:92-5.6 Prospective need: 1987-1993

(a) Prospective need is the share of future households that are low and moderate income and as such require affordable housing (see Technical Appendix). Prospective need for each housing region is projected in the following Column C.

COLUMN C
1993 Prospective Need

Region	Prospective Need
1. Northeast	5,509
2. Northwest	9,759
3. West Central	13,661
4. East Central	23,752
5. Southwest	18,179
6. South-Southwest	9,561
New Jersey	80,421

(b) To calculate municipal prospective need, divide the municipal number in Column 10, Exhibit 1 in the Technical Appendix, by 100 and multiply the resulting quotient by the prospective need for the housing region in which the municipality is located to yield municipal prospective need. Example:

1993 Prospective Need (Region 5) 18,179 x Average of Johnsonville's Prospective Need Allocation Factors (Column 10) $\frac{2.806}{100}$ = 510

5:92-5.7 Total need

Total need is the sum of present and prospective need. To determine municipal total need, add present need (as calculated in N.J.A.C. 5:92-5.5) and prospective need (as calculated in N.J.A.C. 5:92-5.6). Example:

Johnsonville's total need = present need (150) + prospective need (510) = 660

5:92-5.8 Demolitions

(a) Demolition is a factor that eliminates housing opportunities for low and moderate income households. Therefore, a number representing demolitions affecting low and moderate income households shall be added to total need (see Technical Appendix.) To determine this number:

1. Average 1983 and 1984 municipal demolitions as reported *in* *New Jersey Residential Building Permits (1984 Summary)*. Example:
*[Johnsville]**Johnsonville* averaged 15 demolitions.

2. Multiply the average by six to project 1987-1993 demolitions. Example:

Johnsonville Average Demolitions	x	Number of Years Projected	=	90
15	x	6	=	90

3. To determine the percentage of demolitions affecting low and moderate income households, divide the percentage of low and moderate income households living in the census subregion in which the municipality is located (displayed in Exhibit 1, Column 11 in the Technical Appendix) by 100 and multiply the resulting quotient by 1.5. The percentage of demolitions affecting low and moderate income households shall be the result of this product or 95 percent, whichever is lower. Example:

Subregional Low and Moderate Income Percentage	x	1.5	=	.3495
$\frac{23.3}{100}$	x	1.5	=	.3495

4. Multiply the percentage of demolitions affecting low and moderate income households (calculated in 3 above) by the projected municipal demolitions (calculated in 2 above). The resulting number shall be added to total need. Example:

Percentage Demolition's Impacting Low and Moderate Income Households	x	Johnsonville's Projected Demolitions	=	31
.3495	x	90	=	31

5:92-5.9 Filtering

(a) Filtering causes a reduction in total need based on the recognition that the housing needs of low and moderate income households are partially met by sound housing units formerly occupied by higher income sectors of the housing market (see Technical Appendix). Filtering is highly correlated with the presence of multi-family housing units. The following Column D displays regional filtering projections. The following Column E displays the total number of multifamily housing units in each region in 1980.

Region	COLUMN D 1987-1993 Filtering Projection	COLUMN E 1980 Multifamily Unit Totals
1. Northeast	12,202	410,972
2. Northwest	12,678	334,839
3. West Central	7,222	104,428
4. East Central	6,706	73,799
5. Southwest	9,587	121,352
6. South-Southwest New Jersey	3,494 51,889	57,287 1,102,677

(b) To determine the impact of filtering on municipal total need:

1. Determine the municipal number of year-round multifamily units in 1980 as reported in the U.S. Census of Housing (Detailed Housing Characteristics Part 32—New Jersey). Example:

Johnsonville had 892 multifamily units.

2. Divide this number by the total of year-round multifamily units for the region (Column E) in which the municipality is located. This yields the municipality's share of multifamily housing units in the housing region. Example:

Johnsonville's Multifamily Units, 1980	÷	Total Multifamily Units in 1980 (Region 5)	=	Johnsonville's Share of Multifamily Units
892	÷	121,352	=	.00735

3. Multiply this percentage by the filtering estimates in Column D for the region in which the municipality is located to yield the reduction to municipal total need due to filtering. Example:

Johnsonville's Share of Region 5 Multifamily Units	x	Filtering Projection Region 5	=	70
.00735	x	9,587	=	70

5:92-5.10 Residential conversion

(a) Residential conversion is the creation of dwelling units from already existing residential structures. Residential conversion is a significant source of housing supply to low and moderate income households and it shall cause a reduction to municipal total need (see Technical Appendix). Residential conversion is highly correlated with the projections of conversions for each housing region. The following Column G displays the total of two-to-four-family housing units in each housing region in 1980.

Region	COLUMN F 1987-1993 Conversion Estimates	COLUMN G 1980 2-4 Family Unit Totals
1. Northeast	5,138	224,294
2. Northwest	3,257	165,631
3. West Central	1,048	50,697
4. East Central	662	29,269
5. Southwest	1,478	42,692
6. South-Southwest New Jersey	1,174 12,757	27,873 540,456

(b) To determine the impact of conversions on municipal total need:

1. Determine the municipal number of year-round two-to-four-family housing units in 1980 as reported in the U.S. Census of Housing (Detailed Housing Characteristics Part 32—New Jersey). Example: Johnsonville had 308 two-to-four-family units.

2. Divide this number by the year-round total two-to-four-family housing units for the region in which the municipality is located to obtain the municipal share of two-to-four-family housing units in the housing region. Example:

Johnsonville's Total 2-4 Family Housing Units	÷	Total 2-4 Family Housing Units (Region 5)	=	Johnsonville's Share of 2-4 Family Housing Units
308	÷	42,692	=	.00721

3. Multiply this percentage by the conversion projection in Column F for the region in which the municipality is located to yield the reduction to municipal total need due to conversion. Example:

Johnsonville's Share of 2-4 Family Housing Units	x	1987-1993 Conversion Projections (Region 5)	=	11
.00721	x	1,478	=	11

5:92-5.11 Spontaneous rehabilitation

(a) Spontaneous rehabilitation measures the private market's ability to rehabilitate deficient low and moderate income housing units up to code standard; and shall cause a reduction to municipal total need (see Technical Appendix). Spontaneous rehabilitation is highly correlated with aggregate per capita income. The following Column H displays spontaneous rehabilitation projections by housing region. The following Column I displays total 1983/1984 per capita regional aggregate income for each housing region. Per *[capital]**capita* regional aggregate income for 1983/1984 is obtained by multiplying 1983 regional per capita income estimates by 1984 estimated population in the housing region (see Technical Appendix).

Region	COLUMN H 1987-1993 Spontaneous Rehabilitation Estimates	COLUMN I 1983/1984 Aggregate Per Capita Income
1. Northeast	1,884	21,112,820,558
2. Northwest	1,194	22,029,857,240
3. West Central	384	12,235,480,836
4. East Central	243	9,830,614,791
5. Southwest	542	14,201,442,966
6. South-Southwest New Jersey	431 4,678	4,592,475,839 84,002,692,230

(b) To determine the impact of spontaneous rehabilitation on municipal total need:

1. Determine the municipal estimate of per capita income in 1983 from the 1986 *New Jersey Legislative District Data Book* (published by the Rutgers University Bureau of Government Research, April 1986). Example: Johnsonville's 1983 per capita income was \$12,975.

2. Multiply this number by the estimated municipal population as of 1984 as published in the 1984 *Population Estimates for New Jersey* (pub-

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lished by the New Jersey Department of Labor, September 1985). This yields municipal 1983/1984 aggregate per capita income. Example: Johnsonville's estimated population was 21,453. Calculation:

$$\$12,975 \times 21,453 = \$278,352,675$$

3. Divide 1983/1984 municipal aggregate per capita income by the 1983/1984 aggregate per capita income for the housing region in which the municipality is located (see Column I) to obtain the *[municipal]** municipal* share of aggregate per capita income.

Example:

Johnsonville's 1983/1984 Aggregate Per Capita Income \$278,352,675	÷	Region 5 1984 Aggregate Per Capita Income (Column I) \$14,201,442,966	=	Johnsonville's Share of Aggregate Per Capita Income .01960
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4. Multiply the share of regional aggregate per capita income by the spontaneous rehabilitation projections for the housing region in which the municipality is located (see Column H in (a) above) to yield the reduction to municipal total need due to spontaneous rehabilitation. Example:

Johnsonville's Share of 1983/1984 Aggregate Per Capita Income .01960	x	1987-1993 Region 5 Spontaneous Rehabilitation Estimate 542	=	11
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5:92-5.12 Pre-credited need

Municipal pre-credited need is the sum of total need and demolitions minus reductions for filtering, conversion and spontaneous rehabilitation (see Technical Appendix). Example:

$$\text{Total Need + Demolitions -} \\ \text{(Filtering + Residential Conversion + Spontaneous Rehabilitation)} \\ 660 + 31 - (70 + 11 + 11) = 599$$

5:92-5.13 Calculation of indigenous need: selected urban aid cities

(a) Selected municipalities receiving state aid (urban aid cities) pursuant to P.L.1978, c.14 (N.J.A.C. 52:27D-178 et seq.) that are exempt from the distribution of reallocated present need and prospective need as described in N.J.A.C. 5:92-5.3 (see Appendix A to Technical Appendix) shall determine their indigenous needs as indicated below:

1. Follow the procedures delineated in N.J.A.C. 5:92-5.2(a)1 through 3. These calculations yield the count of actual low and moderate income deficient units in the selected urban aid city. This estimate of low and moderate income deficient units may also be determined through a survey of the municipality's housing stock when such survey is deemed adequate and accepted by the Council for identifying deficient housing units occupied by low or moderate income households.

2. Modify the number calculated in 1. above as instructed in N.J.A.C. 5:92-5.8, 5.9, 5.10, and 5.11 (demolitions, filtering, residential conversions and spontaneous rehabilitation).

3. Perform the calculation required in N.J.A.C. 5:94-5.2(a)4.

4. Municipal indigenous need shall be the smaller number resulting from the calculations in 2. and 3. above.

5. If the calculation in 2. above is larger than 3. above, the difference between the two shall be distributed throughout the housing region as reallocated present need (see Technical Appendix).

6. This calculation of indigenous need for selected urban aid cities performed in 4. above is also the pre-credited need for these cities. No additional calculations need be made by these cities.

5:92-5.14 Low and moderate income split

Municipal pre-credited final need obligation shall be divided equally between low and moderate income households. Example:

Johnsonville's total obligation includes 299 low income units and 300 moderate income units.

SUBCHAPTER 6. CREDITS

5:92-6.1 Credits

(a) Municipal present and prospective fair share shall be determined after crediting, on a one to one basis, those housing units created or rehabilitated after April 1, 1980. Credits are applicable when a unit's occupancy is restricted to low or moderate income households and when the municipality has implemented adequate assurances for continued affordability consistent with Subchapter 12, Controls on Affordability.

(b) Low and moderate income housing units created within a municipality in excess of the municipal 1987-1993 present and prospective fair

share, as calculated in subchapter 5, shall be credited on a one to one basis against its future fair share. This credit shall take place upon request during the substantive certification process, provided that such units have been restricted to low or moderate income households and the municipality has implemented adequate assurances for continued affordability consistent with Subchapter 12, Controls on Affordability.

SUBCHAPTER 7. DRASTIC ALTERATION OF THE ESTABLISHED PATTERN OF DEVELOPMENT

5:92-7.1 Drastic alteration

After receiving the crediting provided in Subchapter 6, Credits, where a municipality's present and prospective fair share exceeds 20 percent of its total occupied housing stock as estimated as of July 1, 1987, the municipality may adjust its fair share to 20 percent of its estimated 1987 occupied housing stock.

SUBCHAPTER 8. MUNICIPAL ADJUSTMENTS

5:92-8.1 General

This subchapter provides the criteria by which a municipal fair share may be adjusted. Adjustments shall be made to eliminate specific parcels of vacant land from consideration as sites for low and moderate income housing. Adjustments shall yield vacant, suitable, developable, available and approvable land within each municipality requesting and demonstrating that such adjustments to its fair share are in keeping with these criteria. Adjustments shall be made to municipal fair share when the Council determines that such adjustments are required due to available land capacity, public facilities or infrastructure. All municipalities requesting adjustments of present and prospective need shall submit an existing land use map at an appropriate scale to display the land uses of each parcel within the municipality. Such map shall display the following land uses: single family, two- to four-family, other multifamily, commercial, industrial, agricultural, parkland, other public uses, semipublic uses and vacant land. Municipalities seeking an adjustment based on historic sites, agricultural lands or environmentally sensitive areas shall submit transparent overlays drawn to the same scale as the existing land use map depicting *[eligible sites as delineated herein]**those sites which the municipality maintains are inappropriate for development, as provided under this subchapter.*

5:92-8.2 Adjustment process

(a) The Council shall only adjust reallocated present and prospective need which the municipality proposes to address through inclusionary developments. ***The Council shall not adjust indigenous need.***

(b) The Council shall determine the amount and location of vacant and undeveloped land within a municipality. Specific parcels of vacant and developable lands shall be excluded as potential sites for low and moderate income housing based on the following criteria:

1. Historic and architecturally important sites shall be excluded if listed on the State Register of Historic Places prior to substantive certification. All land within a 100-foot buffer area of an eligible historic site as described herein shall similarly be excluded.

2. Agricultural lands shall be excluded when the development rights to these lands have been purchased or restricted by covenant or when such lands are subject to restrictions as set forth in the *[“Right to Farm Act,” P.L. 1983 c.31 (N.J.S.A. 4:1C-1 et seq.) and]* the “Agricultural Retention and Development Act,” N.J.S.A. 32 (N.J.S.A. 4:1C-11 et seq.) ***, P.L. 1983, c.32.***

3. Environmentally sensitive lands shall be excluded as follows:

i. Within the areas of the State regulated by the Pinelands Commission, Division of Coastal Resources and the Hackensack Meadowlands Development Commission, the Council shall adhere to the policies delineated in The Pinelands Comprehensive Management Plan, N.J.A.C. 7:50; the Coastal Permit Program Rules, N.J.A.C. 7:7-1; Coastal Resource and Development Rules, N.J.A.C. 7:7E-1; and the Zoning Regulations of the Hackensack Meadowlands District, N.J.A.C. 19:4.

ii. In areas of the State not regulated by the Pinelands Commission, the Division of Coastal Resources and the Hackensack Meadowlands Development Commission, the Council shall exclude as potential sites for low and moderate income housing: inland wetlands as delineated by the U.S. Army Corps of Engineers or New Jersey Department of Environmental Protection, whichever agency has jurisdiction; flood hazard areas as defined in N.J.A.C. 7:13; and sites with slopes in excess of 15 percent as determined from the U.S.G.S. Topographic Quadrangles which render a site unsuitable for low and moderate income housing. *****

In cases where part of a site is unsuitable for low and moderate income housing because of steep slopes, flood hazard areas or inland wetlands, the Council shall not permit low and moderate income housing to be constructed on that unsuitable part of the site; provided however, that this regulation shall not prohibit construction of low and moderate income housing on the remainder of the site.*

iii. Where the legislature adopts legislation that requires the mapping of other natural resources and provides a mechanism for their regulation, the Council shall include such resources in its criteria and guidelines for municipal adjustment.

5:92-8.3 Adequate recreation, conservation and open space

(a) Municipalities may reserve three percent of their total developed and developable acreage for active municipal recreation and exclude this acreage from consideration as potential sites for low and moderate income housing. In determining developable acreage, municipalities shall calculate their total vacant and undeveloped lands and deduct from that total number the lands excluded by the Council's policy regarding historic and architecturally important sites, agricultural lands and environmentally sensitive lands. Municipalities shall also exclude from this calculation of total vacant and ***[undevelopable]**undeveloped*** lands, those owned by nonprofit organizations, counties and the state or federal government and when such lands are precluded from development at the time of substantive certification. Municipalities shall submit appropriate documentation demonstrating that such lands are precluded from development. Existing active municipal recreation areas shall be subtracted from the three percent calculation of total developed and developable acreage to determine additional land that may be reserved for active municipal recreation.

(b) Municipalities may exclude further recreation, conservation and open space areas, beyond those calculated in (a) above, when such lands have been designated in an adopted county master plan and:

1. The county has adopted appropriate language in its ordinances to secure specific areas for recreation, conservation or open space as part of the subdivision and site plan review process; or
2. The county has included specific areas for acquisition in a capital improvement program; or
3. The county has applied to the New Jersey Department of Environmental Protection Green Acres Program or other appropriate programs to acquire or otherwise permanently set aside specified areas.

(c) Municipalities shall submit a transparent overlay drawn to the same scale as the existing land use map depicting eligible county and municipal recreation, conservation and open space sites to be eliminated from consideration for low and moderate income housing.

5:92-8.4 Vacant ***[and developable]*** sites

(a) Vacant sites not specifically excluded from consideration for low and moderate income housing as a result of the Council's policies regarding historic and architecturally important sites, agricultural lands, environmentally sensitive lands and recreation, conservation and open space shall be considered ***[vacant and developable sites.]* ***as potential sites for low and moderate income housing.*****

(b) The Council may, within its discretion and upon its own initiative, eliminate additional sites from consideration when the Council determines that such action is consistent with the public's general welfare.

(c) The Council shall determine the municipality's ability to absorb its fair share obligation through inclusionary developments. The Council shall presumptively require a 20 percent maximum set-aside and a minimum gross density of six units per acre on vacant and developable sites. The Council may modify this minimum gross density based on factors, including but not limited to, appraised land values, improvement costs, site conditions and municipal subsidy of project costs. The Council may also modify this density when required to satisfy the municipal present and prospective need or when the municipality and developer agree to a modification on a specific site or when the Council's minimum gross density policy conflicts with the land use policies adopted within the Pinelands, Coastal Zone or Hackensack Meadowlands.

5:92-8.5 Adequate public facilities and infrastructure capacities

(a) The Council shall make durational adjustments to defer a municipality's fair share obligation due to the lack of adequate public facilities and infrastructure capacity. This adjustment shall remain totally or partially in effect until adequate infrastructure facilities are provided.

(b) Notwithstanding the lack of adequate public facilities and infrastructure, the municipality shall nonetheless designate and zone appropriate sites to accommodate its fair share obligation. The lack of adequate capacity, in and of itself, shall constitute a durational adjustment of the municipal obligation and that obligation shall be deferred until adequate infrastructure is made available as set forth in (c) through (f) below.

(c) Notwithstanding the lack of adequate public facilities and infrastructure in extant at the time a municipality petitions for substantive certification, the municipality shall reserve and set aside new infrastructure capacity, when it becomes available, for low and moderate income housing, on a priority basis.

(d) Municipal officials shall endorse all applications to the New Jersey Department of Environmental Protection or its agent to provide affordable infrastructure. Such endorsements shall be simultaneously submitted to the Council.

(e) Where the New Jersey Department of Environmental Protection or its designated agent approves a proposal to provide infrastructure to a site for the development of low and moderate income housing identified in the housing element, the municipality shall permit such development.

(f) Where a municipality has designated sites for low and moderate income housing that lack adequate infrastructure and where the New Jersey Department of Environmental Protection or its designated agent approves a proposal to provide infrastructure to a site other than those designated for the development of low and moderate income housing in the housing element, the municipality shall amend its housing element and fair share housing ordinance to permit development of such site for low and moderate income housing. The amended housing element and fair share housing ordinance shall be submitted to the Council within 90 days of the site's approval by the New Jersey Department of Environmental Protection or its agent.

5:92-8.6 Prohibitive costs of infrastructure

(a) The Council shall make an adjustment to the municipal present and prospective need due to prohibitive costs associated with providing public facilities and infrastructure. This adjustment shall remain totally or partially in effect until adequate, affordable infrastructure facilities are provided.

(b) Notwithstanding the prohibitive cost of adequate public facilities and infrastructure, the municipality shall nonetheless designate and zone appropriate sites to accommodate its fair share obligation. The lack of adequate capacity, in and of itself, shall constitute a durational adjustment of the municipal obligation and that obligation shall be deferred until adequate infrastructure is made available as set forth in (c) through (h) below.

(c) Notwithstanding the prohibitive cost of adequate public facilities and infrastructure at the time a municipality petitions for substantive certification, the municipality shall reserve and set aside new infrastructure capacity, when it becomes available for low and moderate income housing on a priority basis.

(d) Municipalities seeking an adjustment of their fair share due to prohibitive costs of infrastructure to the public shall complete "The Costs of Providing Infrastructure" application provided by the Council and submit it to the Council for its review.

(e) The Council shall forward "The Costs of Providing Infrastructure" application to the New Jersey Department of Community Affairs Division of Local Government Services for review. The Council shall consider the report of the Division of Local Government Services in determining whether to permit an adjustment due to prohibitive costs associated with providing public facilities and infrastructure.

(f) Municipal officials shall endorse all applications to the New Jersey Department of Environmental Protection or its agent to provide affordable infrastructure. Such endorsements shall be simultaneously submitted to the Council.

(g) Where the New Jersey Department of Environmental Protection or its designated agent approves a proposal to provide affordable infrastructure to a site for the development of low and moderate income housing in the housing element, the municipality shall permit such development.

(h) Where a municipality has designated sites for low and moderate income housing that lack adequate infrastructure and where the New Jersey Department of Environmental Protection or its designated agent approves a proposal to provide affordable infrastructure to a site other than those designated for the development of low and moderate income housing in the housing element, the municipality shall amend its housing element and fair share housing ordinance to permit development of such site for low and moderate income housing. The amended housing element and fair share housing ordinance shall be submitted to the Council within 90 days of the site's approval by the New Jersey Department of Environmental Protection or its agent.

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SUBCHAPTER 9. PRIORITIZING

5:92-9.1 Prioritizing vacant and developable sites

(a) Municipalities shall establish priorities for low and moderate income sites. Sites should be available, suitable, developable and approvable as defined in N.J.A.C. 5:92-1.3.

(b) All sites designated for low and moderate income housing shall receive approval for consistency review, as set forth in Section 208 of the Clean Water Act, 33 U.S.C. §1251, et seq. prior to substantive certification. Where a site is denied consistency review, the municipality shall apply for an amendment to its Section 208 plan to incorporate the denied site.

(c) Agricultural lands within agricultural development *[districts as]* **areas identified pursuant to N.J.A.C. 2:76-1 and** certified by the State **[Agricultural]**Agriculture* Development [Board]**Committee*** that do not conform to the policies set forth in N.J.A.C. 5:92-8.2(b)*2.* may be excluded initially in establishing priorities for low and moderate income sites. Where no other sites are either appropriate and/or sufficient to accommodate fully the municipality's low and moderate income housing obligation, the municipality or the Council may request the respective county agricultur*[a]**e* development board to establish priorities for the development of unrestricted land within the county's agricultural development *[district.]***area.*

SUBCHAPTER 10. PHASING OF PRESENT AND PROSPECTIVE NEED

5:92-10.1 Phasing plans

Municipalities *[shall be allowed to]* **may*** submit a phase-in plan for low and moderate income units within inclusionary developments as defined in the Act. Phasing plans shall indicate a proposed sequence for site-specific inclusionary developments. ***The following phasing schedules shall not apply to units constructed pursuant to Regional Contribution Agreements and units which are not within inclusionary developments.***

5:92-10.2 Phasing schedules

(a) Municipalities may phase-in ***low and moderate income units within** inclusionary developments pursuant to the following schedule:

1. Inclusionary developments of less than 999 units may be phased in over a period of six years;
2. The next 500 units, 1,000 units up to 1,499 units, may be phased in from the seventh through tenth year;
3. The next 500 units, 1,500 up to 1,999 units, may be phased in from the eleventh through fifteenth year;
4. An amount in excess of 2,000 units may be phased in over a period of 16 to at least 20 years.

(b) At least one-half and no less than 200 units of the municipal obligation shall be phased in during the first three years.

(c) Within the phasing schedule, market conditions shall prevail.

5:92-10.3 Commencement date of phasing schedule

The commencement date of the phasing schedule shall be January 1, 1987.

5:92-10.4 General provisions

(a) The phase-in schedule shall provide for the grant of preliminary approvals to a developer subject to the phase-in schedule for final approvals in accordance with time periods set forth in sections 34, 36 and 48 of P.L.1975, c.291 (N.J.S.A. 40:55D-46, 48 and 61), provided that such preliminary approvals shall confer vested rights as defined in subsection a. of section 37 of P.L.1975, c.291 (N.J.S.A. 40:55D-49) for the period until the developer has the ability to proceed to final approval pursuant to the phase-in schedule. In any phase-in schedule for a development, all final approvals and the rights to final approvals shall be cumulative.

(b) Phasing of present and prospective need shall not extend the period of substantive certification. Municipalities shall be responsible for an additional present and prospective need in addition to the phased need when the period of substantive ***[certificatin]**certification*** expires.

(c) Developers of inclusionary developments shall be entitled to final approval of at least four market housing units per each low and moderate income housing ***[units.])**unit.***

5:92-10.5 Priority of sites

In developing a phasing plan, municipalities shall give priority to those vacant sites that are available, suitable, developable and approvable as defined in subchapter I. The phasing plan shall be consistent with a municipal plan for infrastructure expansion and rehabilitation.

5:92-10.6 Adjustments to phasing schedule

The Council may adjust phasing schedules by 20 percent for the first three years of the phasing period. An adjustment for the first half of the

phasing period shall result in a proportionate adjustment during the second half of the phasing period. Such adjustments shall be based on the factors presented in section 23 of the Act or the effect of economic conditions on specific developments.

SUBCHAPTER 11. REGIONAL CONTRIBUTION AGREEMENTS (RCAs)

5:92-11.1 General provisions

(a) A municipality may propose the transfer of up to 50 percent of its fair share to another municipality within its housing region by means of a contractual agreement into which two municipalities voluntarily enter.

(b) The Council shall maintain current lists of municipalities which have stated an intent to enter into RCAs as receiving municipalities and shall provide copies of such lists to potential sending municipalities as requested.

5:92-11.2 Terms

(a) At least 50 percent of the units accepted by a receiving municipality shall be affordable to low income households. The Council may modify this requirement if it determines that the sending municipality has adequately provided for its low income housing obligation elsewhere in its housing element.

(b) Housing provided pursuant to an RCA may include new construction, rehabilitation, residential conversion of existing units, conversion of other uses for housing, or a combination of these methods. To qualify as an appropriate component of a RCA, a rehabilitated or converted unit must meet the code standard of a municipality or other applicable housing code.

(c) Housing provided pursuant to a RCA may include the creation of alternative living arrangements, including, but not limited to, congregate housing, Class C and D boarding homes regulated by the Department of Community Affairs and residential health care facilities regulated by the Department of Health. To qualify as an appropriate component of a RCA, such facilities must be subject to controls on affordability acceptable to the Council.

(d) All RCAs shall specify payment schedules which conform to a construction or rehabilitation schedule and which relate to the receiving municipality's ability to deliver housing units in a timely fashion.

(e) All RCAs shall require receiving municipalities to file annual reports with the Agency setting forth the progress in implementing the project to be produced under a RCA. This report shall be in such form as the Council and the Agency may from time to time require.

(f) All RCAs shall require that a receiving municipality submit a proposed project plan which shall be in such form and contain such information as the Agency may require.

5:92-11.3 Credits

No receiving municipality shall receive credit towards its fair share obligation for units provided pursuant to a RCA where credit for such units has been awarded to a sending municipality.

5:92-11.4 Review by county planning board or other county designated agency

(a) RCAs shall be reviewed by the county planning board or other county designated agency in which the receiving municipality is located, as set forth in N.J.A.C. 5:91-12.2. Such review shall be completed within 30 days after the agreement has been referred to the county planning board or other county designated agency. The Council may grant a timely request for an extension of this time period for a period not to exceed 15 days.

(b) In conducting the review required under this section and N.J.A.C. 5:91-12.2, the county planning board or other county designated agency shall consider the master plan and zoning ordinance of the sending and receiving municipalities, its own county master plan and the SDRP. In the event that the SDRP is not completed, the county planning board or other county designated agency shall consider the SDGP and other appropriate regional plans in conducting its review.

(c) County planning boards or other county designated agency undertaking the review provided in this section shall, in forwarding the results of such review to the Council, include a completed checklist for this purpose provided by the Council. (see: Technical Appendix).

5:92-11.5 Amount and duration of contributions

(a) In negotiating RCAs, cosmetic improvements may be included in determining the negotiated price of rehabilitating a housing unit; but cosmetic improvements alone shall not constitute an eligible improvement for purposes of a RCA. In general, eligible rehabilitation may vary in degree from gutting and extensive reconstruction to repairs for damage

caused by inadequate maintenance. Rehabilitation may also include the repair or replacement of major building systems or components in danger of failure (including roof, electrical, plumbing, heating, structural and foundation defects). To be an eligible improvement under a RCA, the housing unit must meet the municipal or other relevant housing code after rehabilitation.

(b) The cost of rehabilitating a low and moderate income housing unit may vary from unit to unit and from municipality to municipality. The Council establishes \$10,000 as the minimum per unit cost necessary for rehabilitation as may be adjusted by the Council on a case by case basis. (See Technical Appendix for average costs of replacing major systems for various types of housing.) This minimum amount includes the actual capital cost of substantive rehabilitation and the necessary operating costs to insure compliance with related code standards. This minimum amount shall be regarded as illustrative.

(c) The internal cost of subsidizing a low and a moderate income housing unit in an inclusionary development may vary from project to project and from municipality to municipality. The Council establishes that \$12,500 represents the current average, internal subsidization required to provide a moderate income housing unit in an inclusionary development, and constitutes 22 percent of the unit's total cost. The Council establishes \$27,500 as the current average, internal subsidization required to provide a low income housing unit in an inclusionary development, and constitutes 48 percent of the unit's total cost. These internal subsidization guidelines shall be regarded as illustrative and may be adjusted on a case by case basis.

(d) RCAs shall run concurrent with the sending municipality's period of substantive certification, not to exceed six years; contributions may be prorated in municipal appropriations concurrent with the certification period not to exceed six years.

5:92-11.6 Enforcement

(a) The Council shall take such actions as may be necessary to enforce a RCA with respect to the timely implementation of a project by the receiving municipality. In implementing its enforcement responsibilities, the Council may:

1. Initiate or join a lawsuit to enforce a RCA; and/or
2. Bar a delinquent receiving municipality from entering into further RCAs for a specified period of time; and/or
3. Recommend that the Agency and the Department of Community Affairs withhold further assistance available under the Act; and/or
4. Take such other actions as the Council may determine necessary.

SUBCHAPTER 12. CONTROLS ON AFFORDABILITY

5:92-12.1 General provisions

In developing housing elements, municipalities shall determine measures to assure that low and moderate income units remain affordable to low and moderate income households for an appropriate period of not less than 20 years which may be adjusted as provided pursuant to N.J.A.C. 5:92-12.2. In determining these measures, ***[municipalities]* *municipalities*** may propose alternative methods for assuring continued affordability which shall be reviewed by the Agency for feasibility prior to an award of substantive certification.

5:92-12.2 Length of controls on affordability

(a) Municipalities shall consider imposing controls on rents and resales of low and moderate income units, as set forth in this Subchapter, that extend for a period of 20 years with the following exceptions:

1. Rehabilitated owner-occupied single family housing units that are improved to code standard shall be subject to affordability controls for at least six years;
2. Rehabilitated renter-occupied housing units that are improved to code standard shall be subject to affordability controls for at least ten years; and
3. Housing units created through conversion of a non-residential structure or through new construction in municipalities receiving State Aid pursuant to P.L. 1978, L.14 (N.J.S.A. 52:27D-178 et. seq.) ***that exhibit one of the characteristics delineated in N.J.A.C. 5:92-5.3(b)*** at the time of substantive certification shall be subject to affordability controls for at least ***[ten]**10*** years.

5:92-12.3 Administrative mechanism

Municipalities shall establish an appropriate administrative mechanism or entity responsible for assuring that low and moderate income housing units remain affordable to low and moderate income households; or they shall enter into a contractual agreement with the Agency to administer these responsibilities.

5:92-12.4 Initial pricing

(a) Municipalities shall consider requiring that the initial price of a low and moderate income owner-occupied single family housing unit be established so that after a downpayment of ten percent, the monthly principal, interest, taxes, insurance and condominium fees do not exceed 28 percent of an eligible gross monthly income. Municipalities shall consider requiring that rents, excluding utilities, be set so as not to exceed 30 percent of the gross monthly income of the appropriate household size. Maximum rent shall be calculated as a percentage of the uncapped Section 8 income limit (as contained in the Technical Appendix) or other recognized standard adopted by the Council that applies to the rental housing unit. The following criteria shall be considered in determining rents and sale prices:

1. Efficiency units shall be affordable to one person households;
2. One bedroom units shall be affordable to two person households;
3. Two bedroom units shall be affordable to three person households;
4. Three bedroom units shall be affordable to five person households; and
5. Four bedroom units shall be affordable to seven person households.

(b) Housing units that satisfy the criteria in (a)1 through 5. above shall be considered affordable.

(c) Median income by household size shall be established by the uncapped Section 8 income limits, published by HUD, as defined in subchapter 1 (see Technical Appendix) or other recognized standard adopted by the Council that applies to the rental housing unit.

5:92-12.5 Annual indexed increases

The price of an owner-occupied housing unit and the rents of affordable housing units may increase annually based on the percentage increase in median income for each housing region as determined from the uncapped Section 8 income limits, published by HUD, as defined in subchapter 1 (see Technical Appendix) or other recognized standard adopted by the Council that applies to the rental housing unit.

5:92-12.6 Subsidy to ensure affordability

If the use of median income data adopted by the Council to index the cost of housing renders a unit unaffordable to a low or moderate income household at the time of resale, a municipality shall not lose credit for the housing unit, provided that adequate controls on affordability remain in place, but the municipality may subsidize the housing unit to maintain affordability.

5:92-12.7 Procedures of resale

Persons wishing to sell affordable units shall notify the municipal entity responsible for assuring affordability of the intent to sell. If no eligible buyers enters a contract of sale for the unit within ***[60]**90*** days of notification, the municipal entity shall have the option to purchase the unit for the maximum price permitted based on the regional increase in median income as defined by HUD or other recognized standard adopted by the Council. If the municipal entity does not purchase the unit, the seller may apply for permission to offer the unit to a non-income eligible household at the maximum price permitted. The seller shall document efforts to sell the unit to an income eligible household as part of this application. If the request is granted, the seller may offer low income housing units to moderate income households and moderate income housing units to households earning in excess of 80 percent of median. In no case shall the seller be permitted to receive more than the maximum price permitted. ***In no case shall a sale pursuant to this section eliminate the resale controls on the unit or permit any subsequent seller to convey the unit except in full compliance with the terms of N.J.A.C. 5:92-12.***

5:92-12.8 Eligible capital improvements

Property owners of single family, owner-occupied housing may apply to the municipal entity responsible for permission to increase the maximum price for eligible capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household. In no event shall the maximum price ***[if]**of*** an improved housing unit exceed the limits of affordability for the larger household. Property owners shall apply to the municipal entity if an increase in the maximum sales price is sought.

5:92-12.9 Impact of foreclosure on resale

[An action of foreclosure by a financial institution regulated by state and/or federal law shall extinguish controls on affordable housing units.]* *A judgment of foreclosure or a deed in lieu of foreclosure by a financial institution regulated by state and/or federal law shall extinguish controls on affordable housing units provided there is compliance with N.J.A.C. 5:92-12.10. Notice of foreclosure shall allow the municipal entity to purchase the affordable housing unit at the maximum permitted sale price. Failure of the municipal entity to purchase the affordable

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housing unit shall result in the Council adding that unit to the municipal present and prospective fair share obligation.

5:92-12.10 Excess *[procedures]**proceeds* upon foreclosure

In the event of a foreclosure sale, the owner of the affordable housing unit shall be personally obligated to pay to the municipal entity responsible for assuring affordability, any surplus funds, but only to the extent that such surplus funds exceed the difference between the maximum price permitted at the time of foreclosure and the amount necessary to redeem the debt to the financial institution including costs of foreclosure.

SUBCHAPTER 13. WAIVER

5:92-13.1 Waiver

Any party desiring a waiver or release from the express provisions of the regulations in this chapter may submit a written request to the Council to the attention of the Executive Director. Waivers may be granted only by the Council where such waiver would not contravene the provisions of the Act.

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APPENDIX A

Approach: 1987-1993 Low and Moderate Income Housing Need Estimates

COUNCIL ON AFFORDABLE HOUSING
1987-1993 LOW- AND MODERATE-INCOME
HOUSING NEED ESTIMATES

—
APPROACH

PRESENT NEED (2 INDICES)
REALLOCATED PRESENT NEED
(FAIR SHARE ALLOCATION FORMULA)

PRESENT NEED

PROSPECTIVE NEED
(FAIR SHARE ALLOCATION FORMULA)

TOTAL NEED

SUPPLY CONTRIBUTIONS
(FILTERING, RESIDENTIAL CONVERSION, REHABILITATION,
DEMOLITION)

PRE-CREDITED NEED

Research Sponsor	Research Organization
Council on Affordable Housing	Rutgers University Center for Urban Policy Research
Research Contacts	Principal Investigator
Arthur R. Kondrup, Chairman	Robert W. Burchell, Ph.D.
Douglas V. Opalski, Executive Director	

Date
1 May 1986

REGIONAL AND STATEWIDE
SUMMARY OF
PRE-CREDITED NEED

1987-1993 LOW AND MODERATE NEED ESTIMATES BY STATE
AND REGION

-HOUSING DEFICIENT PRESENT NEED-
-HISTORIC MODEL PROSPECTIVE NEED-
-FAIR SHARE PRESENT NEED
ALLOCATION-
-FAIR SHARE PROSPECTIVE NEED
ALLOCATION-

Accounting for:
Demolition, Filtering, Residential Conversion,
and Spontaneous Rehabilitation

1987 Present Need
1987-1993 Prospective Need

CALCULATING NEED

Indigenous Need	85,134
Reallocated Present Need	34,411
Prospective Need	80,421
Total Need	199,966
Demolition	13,367
Filtering	-51,004
Residential Conversion	-12,102
Spontaneous Rehabilitation	-4,520

STATEWIDE PRE-CREDITED NEED 145,707*

REGIONAL NEED

Northeast	42,534
Northwest	28,773
West Central	14,720
East Central	23,247
Southwest	21,884
South-Southwest	14,549

*The Council on Affordable Housing is prepared to adjust municipal housing need such that precredited final need will not exceed twenty percent of a municipality's occupied housing units in 1987. This adjustment is to prevent a municipality from experiencing a drastically altered development pattern as per Section 7 of the Fair Housing Act. The adjustment, if pursued by all municipalities who qualify, will not diminish statewide need by more than 1421 housing units. See subsequent section on Capped Need.

THE PROCEDURES TO CALCULATE
LOW- AND MODERATE-INCOME
HOUSING NEED

INTRODUCTION

The information which follows details the procedures and data resources employed to calculate low- and moderate-income housing need in the State of New Jersey. These procedures have evolved primarily since *Mount Laurel II*¹ and have been heavily influenced both by the provisions of the Fair Housing Act and *Mount Laurel III*.² The report incorporates the methodology adopted by the Council on Affordable Housing³—the agency charged with effecting the Fair Housing Act and bringing about statewide compliance with the *Mount Laurel* mandate.

The procedures specified here draw upon contributions by numerous groups to evolving fair housing implementation. These include efforts on the part of the *Mount Laurel II* judges, the Urban League group, Rutgers University, the appointed masters, the Department of the Public Advocate, the Governor's Office, New Jersey Department of Community Affairs, New Jersey Department of Environmental Protection (Division of Coastal Resources), New Jersey Pinelands Commission, New Jersey Housing and Mortgage Finance Agency, New Jersey Federation of Planning Officials, Land Use Section of the New Jersey Bar, New Jersey Builders Association, New Jersey State League of Municipalities, attorneys/planners for litigating developers/municipalities, and other individuals/groups too numerous to mention.

These groups have crafted a body of knowledge and procedure which has been drawn upon and refined in the production of this document. A clear effort has ***been*** made here to take into account varying points of view and above all, as the name of the Fair Housing Act implies, be *fair*: fair to those who need housing, to municipalities and their residents

who must accommodate this housing, and finally, to the builders/developers who must provide it. The procedures contained here are an effort to move forward on a broad and unified front in meeting the charge of the Fair Housing Act.

To this end, the report begins with methods used to qualify the low- and moderate-income populations and subsequently deals with the calculation, distribution, and refinement of present and prospective low- and moderate-income housing need.

INCOME QUALIFICATION OF THE LOW- AND MODERATE-INCOME POPULATION

Data from the 1980 New Jersey Public Use Sample⁴ (a five percent sample of all households in New Jersey taken by the U.S. Census Bureau) is used to qualify a household according to HUD Section 8⁵ family-income requirements. The Sample is comprised of computer tapes which contain records for a sample of housing units with information on the characteristics of each unit as well as the people who reside in these units. Information from this file makes it possible to initially eliminate all individuals living in institutions, group quarters, or as boarders/lodgers from potential low- and moderate-income housing demand. This removes from direct count those people who comprise prison/sanitarium, college, nursing home, boarders/boarding home, and other related populations.⁶

Sub-households and sub-families are not separately distinguished as this would double count existing housing deterioration and no information is available on how or if sub-families/sub-households would choose to separate in the future. Thus, one household per unit is counted. Current applications for low- and moderate-income housing built under the *Mount Laurel II* aegis indicate shares or parts of families and unrelated individuals seeking to reside together. This partially confirms continued, shared or unrelated household use of new low- and moderate-income housing units.

Once these selection procedures are undertaken, the Public Use Sample may be employed to array all households by size and income status. HUD median family income for a region is determined, and 80 percent and 50 percent assigned to household sizes of four for the upper limits of moderate and low incomes, respectively. Each household size of more or less than four is allowed a positive or negative adjustment of the 80 percent or 50 percent of median figure to qualify for moderate- or low-income designation.⁷ (This is based on the philosophy that if you have more children/dependents or household members you can earn slightly more and qualify for moderate/low income; in reverse fashion, if you have fewer dependents or members, it is more difficult to qualify by establishing a lower income for qualification.)

The procedure spelled out above separates low- and moderate-income households, adjusting for household size, from all other households in the region. This relative selection of a population qualifying for housing need forms the basis of all need estimates. In subsequent steps, the housing units occupied by these households are initially checked for deterioration to determine present need. The number of income-defined households is then projected into the future to determine prospective need. The detailing of these steps is explained below.

PRESENT NEED

Indigenous Need

Indigenous need is a component of present need which is the total deficient housing signaled by surrogates unique to each community. Where communities' deficient housing as a percentage of all occupied housing units exceeds the regional average, their excess need is sent to a housing pool for subsequent distribution in the region. Housing from the pool is reallocated to all communities in the growth area of the region with the exception of *[designated]**designated* Urban Aid Cities. The indigenous need for communities below the regional average of housing deficiency is their tabulated deficient units. For those above the regional average, their indigenous need is their deficient housing capped by the regional average percent deterioration.

Recognizing the evolution of the concept of deteriorated housing from 1960 and earlier where enumerators attempted to physically identify bad housing from field *[survey,]**survey,* to the current period where deficient housing is isolated through housing quality surrogates, information provided by the 1980 Census is used to signal housing deficiency via surrogates.⁸

Surrogates do not themselves confirm that a unit is deficient. They indicate that if a unit has these characteristics, it most likely would be independently found via field survey as deficient. Surrogates are developed by listing the characteristics of units found as deficient and viewing which characteristics consistently are associated with field-con-

firmed deficiency. Six housing quality surrogates are used with structure age to signal housing deficiency. These indices represent the culmination of numerous empirical studies on factors indicative of superior versus inferior housing quality.⁹ *They represent the full range of information available on housing quality from the 1980 Census.* No index is slighted, and all are simultaneously employed. They include:

(a) *Year Structure Built.* A distinction is made between units built before and after 1940. This pre-War cutoff is the classic differentiation point of new versus old housing in the literature.¹⁰

(1) *Persons per Room.* 1.01 or more persons per room is an index of overcrowding.

(2) *Access to Unit.* A unit is unacceptable if one must pass through another dwelling to enter it. This is a measure of privacy.

(3) *Plumbing Facilities.* A household must have exclusive use of complete plumbing facilities.

(4) *Kitchen Facilities.* Adequate kitchen facilities include a sink with piped water, a stove, and a refrigerator.

(5) *Heating Facilities.* The existence of central heat is used as a measure of adequacy.

(6) *Elevator.* Buildings of four stories or more are considered inadequate if they do not have an elevator.

A unit has to have at least two characteristics to be isolated as deficient once it qualifies as housing a low- or moderate-income family. Since age is so highly correlated with structure deterioration and loss, if in 1980 the unit was more than forty years old and had at least one other negative housing characteristic, it is selected as deficient. If, on the other hand, it was a newer unit in 1980, in the absence of the unit-age qualification, two or more negative structural characteristics signal housing deficiency.

Multiple deficient characteristics in a single housing unit is an important concept. Using multiple indicators results in a high probability of isolating bad housing, yet a very low probability of classifying good housing as bad.¹¹

This procedure of establishing housing deficiency is: (1) drawn from the literature of the field; (2) encompasses a broad array of physical insufficiency including such items as indirect access, incomplete kitchen, burdensome walk-ups, etc., (3) ensures against erroneous inclusion of good units, and (4) provides a very high probability that the housing identified, at least in relative terms, is clearly less than adequate.

Due to confidentiality protection and data availability, the procedure to specify indigenous need can be estimated only to each of 52 subregions of the state.¹² It is taken down to the community level by three housing quality variables available at both the subregional level and the community level. These are:¹³

(1) Plumbing Facilities—non-exclusive use of complete plumbing;

(2) Heating Facilities—non-presence of central heat or vented room heaters; and

(3) Persons per Room—space inadequacy, i.e., 1.01 or more persons per room.

The pool of low- and moderate-income families living in deficient housing once calculated at the subregional level is distributed to individual communities on the basis of the share of the three indices of deficient housing at the local level to the total at the regional level. At the local level, these latter variables cannot be cross-tabulated with age or income in the same way as information at the subregional level can. Thus, the best available information and the most rigorous procedures are used to isolate deficient housing at the subregional level, and this is taken to the municipal level through other housing quality variables less complete in terms of isolating housing deficiency but found at a variety of geographic levels.¹⁴

In order to address present need with some lead time appropriate for planning and implementation, present need is actually projected to be estimated as if July 1, 1987 *[were]**where* the current period and the sample of housing deficiencies was taking place at this time. This is done by reproducing the incidence rates of deterioration associated with certain age groups and household types in 1980, and projecting these households and their associated housing conditions to the 1987 period. The new array and number of households in 1987 carry with them the deterioration noted in 1980.

As noted earlier, for communities with severe housing deficiencies, their deficiencies are capped at the regional average percentage of deficiencies as a proportion of total occupied housing. The excess over this regional percentage is distributed to all communities in the growth area of the region.* This is covered below.

*Communities which originally contributed to the pool due to excess deficiency, if not selected Urban Aid Cities, can receive additional units from the pool via the reallocation formula.

Municipal surveys to determine indigenous need may be presented to the Council as an alternative method to this procedure. (See Section 10—Fair Housing Act.) The Council will provide guidance as to the appropriate form and scale of such surveys.

INDIGENOUS NEED BY REGION†

Northeast	34,227
Northwest	22,894
West Central	7,486
East Central	4,692
Southwest	9,208
South-Southwest	6,627
STATE TOTAL	85,134

†See the following figure for mapped display of regions

Reallocated Present Need

Reallocated present need is the share of excess deterioration in a region transferred to all communities in the growth area of the region with the exception of selected Urban Aid Cities. (See Attachment.) Urban Aid Cities, almost all of which are densely populated and have a higher-than-average proportion of low- and moderate income families living in deteriorated housing, are not expected to have this regional burden reinforced by future low- and moderate-income housing requirements.¹⁵ Therefore, when the reallocated present need pool for the region is computed from an average deficiency percentage for the entire region, Urban Aid Cities are not expected to share in that pool. Instead, *the excess* of deficient units over the regional percentage of deficiencies *is redistributed* to all municipalities with any growth area in the region. The exact procedure for redistribution is covered under Distribution of Low- and Moderate-Income Housing Need.

REALLOCATED PRESENT NEED BY REGION

Northeast	17,676
Northwest	8,829
West Central	1,631
East Central	750
Southwest	4,060
South-Southwest	1,465
STATE TOTAL	34,411

PRESENT NEED

Present need is the sum of indigenous and reallocated present need in a municipality. It represents individual municipal housing responsibility reflective of its own housing inadequacy/deficiency (except where it is regionally excessive) and regional responsibilities in terms of its share of the pool of housing replacement/repair that must be undertaken by growth area communities due to excess deterioration in the region.

PRESENT NEED BY REGION

Northeast	51,903
Northwest	31,723
West Central	9,117
East Central	5,442
Southwest	13,268
South-Southwest	8,092
STATE TOTAL	119,545

PROSPECTIVE NEED

Prospective need is the share of the total projected population that will qualify for low- and moderate-incoming housing. It is obtained by projecting the population by age cohort from 1987 to 1993 through the following steps:

(1) A 1987 base is established by bounding it at one end by the age cohort distributions of the *1984 Population Estimates for New Jersey*¹⁶ from the New Jersey Department of Labor.* The other end is bounded by the distribution of the projected population for 1990 by age cohort under the New Jersey Department of Labor's Historical Migration Model.¹⁸ These two population distributions by each age cohort are added together and divided by two to obtain the age distribution of the base population for the mid-period 1987.

(2) A July 1, 1993 projection-year end is also arrayed by age distribution. This is done in the following way:

(a) 1990 and 1995 age distributions for the New Jersey Department of Labor's Historical Migration Model are distributed by their respective

eight age cohorts and three-fifths of the distance between 1990 and 1995 is used for each age cohort for 1993. The age cohorts are as follows:

AGE COHORT

- Less than 25 years
- 25-29 years
- 30-34 years
- 35-44 years
- 45-54 years
- 55-64 years
- 65-74 years
- 75 years and over

(3) Both the population age cohorts for the base year (1987) and the projection-end year (1993) are multiplied by 1980 New Jersey county-specific headship rates by age cohort.¹⁹ Two distributions of total households emerge.

(4) Total households for each period are converted to low- and moderate-income households by carrying forward the income characteristics of all households in 1980 to 1987 and 1993 by age cohort. Low- and moderate-income households are sorted by applying the Section 8 household size/income qualification criteria that were used in 1980 to a different number of households that exist in each cohort in 1987 and 1993. Thus, to the degree that age cohorts are differently composed and growing differently, the low- and moderate-income population will also change as it ages into the future.

(5) Low- and moderate-income households for 1987 are subtracted from low- and moderate-income households in 1993 to obtain the change in low- and moderate-income households from 1987 to 1993. This is done for eight age cohorts specific to each of 21 counties. The result is prospective low- and moderate-income housing need.

***[PROSPECTIVE]**PROSPECTIVE* NEED BY REGION**

Northeast	5,509
Northwest	9,759
West Central	13,661
East Central	23,752
Southwest	18,179
South-Southwest	9,561
STATE TOTAL	80,421

DISTRIBUTION OF LOW- AND MODERATE-INCOME HOUSING NEED

Low- and moderate-income housing need is distributed to each community using the economic and land-use factors listed below. These factors in the first two cases represent measures of *responsibility*, i.e., the labor force drawn to the municipality needing housing. In the second two cases, they represent measures of *capacity*, i.e., the physical and fiscal capacity to absorb and provide for such housing.²⁰ The first three factors are used to distribute excess *present* need (reallocated present need); the full four factors are used to distribute prospective need. The first three factors are identical for present and prospective need. All factors operate individually, are equally weighted, and involve only those municipalities in the growth area of the region.

(1) Regressed annual covered employment change within a municipality over the period 1977-84, as a percentage of regional regressed annual covered employment change for the same period (this is the most stable period to measure change in employment)²¹

(2) Covered employment in a municipality as a percentage of regional covered employment (1984)

(3) Municipal area in the growth areas as a percentage of growth area in the region as included on the official State Department Guide Plan (SDGP).²² Pinelands and Coastal Zone areas are added to the SDGP Growth Area according to the following designations:²³

(a) Pinelands—All areas in Regional Growth Areas and Pinelands Towns.

(b) Coastal Zone—All areas in Development Regions and Extension Regions, the latter including Central Corridor Barrier Islands.

(4) Municipal 1983/1984 aggregate per capita income as a percentage of 1983/1984 regional aggregate per capita income*²⁴

Neither prospective need nor reallocated present need are directed to Urban Aid municipalities which have the characteristics of older core areas to avoid reconcentrations of low- and moderate-income families in

*1983/1984 aggregate per capita income is obtained by multiplying 1983 per capita income by the *1984 Population Estimates* for the growth area municipality and all municipalities in the growth area of the region.

*These are available by county from the New Jersey Department of Health.¹⁷

FIGURE

THE COUNCIL ON AFFORDABLE HOUSING REGIONS

**Region 1 -
Northeast**

Bergen
Hudson
Passaic

**Region 2 -
Northwest**

Essex
Morris
Sussex
Union

**Region 3 -
West Central**

Hunterdon
Middlesex
Somerset
Warren

**Region 4 -
East Central**

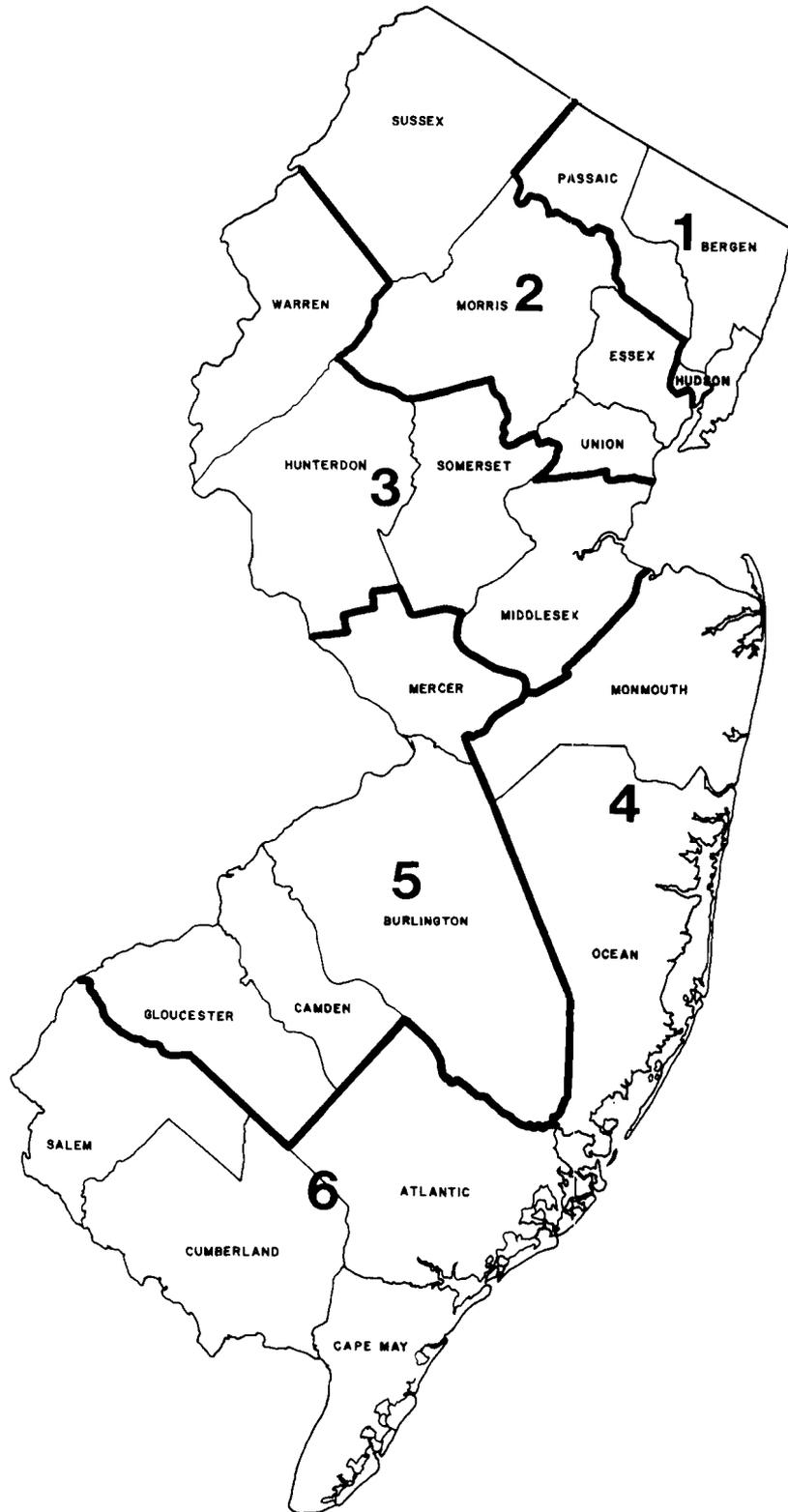
Monmouth
Ocean

**Region 5 -
Southwest**

Burlington
Camden
Gloucester
Mercer

**Region 6 -
South-Southwest**

Atlantic
Cape May
Cumberland
Salem



Source: RUTGERS UNIVERSITY Center for Urban Policy Research,
Winter, 1983

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

these fiscally/economically stressed locations.²⁵

The criteria for determining the Urban Aid municipalities to be exempt from any housing need beyond indigenous need are summarized as follows:²⁶

(a) Designated "Urban Aid" by the State *[for funding year 1986.*] *as of July 1, 1986.* In addition, they must meet *one* of the following:

(1) Level of existing low- and moderate-income housing deficiency, according to the six housing deficiency criteria, that exceeds average regional low- and moderate-income housing deficiency for the region in which the Urban Aid municipality is located

(2) Population density of greater than 10,000 persons per square mile or 14.1 per acre

(3) Population density of 6,000 to 10,000 persons per square mile or 9.4 to 14.1 per acre *plus* less than five percent of vacant, non-farm, municipal land as measured by the average of the percentage of vacant land valuation and vacant land parcels of all local land valuation/parcels in the 1984 *Statement of Financial Condition of Counties and Municipalities* (Trenton, NJ: New Jersey Department of Community Affairs, 1985).²⁷

TOTAL NEED

Total need 1987 to 1993 is composed of indigenous need, reallocated present need, and prospective need. It is the total municipal need number before demand increases for demolitions and demand reductions for secondary sources of supply are introduced. In a very few cases, negative prospective need in a community, reflective of reduced housing demand due to employment loss, lessens present need demand and, as such, reduces total need.

TOTAL NEED (PRESENT AND PROSPECTIVE)
BY REGION

Northeast	57,412
Northwest	41,482
West Central	22,778
East Central	29,194
Southwest	31,447
South-Southwest	17,653
STATE TOTAL	199,966

SECONDARY SOURCES OF
HOUSING SUPPLY/DEMAND

Background

Secondary sources of housing supply/demand reflect the adjustments of the housing market to the unevenness and spontaneity of primary supply/demand. As housing ages or as it falls prey to accident, natural disasters, or publicly/privately initiated changes in land use, it may become obsolete and be removed from the stock. The term for this selective pruning is *demolition*. Demolitions occur regularly and affect various markets differently. In strong markets, demolitions are low; in weaker markets, they are proportionally higher. In both situations, demolitions add to future housing demand.

As housing is added by private developers to the upper and middle price categories of the stock, a large share of consumers who already occupy housing within the market are attracted to this housing. When they occupy the new housing through purchase or rental agreements, they release housing within the local market that is inferior to the new housing that has been built. This causes housing to be available to a lower round of consumers, often at a reduced price. The process is termed *filtering*. Filtering reduces future demand as a greater proportion of formerly higher priced housing is now available at potentially lower prices. Filtering takes place in active housing markets, especially those receiving a significant influx of new housing.

In selected submarkets, a demand may exist for smaller units, and this demand may not be responded to by normal market operations. The market adjusts to this need by creating additional smaller units from larger ones. This is termed *residential conversion* and most often occurs in housing stocks containing larger structures that can be adapted to smaller units yet not destroy or significantly alter the value of adjacent units in the process. The older, urban two- to four-family home is an ideal conversion unit. Four or six units may be created where only one-half this number may have existed in this type of structure previously. Often these units are termed illegal conversions, not because they are not safe, sound housing, but rather because the enlarged structure no longer conforms to the unit restrictions of the zoning ordinance.

Another characteristic of the housing market is for deficient units to be upgraded privately. This also lessens housing demand as a deficient unit is replaced by a sound unit. This happens usually because a market

exists for the renovated structure, usually at a higher occupancy cost than when the structure fell into disrepair. *Spontaneous rehabilitation*, as it is called, occurs in stronger, growing markets and affects only a small proportion of the low- and moderate-income housing stock.

Procedures

In the earlier-discussed allocation and reallocation procedures, only those municipalities in the growth area participated. *In the reductions or increases to housing need due to secondary supply and demand, all locations participate*. This is true because all municipalities have some type of need, and reductions apply to housing need no matter how the need is generated. Thus, when demand reductions due to filtering are calculated, the reduction for a particular location is based on the share of *all* multifamily units in the region.

For Urban Aid Cities, the demand reductions are taken before these areas send excess need to the reallocation pool; for all other locations, demand reductions are taken after this point. This is to prevent other less-dense, less-deteriorated, inner-ring cities from receiving a large share of reallocated need without an equivalent chance to participate in secondary demand reductions due to specific characteristics of their housing stock.

Demolitions

Demolitions are a secondary source of housing demand in that demand is created by households requiring housing because units are lost from the stock. Housing units are lost due to fire, structure abandonment, road improvements, community renewal, land-use change, and other reasons.²⁸ It is estimated that units lost from the low- and moderate-income stock (both reported and unreported demolitions) are on a par with those added to the stock due to conversion. For the *entire* housing stock, the ratio of demolitions to conversions may be even higher.²⁹ It is also true that the level of demolitions is faly in New Jersey. At the beginning of the decade, total reported demolitions for New Jersey municipalities were 4,000-5,000 per year; towards mid-decade the total is closer to 3,000 annually.³⁰

In order to estimate the scale of demolitions, reported demolitions for each municipality for the years 1983 and 1984 are averaged and multiplied by six to obtain a six-year demolition estimate by municipality. These are representative years which catch the most recent aspects of the trend in demolitions.³¹ Demolitions are adjusted for each municipality to the share of all demolitions that affect the low- and moderate-income housing sector by 150 percent of the subregional share of low- and moderate-income housing. This percentage share of all demolitions that affect low- and moderate-income families is capped at 95 percent. Total demolitions are thus tallied by individual community, and the share affecting low- and moderate-income housing is estimated by a multiple of the subregional low- and moderate-income housing deficiency percentage. This latter factor recognizes that demolitions take place at a much higher rate in the low- and moderate-income housing sector than for all housing locally. Demolitions at a statewide level are essentially offset by conversions for low- and moderate-income households. This latter relationship is covered more fully in a subsequent section.

DEMOLITION HOUSING NEED BY REGION

Northeast	4,037
Northwest	4,350
West Central	365
East Central	870
Southwest	1,753
South-Southwest	1,992
STATE TOTAL	13,367

Filtering

Filtering is a downward adjustment of housing which recognizes that the housing requirements of lower-income groups can be served by supply additions to the higher-income sectors of the housing market.³² During the course of normal market operations, middle- and upper-income households vacate existing housing for new, more desirable units, leaving their units vacant for households of lesser income. Filtering is predicated on the existence of housing surpluses which cause housing prices to drop because of the excess of housing supply over demand.

Filtering is measured using *The American (Annual) Housing Survey* over the nine-year period 1974-1983. *The American (Annual) Housing Survey* sponsored jointly by the U.S. Department of Housing and Urban Development and the U.S. Department of Commerce is particularly useful in that the same unit is measured at various intervals.³³ By specifying

Section 8 income eligibility by household size for the years in question, two components of the household population can be specified: those households that meet the *Mount Laurel II* income requirements, and those households whose incomes are above the *Mount Laurel II* income requirements for each observation period.

Viewing the same housing units, it is found that the net filtering (units moving down minus units moving up) to the lower-income population in New Jersey is about 6.5 percent over the course of the observation period.³⁴ About 18.8 percent of the stock moves down, and 12.3 percent moves up. The figure used for six-year net filtering is 3.25 percent of the non-deteriorated, non-low- and moderate-income housing stock. The 3.25 percent figure is derived by multiplying the actual 4.32 percent six-year rate by 0.75. The latter accounts for those units which filtered down over the period and do not have the same range of affordability as those units that were continuously occupied by low- and moderate-income families. Further, by using the non-deteriorated portion of the housing stock, the units that are counted as moving downward are assumed to be of adequate housing quality. Thus, both affordability and housing condition are controlled for in the filtering estimate.

Through cross-tabulation analysis, and taking into account the dominance of single-family homes in New Jersey, filtering is found to be more active in those locations which have higher percentages of multifamily units, and much less active in locations where there are small percentages of multifamily units.³⁵ Even though filtering takes place to some degree in all locations, it is much more of an urban than suburban housing phenomenon.

Filtering for the period 1987 to 1993 is estimated by taking 3.25 percent of the 1987 non-deteriorated, non-low- and moderate-income housing stock by region and assigning this need reduction to communities within the region according to their share of multifamily housing units (two or more units) of the regions' total multifamily units. A community receives a filtering adjustment to the degree that it contains multifamily housing,* i.e., the most likely type of housing to filter down.

FILTERING HOUSING SUPPLY* BY REGION

Northeast	-12,179
Northwest	-12,661
West Central	- 7,121
East Central	- 6,114
Southwest	- 3,494
STATE TOTAL	-51,004

*Secondary supply sources shown as negative demand contributors

Residential Conversion

Conversion is the creation of dwelling units from already existing structures. Almost all conversion consists of additional dwelling units being created from other residential units, and very rarely from nonresidential units. This type, termed residential conversion, is a significant and recognized source of housing supply to low- and moderate-income families. According to the U.S. Department of Housing and Urban Development, as family size has decreased over the past two decades, residential conversion creating multiple smaller units from larger units has also increased.³⁶

Converted units are measured through *American (Annual) Housing Survey* and the *Decennial Census*. Conversions are the difference between the net change in total housing units (end minus beginning of period), minus the net of housing units constructed and demolitions lost over the period. Residential conversion is equivalent to 15 percent of total units constructed over a decade and over double this percentage (i.e., 30 percent) of the low and moderate component of required total housing production.³⁷ It is estimated that units made available through conversion will reduce indigenous need by 18 percent during the six-year projection period. Residential conversion is closely related and distributed to municipalities on the basis of their percentage of two- to four-family structures.³⁸ Residential conversions influence housing supply at the regional level according to an observed share of indigenous need. They are distributed to municipalities within regions according to the presence of structure types conducive to conversion, i.e., two- or four-family units.*

Residential conversions to low- and moderate-income housing in normal markets are often on a par with demolitions for this income sector. In stronger markets, conversions are more than demolitions; in weaker markets, less. A statewide control of demolitions pairs this variable in approximate magnitude with that of total demolitions.

*1980 instead of 1987 is used as a base to tabulate the share of multifamily units as demolitions over the period 1980-1985 are not available by structure type. It is possible to estimate total 1987 occupied housing units, but the distribution by structure type cannot be accurately determined without demolition information by structure type.

RESIDENTIAL CONVERSION HOUSING SUPPLY BY REGION

Northeast	- 4,897
Northwest	- 3,221
West Central	945
East Central	- 482
Southwest	- 1,383
South-Southwest	- 1,174
STATE TOTAL	-12,102

Spontaneous Rehabilitation

Spontaneous rehabilitation is the unsolicited private market reduction of housing need by structure rehabilitation sufficient to render the unit free of deficiencies.³⁹ Via the *American (Annual) Housing Survey*, over five interim years between 1974 and 1980, spontaneous rehabilitation can be measured by using as a surrogate more than \$200 spent on each of three of four categories of additions, alterations, replacements, or repairs during the course of a single year.⁴⁰ This spontaneous rehabilitation happens to about 1.1 percent of the deficient units occupied by low- and moderate-income households annually. For a six-year period, the figure is estimated to be 6.6 percent applied to indigenous need at the regional level.

The key factor associated with rehabilitation of deteriorated units is wealth of the area as interpreted through aggregate income. Reductions for spontaneous rehabilitation are given to each municipality according to the municipality's share of regional aggregate income.* Larger, less wealthy—and smaller, more affluent—communities will get some measure of a larger relative credit for potential rehabilitation because in the first case, there is more opportunity for rehabilitation to happen, and in the second, there is more money to support it."

Spontaneous rehabilitation at this juncture should not be confused with rehabilitation as a meliorative housing strategy once final need is determined. Spontaneous rehabilitation is a reduction before final need is calculated due to the workings of the private market. Public, publicly assisted, or private rehabilitation as a housing strategy once need is determined is one of several means of response to that need and has nothing to do with the need reduction determined here.

SPONTANEOUS REHABILITATION HOUSING SUPPLY BY REGION

Northeast	-1,839
Northwest	-1,177
West Central	- 366
East Central	- 221
Southwest	- 499
South-Southwest	- 428
STATE TOTAL	-4,530

(includes ten units which would have made total need in a community negative. This accounting measure allows the reduction for this factor to be 4,520.)

PRE-CREDITED NEED

Pre-Credited Need is the municipality's estimated obligation under the *Mount Laurel* mandate for the period 1987 to 1993. Relative to other municipalities, and taking into account past growth, growth designation/share, and aggregate income, this is the need to which the municipality must address itself. Under Section 7 of the Fair Housing Act, municipalities may take credit for past provision of public or publicly assisted housing. Pre-Credited Need may be addressed via new construction or a level of rehabilitation to render the deteriorated units adequate. It is a need which, if it is less than 1,000, must be addressed within a six-year period; yet, if more than 1,000, may be spread out over a longer period as per subsequent phasing rules. Pre-Credited Need is solely the low- and moderate-income housing number and does not address the number of market units that might have to be built to support the development of the low- and moderate-income units locally.

*1983/1984 aggregate per capita income is used for this ratio.

PRE-CREDITED NEED BY REGION

Northeast	42,534
Northwest	28,773
West Central	14,720
East Central	23,247
Southwest	21,884
South-Southwest	14,549
STATE TOTAL	145,707

CAPPED NEED

Low- and moderate-income housing need in a community is capped at 20 percent of occupied housing units in 1987. Should density bonuses be applied and the community actively pursued by developers, under the provision of the 20-percent CAP no community will be required to double over the projection period. The small reduction in need that this capping procedure provides prevents the smaller communities in a region from experiencing significant change while complying with the state's low- and moderate-income housing mandate. Capped need is not a part of a municipality's pre-credited need estimate as this credit (if applicable) may be applied for during the municipal adjustment process.

CAPPED NEED BY REGION

Northeast	404
Northwest	24
West Central	34
East Central	153
Southwest	130
South-Southwest	676
STATE TOTAL	1,421

ATTACHMENT

1986 URBAN AID CITIES BY COUNTY THAT MEET THE CRITERIA SPECIFIED UNDER DISTRIBUTION OF NEED*

ATLANTIC	HUDSON	PASSAIC
None	Bayonne City Hoboken City Jersey City (City)	Passaic City Paterson City
BERGEN	North Bergen Township Union City (City)	SALEM
Lodi Borough Garfield City	Weehawken Township West New York Town	None
BURLINGTON	HUNTERDON	SOMERSET
Pemberton Township	None	None
CAMDEN	MERCER	SUSSEX
Camden City	Trenton City	None
CAPE MAY	MIDDLESEX	UNION
None	Carteret Borough New Brunswick City Perth Amboy City	Elizabeth City Hillside Township Plainfield City
CUMBERLAND	MONMOUTH	ROSSELLE BOROUGHS
Vineland City Bridgeton City	Asbury Park City Keansburg Borough Long Branch City	WARREN
ESSEX	Neptune Township	Phillipsburg Town
Belleville Township Bloomfield Township East Orange City Irvington Township Montclair Township Newark City Orange Township	MORRIS None	
	OCEAN	
GLOUCESTER	Lakewood Township	

[None] *Deptford Township*

NOTES

1. *Southern Burlington County NAACP v. The Township of Mount Laurel*, 67 N.J. 151, 336 A. 2d 713, Appeal Dismissed and Cert. Denied, 423 U.S. 808 (1975) (*Mount Laurel I*); *Southern Burlington County NAACP v. The Township of Mount Laurel*, 92 N.J. 158, 456, A.2d 390 (1983) (*Mount Laurel II*).
2. Fair Housing Act, Chapter 222 of the Laws of 1985; *Hills Development Corp. v. Township of Bernards*, Docket No. A.122-85 (N.J. Sup. Ct., February 20, 1986) (*Mount Laurel III*).
3. *Ibid.*
4. U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing, Public Use Sample: New Jersey* (Washington, D.C.: U.S. Government Printing Office, 1982).
5. United States Housing Act of 1937 (42 U.S.C. 1401 et seq.), Section 3(b)(2).
6. U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing, Public Use Sample: New Jersey*.
7. 42 U.S.C. 1401, Section 3(b)(2).
8. See, for example, U.S. Bureau of the Census, *Measuring the Quality of Housing: An Appraisal of Census Statistics and Methods* (Washington, D.C.: Government Printing Office, 1967); and U.S. Bureau of the Census, *A Preliminary Look at the Results of the Five City Survey* (Washington, D.C., July 9, 1975).
9. W. Patrick Beaton, "The Use of Combinatorial Indices in Housing Quality Specification." Paper presented to the October 1984 meeting of the ACSP Conference, New York. W. Patrick Beaton, "Quality Judgments, Quality Analysis, and Housing Policy Analysis" (unpublished paper). Beaton's data are derived from the probabilities of the *Five City Study* (see Note 8).
10. Robert W. Burchell et al., *Mount Laurel II: Challenge and Delivery of Low-Cost Housing* (New Brunswick, NJ: Center for Urban Policy Research, 1983), p. 112.
11. *Ibid.*, Chapter 2, Appendix I, p. 141; Beaton, "The Use of Combinatorial Indices in Housing Quality Specification."
12. U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing, Public Use Sample: New Jersey*.
13. U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing* (Washington, D.C.: U.S. Government Printing Office, 1982).
14. See *Countryside Properties, Inc. et al. v. Mayor and Council of the Borough of Ringwood and Planning Board of Ringwood et al.*, Law Division, Docket No. L-42095-81, July 24, 1984.
15. See, for example, New Jersey Department of Community Affairs, Division of State and Regional Planning: *A Revised Statewide Housing Allocation Report for New Jersey* (Trenton, NJ: Division of State and Regional Planning, 1978).
16. State of New Jersey, Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis, *Population Estimates for New Jersey, July 1, 1984* (Trenton, NJ: Division of Planning and Research, September 1985).
17. *State of New Jersey, Department of Health, New Jersey State and County Population Estimates by Age, Sex, and Race* (Trenton, NJ: Center for Health Statistics, October 1985).
18. State of New Jersey, Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis, *Population Projections—New Jersey and Counties: 1990 to 2020* (Trenton, NJ: Division of Planning and Research, November 1985).
19. U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing, Public Use Sample: New Jersey*.
20. For discussion of fair share allocation criteria, see New Jersey Department of Community Affairs, "Fair Housing Act Issue Papers" (Trenton, NJ: Division of Housing and Development, January 10, 1986); New Jersey Department of Community Affairs, *Mount Laurel II: Methods of Calculating Municipal Fair Share* (Trenton, NJ: Division of Housing and Development, undated); David Listokin, *Fair Share Housing Allocation* (New Brunswick, NJ: Center for Urban Policy Research, 1976); Mary Brooks, *Lower Income Housing: The Planner's Response* (Chicago: American Society of Planning Officials, 1972); and Robert W. Burchell et al., *Mount Laurel II: Challenge and Delivery of Low-Cost Housing*, Chapter 7.

*These cities do not receive either Reallocated Present Need or Prospective Need

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

EXHIBIT 1
NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING
BASE DATA FOR MUNICIPAL LOW & MODERATE INCOME
HOUSING NEED CALCULATION
01 MAY 86

COUNTY	NAME	SUBREG MULTI INDEX NEED (1)	MUNIC. SINGLE INDEX NEED (2)	SUBREG SINGLE INDEX NEED (3)	1987 OCCUPIED HOUSING EST. (4)	% REG. GROWTH AREA (5)	% REG. EMPLOY MENT (6)	% REG. AGGREG INCOME (7)	% REG. EMPLOY CHANGE (8)	PRES. NEED REALLO FACTOR (9)	PROG. NEED ALLOCA FACTOR (10)	LOW- MOD INCOME SUBREG PERCENT (11)
BERGEN	ALLENDALE BORO	345	11	701	1822	.994	.315	.796	1.328	.702	.858	17.1
	ALPINE BORO	511	15	1190	601	2.201	.047	.399	-.505	.882	.535	23.1
	BERGENFIELD BORO	511	302	1190	9014	1.065	.944	1.994	.768	1.335	1.193	23.1
	BOGOTA BORO	1246	97	1900	2880	.249	.233	.647	.465	.376	.398	37.2
	CARLSTADT BORO	1374	115	1767	2421	1.264	3.445	.437	2.992	1.715	2.035	39.1
	CLIFFSIDE PARK BORO	1543	440	2157	9221	.355	.404	1.915	.244	.891	.730	37.8
	CLOSTER BORO	511	53	1190	2751	1.125	.420	.807	.148	.784	.625	23.1
	CRESSKILL BORO	511	34	1190	2597	.710	.364	.758	.019	.611	.463	23.1
	DEMAREST BORO	511	8	1190	1577	.746	.056	.650	.048	.484	.375	23.1
	DUMONT BORO	511	154	1190	6296	.639	.273	1.414	-.027	.775	.575	23.1
	EAST RUTHERFORD BORO	1374	187	1767	3354	1.059	2.054	.527	.021	1.213	.915	39.1
	EDGEWATER BORO	1543	125	2157	2244	.249	.571	.496	.432	.438	.437	37.8
	ELMWOOD PARK BORO	821	241	2334	6984	.888	1.373	1.294	-.371	1.185	.796	35.6
	EMERSON BORO	511	50	1190	2256	.781	.499	.667	1.421	.649	.842	23.1
	ENGLEWOOD CITY	1246	514	1900	8824	1.740	2.587	2.188	1.518	2.171	2.008	37.2
	ENGLEWOOD CLIFFS BORO	511	19	1190	1865	.639	2.050	.723	.209	1.137	.905	23.1
	FAIR LAWN BORO	821	149	2334	11831	1.882	2.299	2.845	1.256	2.342	2.070	35.6
	FAIRVIEW BORO	1543	304	2157	4355	.320	.631	.703	-.232	.551	.355	37.8
	FORT LEE BORO	1543	611	2157	15462	.888	2.216	3.944	7.126	2.349	3.543	37.8
	FRANKLIN LAKES BORO	345	22	701	3006	3.479	.801	1.506	1.564	1.929	1.838	17.1
	GARFIELD CITY	821	876	2334	11060							35.6
	GLEN ROCK BORO	345	22	701	3772	.994	.600	1.253	1.108	.949	.989	17.1
	HACKENSACK CITY	1246	991	1900	16345	1.420	6.230	3.018	3.008	3.556	3.419	37.2
	HARRINGTON PARK BORO	511	16	1190	1429	.724	.093	.500	.430	.439	.437	23.1
	HASBROUCK HEIGHTS BORO	1374	97	1767	4501	.533	.667	1.023	1.746	.741	.992	39.1
	HAWORTH BORO	511	2	1190	1127	.699	.082	.383	.258	.388	.355	23.1
	HILLSDALE BORO	511	67	1190	3302	1.030	.376	1.005	.613	.804	.756	23.1
	HO-HO-KUS BORO	345	7	701	1405	.639	.105	.579	.061	.441	.346	17.1
	LEONIA BORO	1543	67	2157	3386	.533	.183	.844	-.315	.520	.311	37.8
	LITTLE FERRY BORO	1374	180	1767	5098	.533	.550	.757	-.279	.613	.390	39.1
	LODI BORO	821	515	2334	9500							35.6
	LYNDHURST TWP.	1374	315	1767	7738	.846	1.637	1.471	2.259	1.318	1.553	39.1
	MAHWAH TWP.	345	113	701	5221	2.975	1.177	1.352	-8.607	1.835	-.776	17.1
	MAYWOOD BORO	821	81	2334	3842	.462	.693	.796	.755	.650	.676	35.6
	MIDLAND PARK BORO	345	70	701	2612	.600	.588	.604	.880	.597	.668	17.1
	MONTVALE BORO	511	33	1190	2515	1.420	1.441	.798	3.562	1.220	1.805	23.1
	MOONACHIE BORO	1374	38	1767	1045	.568	1.529	.181	1.252	.759	.882	39.1
	NEW MILFORD BORO	821	107	2334	6334	.781	.270	1.360	.225	.804	.659	35.6
	NORTH ARLINGTON BORO	1374	184	1767	6551	.501	.458	1.267	-.295	.742	.483	39.1
	NORTHVALE BORO	511	36	1190	1572	.462	.878	.382	2.725	.574	1.112	23.1
	NORWOOD BORO	511	38	1190	1441	1.030	.377	.442	-.349	.616	.375	23.1
	OAKLAND BORO	345	80	701	3987	2.127	.858	1.172	2.096	1.386	1.563	17.1
	OLD TAPPAN BORO	511	13	1190	1366	1.101	.248	.438	1.244	.595	.758	23.1
	ORADELL BORO	821	25	2334	2817	.905	.585	.980	.769	.823	.810	35.6
	PALISADES PARK BORO	1543	294	2157	5799	.462	.717	1.077	.346	.752	.651	37.8
	PARAMUS BORO	821	97	2334	7923	3.674	6.930	2.314	13.562	4.306	6.620	35.6
	PARK RIDGE BORO	511	72	1190	2947	.916	.501	.798	.889	.738	.776	23.1
	RAMSEY BORO	345	57	701	4501	2.095	1.089	1.320	2.932	1.501	1.859	17.1
	RIDGEFIELD BORO	1543	131	2157	4015	.923	1.091	.811	-1.614	.942	.303	37.8
	RIDGEFIELD PARK VILLAGE	1543	184	2157	5034	.710	.425	1.005	.618	.713	.690	37.8
	RIDGEWOOD VILLAGE	345	150	701	8671	2.095	1.578	3.328	3.061	2.334	2.515	17.1
	RIVER EDGE BORO	821	68	2334	4180	.675	.377	1.066	.621	.706	.685	35.6
	RIVER VALE TWP.	511	39	1190	3070	1.491	.155	1.057	.448	.901	.787	23.1
	ROCHELLE PARK TWP.	821	38	2334	2065	.391	.719	.431	1.521	.514	.765	35.6
	ROCKLEIGH BORO	511	1	1190	59	.355	.562	.018	.353	.312	.322	23.1
	RUTHERFORD BORO	1374	257	1767	7060	.843	1.618	1.602	4.889	1.354	2.238	39.1
	SADDLE BROOK TWP.	821	137	2334	4961	.959	2.318	1.083	.084	1.453	1.111	35.6
	SADDLE RIVER BORO	345	12	701	1032	1.811	.062	.576	-.111	.816	.584	17.1
	SOUTH HACKENSACK TWP.	1374	46	1767	784	.178	.998	.151	-.026	.442	.325	39.1
	TEANECK TWP.	1246	298	1900	13256	2.095	1.802	3.595	-.244	2.497	1.812	37.2
	TENAFLY BORO	511	89	1190	4917	1.562	.554	1.807	1.176	1.308	1.275	23.1
	TETERBORO BORO	1374	0	1767	10	.426	1.996	.002	6.359	.808	2.196	39.1
	UPPER SADDLE RIVER BORO	345	36	701	2401	1.811	.609	1.155	1.733	1.192	1.327	17.1
	WALDWICK BORO	345	70	701	3396	.852	.378	.923	.474	.718	.657	17.1
	WALLINGTON BORO	1374	300	1767	4667	.355	.545	.734	.267	.545	.475	39.1
	WASHINGTON TWP.	511	26	1190	3266	1.019	.086	.932	-.002	.679	.509	23.1
	WESTWOOD BORO	511	114	1190	4070	.852	1.013	.939	1.104	.935	.977	23.1
	WOODCLIFF LAKE BORO	511	9	1190	1708	1.331	.379	.724	1.508	.811	.986	23.1
	WOOD-RIDGE BORO	1374	48	1767	2877	.391	.437	.668	-.728	.498	.192	39.1
	WYCKOFF TWP.	345	49	701	5040	2.379	.677	1.834	1.323	1.630	1.553	17.1

(CITE 18 N.J.R. 1550)
COMMUNITY AFFAIRS

ADOPTIONS

EXHIBIT 1
NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING
BASE DATA FOR MUNICIPAL LOW & MODERATE INCOME
HOUSING NEED CALCULATION
01 MAY 86

COUNTY	NAME	SUBREG MULTI INDEX NEED (1)	MUNIC. SINGLE INDEX NEED (2)	SUBREG SINGLE INDEX NEED (3)	1987 OCCUPIED HOUSING EST. (4)	% REG. GROWTH AREA (5)	% REG. EMPLOY MENT (6)	% REG. AGGREG INCOME CHANGE (7)	% REG. EMPLOY CHANGE (8)	PRES. NEED REALLO FACTOR (9)	PROS. NEED ALLOCA FACTOR (10)	LOW- MOD INCOME SUBREG PERCENT (11)
BURLINGTON												
	BASS RIVER TWP.	832	45	1975	543	.	.	.	.	.	.	46.2
	BEVERLY CITY	716	60	1327	1055	.084	.262	.196	.587	.181	.282	36.4
	BORDENTOWN CITY	716	102	1327	1839	.147	.296	.387	-.089	.277	.185	36.4
	BORDENTOWN TWP.	716	55	1327	2689	.985	.821	.630	1.369	.812	.951	36.4
	BURLINGTON CITY	716	197	1327	4019	.538	1.028	.761	-.501	.776	.457	36.4
	BURLINGTON TWP.	716	179	1327	4112	2.221	2.095	.902	4.714	1.739	2.483	36.4
	CHESTERFIELD TWP.	832	29	1975	832	.281	.088	.307	.406	.226	.271	46.2
	CINNAMINSON TWP.	716	85	1327	4889	1.184	1.541	1.634	2.082	1.453	1.610	36.4
	DELANCO TWP.	716	25	1327	1361	.338	.292	.270	.071	.300	.243	36.4
	DELRAN TWP.	716	128	1327	5050	1.081	.885	1.263	2.006	1.076	1.309	36.4
	EASTAMPTON TWP.	832	40	1975	1578	.594	.033	.361	.060	.329	.262	46.2
	EDGEWATER PARK TWP.	716	88	1327	3578	.447	.257	.829	-.474	.511	.265	36.4
	EVESHAM TWP.	323	82	984	11379	2.125	1.934	2.448	4.882	2.169	2.847	23.3
	FIELDSBORO BORO	716	8	1327	194	.047	.025	.041	-.195	.038	-.020	36.4
	FLORENCE TWP.	716	127	1327	3723	1.509	.501	.731	1.454	.914	1.049	36.4
	HAINESPORT TWP.	832	57	1975	1246	1.029	.294	.243	-.077	.522	.372	46.2
	LUMBERTON TWP.	832	67	1975	2139	.739	.199	.442	-.051	.460	.332	46.2
	MANSFIELD TWP.	832	52	1975	1130	1.134	.193	.234	.367	.520	.482	46.2
	MAPLE SHADE TWP.	323	199	984	9024	.582	1.268	1.727	2.018	1.192	1.398	23.3
	MEDFORD TWP.	323	125	984	7084	2.022	1.228	2.053	2.906	1.768	2.052	23.3
	MEDFORD LAKES BORO	323	48	984	1578	.176	.028	.526	.005	.243	.184	23.3
	MOORESTOWN TWP.	323	63	984	5998	2.374	4.685	2.039	5.320	3.033	3.604	23.3
	MOUNT HOLLY TWP.	832	212	1975	3910	.455	1.867	.847	1.004	1.057	1.044	46.2
	MOUNT LAUREL TWP.	323	144	984	8922	3.464	1.940	2.244	3.575	2.549	2.806	23.3
	NEW HANOVER TWP.	832	73	1975	1183	.	.	.	.	.	.	46.2
	NORTH HANOVER TWP.	832	138	1975	3205	.	.	.	.	.	.	46.2
	PALMYRA BORO	716	80	1327	3255	.300	.374	.632	.384	.435	.422	36.4
	PEMBERTON BORO	832	23	1975	468	.	.	.	.	.	.	46.2
	PEMBERTON TWP.	832	708	1975	10363	.	.	.	.	.	.	46.2
	RIVERSIDE TWP.	716	142	1327	3060	.241	.651	.579	-.909	.490	.140	36.4
	RIVERTON BORO	716	49	1327	1147	.109	.262	.312	-.312	.228	.093	36.4
	SHAMONG TWP.	832	67	1975	1584	.298	.064	.394	.016	.252	.193	46.2
	SOUTHAMPTON TWP.	832	84	1975	3942	.219	.381	.786	.291	.462	.419	46.2
	SPRINGFIELD TWP.	832	61	1975	1001	.530	.070	.221	.138	.274	.240	46.2
	TABERNACLE TWP.	832	99	1975	2132	.613	.079	.517	.262	.403	.368	46.2
	WASHINGTON TWP.	832	45	1975	300	.	.	.	.	.	.	46.2
	WESTAMPTON TWP.	832	35	1975	2911	1.726	.204	.377	-.213	.769	.523	46.2
	WILLINGBORO TWP.	323	322	984	11538	1.188	1.150	3.193	-.415	1.844	1.279	23.3
	WOODLAND TWP.	832	60	1975	408	.	.	.	.	.	.	46.2
	WRIGHTSTOWN BORO	832	78	1975	1032	.	.	.	.	.	.	46.2
CAMDEN												
	AUDUBON BORO	506	46	1072	3724	.231	.495	.761	-.237	.496	.313	42.3
	AUDUBON PARK BORO	506	18	1072	509	.023	.003	.087	-.025	.038	.022	42.3
	BARRINGTON BORO	506	131	1072	2826	.249	.466	.603	-1.279	.439	.010	42.3
	BELLMAWR BORO	506	174	1072	4626	.468	.918	.975	.763	.787	.781	42.3
	BERLIN BORO	718	55	1553	1930	.557	.921	.507	2.331	.662	1.079	38.5
	BERLIN TWP.	718	57	1553	1765	.511	.336	.391	-.233	.413	.251	38.5
	BROOKLAWN BORO	506	15	1072	800	.077	.178	.149	.232	.134	.159	42.3
	CAMDEN CITY	3730	3288	3594	27693	.	.	.	.	.	.	63.2
	CHERRY HILL TWP.	445	345	671	25222	3.781	12.596	8.014	21.297	8.130	11.422	30.1
	CHESILHURST BORO	718	26	1553	485	.269	.009	.096	.001	.125	.094	38.5
	CLEMENTON BORO	718	81	1553	2282	.299	.473	.420	.465	.397	.414	38.5
	COLLINGSWOOD BORO	445	205	671	6665	.291	.691	1.328	.619	.770	.732	30.1
	GIBBSBORO BORO	718	22	1553	785	.338	.431	.187	1.058	.318	.503	38.5
	GLOUCESTER TWP.	718	325	1553	17476	3.619	1.427	3.894	1.032	2.980	2.493	38.5
	GLOUCESTER CITY CITY	506	209	1072	4831	.363	.444	.821	-.796	.542	.208	42.3
	HADDON TWP.	445	96	671	6455	.421	.825	1.514	.068	.920	.707	30.1
	HADDONFIELD BORO	506	44	1072	4634	.435	1.548	1.638	2.781	1.207	1.600	42.3
	HADDON HEIGHTS BORO	506	79	1072	3184	.247	.357	.776	.069	.460	.362	42.3
	HI-NELLA BORO	718	20	1553	501	.036	.018	.089	-.059	.048	.021	38.5
	LAUREL SPRINGS BORO	718	31	1553	801	.070	.162	.186	.103	.140	.130	38.5
	LAWNSIDE BORO	506	76	1072	1070	.224	.313	.219	-.156	.252	.150	42.3
	LINDENWOLD BORO	718	235	1553	8107	.597	.550	1.472	.778	.873	.849	38.5
	MAGNOLIA BORO	506	39	1072	1705	.153	.216	.353	.214	.241	.234	42.3
	MERCHANTVILLE BORO	3730	40	3594	1623	.095	.232	.370	-.187	.232	.128	63.2
	MOUNT EPHRAIM BORO	506	41	1072	1931	.141	.271	.363	.537	.258	.328	42.3
	OAKLYN BORO	506	38	1072	1841	.099	.206	.359	.083	.221	.187	42.3
	PENNSAUKEN TWP.	3730	265	3594	12207	1.651	6.437	2.732	2.603	3.607	3.356	63.2
	PINE HILL BORO	718	134	1553	3634	.621	.082	.651	.040	.451	.349	38.5
	PINE VALLEY BORO	718	0	1553	11	.147	.020	.008	.023	.058	.050	38.5
	RUNNEMEDA BORO	506	93	1072	3409	.313	.449	.661	.234	.474	.414	42.3
	SOMERDALE BORO	506	68	1072	2093	.213	.580	.440	2.113	.411	.836	42.3

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01 MAY 86

COUNTY	NAME	SUBREG MULTI INDEX NEED (1)	MUNIC. SINGLE INDEX NEED (2)	SUBREG SINGLE INDEX NEED (3)	1987 OCCUPIED HOUSING EST. (4)	% REG. GROWTH AREA (5)	% REG. EMPLOY MENT (6)	% REG. AGGREG INCOME (7)	% REG. EMPLOY CHANGE (8)	PRES. NEED REALLO FACTOR (9)	PROS. NEED ALLOCA FACTOR (10)	LOW- MOD INCOME SUBREG PERCENT (11)
	GLASSBORO BORO	2107	250	2622	4950	1.092	1.132	.902	2.142	1.042	1.317	41.7
	GREENWICH TWP.	2107	43	2622	1865	1.476	.526	.448	.957	.817	.852	41.7
	HARRISON TWP.	2107	60	2622	1382	.261	.203	.306	.557	.257	.332	41.7
	LOGAN TWP.	2107	52	2622	1327	3.662	.436	.275	.912	1.458	1.321	41.7
	MANTUA TWP.	2107	113	2622	3018	1.855	.661	.739	.682	1.085	.984	41.7
	MONROE TWP.	2107	296	2622	7830	2.583	.815	1.557	1.136	1.652	1.523	41.7
	NATIONAL PARK BORO	2107	53	2622	1134	.156	.033	.207	.063	.132	.115	41.7
	NEWFIELD BORO	2107	19	2622	539	.	.	.	.	.	.	41.7
	PAULSBORO BORO	2107	143	2622	2415	.327	.739	.445	-1.545	.503	-.009	41.7
	PITMAN BORO	2107	71	2622	3566	.353	.919	.770	-.600	.681	.360	41.7
	SOUTH HARRISON TWP.	2107	30	2622	583	.	.	.	.	.	.	41.7
	SWEDESBORO BORO	2107	69	2622	772	.120	.370	.146	.383	.212	.255	41.7
	WASHINGTON TWP.	2107	142	2622	11117	3.046	1.076	2.536	1.481	2.219	2.035	41.7
	WENONAH BORO	2107	14	2622	825	.155	.083	.241	-.153	.160	.082	41.7
	WEST DEPTFORD TWP.	2107	137	2622	7190	2.530	1.090	1.577	.659	1.732	1.464	41.7
	WESTVILLE BORO	2107	40	2622	1907	.189	.685	.345	.618	.406	.459	41.7
	WOODBURY CITY	2107	152	2622	3949	.333	1.956	.851	1.744	1.047	1.221	41.7
	WOODBURY HEIGHTS BORO	2107	20	2622	1092	.192	.301	.271	.203	.255	.242	41.7
	WOOLWICH TWP.	2107	39	2622	445	1.740	.091	.096	.110	.642	.509	41.7
HUDSON												
	BAYONNE CITY	3970	1978	3450	25759	.	.	.	.	.	.	50.4
	EAST NEWARK BORO	3970	74	3450	675	.036	.278	.103	-.114	.139	.076	50.4
	GUTTENBERG TOWN	15084	277	10252	3281	.071	.344	.775	.771	.397	.490	63.3
	HARRISON TOWN	3970	489	3450	4753	.426	1.089	.742	-1.433	.752	.206	50.4
	HOBOKEN CITY	15084	3127	10252	16036	.	.	.	.	.	.	63.3
	JERSEY CITY CITY	14356	10765	10765	80987	.	.	.	.	.	.	63.3
	KEARNY TOWN	3970	725	3450	13212	2.817	3.110	2.296	-10.66	2.741	-.609	50.4
	NORTH BERGEN TWP.	15084	1373	10252	19651	.	.	.	.	.	.	63.3
	SECAUCUS TOWN	3970	184	3450	5298	1.331	5.445	1.349	15.808	2.709	5.983	50.4
	UNION CITY CITY	15084	3061	10252	20755	.	.	.	.	.	.	63.3
	WEEHAWKEN TWP.	15084	470	10252	5357	.	.	.	.	.	.	63.3
	WEST NEW YORK TOWN	15084	1944	10252	15469	.	.	.	.	.	.	63.3
HUNTERDON												
	ALEXANDRIA TWP.	2548	69	3279	1042	.	.	.	.	.	.	43.8
	BETHLEHEM TWP.	2548	64	3279	969	.021	.054	.362	.181	.146	.154	43.8
	BLOOMSBURY BORO	2548	16	3279	294	.101	.175	.100	.038	.125	.104	43.8
	CALIFON BORO	2548	27	3279	338	.	.	.	.	.	.	43.8
	CLINTON TOWN	2548	21	3279	701	.180	.380	.247	.703	.269	.377	43.8
	CLINTON TWP.	2548	79	3279	2797	2.972	.440	1.030	.456	1.480	1.224	43.8
	DELAWARE TWP.	2548	78	3279	1324	.	.	.	.	.	.	43.8
	EAST AMWELL TWP.	2548	84	3279	1293	.	.	.	.	.	.	43.8
	FLEMINGTON BORO	2548	84	3279	1839	.242	1.433	.510	1.701	.728	.972	43.8
	FRANKLIN TWP.	2548	39	3279	831	.046	.094	.297	.098	.146	.134	43.8
	FRENCHTOWN BORO	2548	25	3279	551	.	.	.	.	.	.	43.8
	GLEN GARDNER BORO	2548	19	3279	409	.	.	.	.	.	.	43.8
	HAMPTON BORO	2548	28	3279	565	.	.	.	.	.	.	43.8
	HIGH BRIDGE BORO	2548	69	3279	1442	.435	.125	.381	.109	.314	.263	43.8
	HOLLAND TWP.	2548	88	3279	1528	.	.	.	.	.	.	43.8
	KINGWOOD TWP.	2548	95	3279	1008	.	.	.	.	.	.	43.8
	LAMBERTVILLE CITY	2548	105	3279	1592	.	.	.	.	.	.	43.8
	LEBANON BORO	2548	9	3279	365	.270	.106	.092	.036	.156	.126	43.8
	LEBANON TWP.	2548	168	3279	1752	.	.	.	.	.	.	43.8
	MILFORD BORO	2548	25	3279	475	.	.	.	.	.	.	43.8
	RARITAN TWP.	2548	92	3279	3812	2.550	1.679	1.246	2.632	1.825	2.027	43.8
	READINGTON TWP.	2548	111	3279	3602	2.300	.662	1.436	.863	1.466	1.315	43.8
	STOCKTON BORO	2548	14	3279	247	.	.	.	.	.	.	43.8
	TEWKSBURY TWP.	2548	71	3279	1456	.075	.129	1.012	.451	.405	.417	43.8
	UNION TWP.	2548	68	3279	1148	.	.	.	.	.	.	43.8
	WEST AMWELL TWP.	2548	40	3279	745	.	.	.	.	.	.	43.8
MERCER												
	EAST WINDSOR TWP.	481	212	1109	7923	2.090	2.223	2.227	3.701	2.180	2.560	30.3
	EWING TWP.	481	291	1109	11666	2.366	3.888	3.351	-.531	3.201	2.268	30.3
	HAMILTON TWP.	3411	749	3479	30368	5.269	5.051	7.361	-2.672	5.894	3.752	49.0
	HIGHTSTOWN BORO	481	97	1109	1629	.192	.909	.443	-.251	.515	.323	30.3
	HOPEWELL BORO	481	26	1109	767	.	.	.	.	.	.	30.3
	HOPEWELL TWP.	481	117	1109	3590	1.324	.781	1.395	.401	1.167	.975	30.3
	LAWRENCE TWP.	3411	141	3479	7944	3.061	5.180	2.328	6.075	3.523	4.161	49.0
	PENNINGTON BORO	481	15	1109	866	.	.	.	.	.	.	30.3
	PRINCETON BORO	481	86	1109	3068	.275	4.521	1.332	6.121	2.043	3.062	30.3

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

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01 MAY 86

COUNTY	NAME	SUBREG MULTI INDEX NEED (1)	MUNIC. SINGLE INDEX NEED (2)	SUBREG SINGLE INDEX NEED (3)	1987 OCCUPIED HOUSING EST. (4)	% REG. GROWTH AREA (5)	% REG. EMPLOY MENT (6)	% REG. AGGREG INCOME (7)	% REG. EMPLOY CHANGE (8)	PRES. NEED REALLO FACTOR (9)	PRDS. NEED ALLOCA FACTOR (10)	LOW- MOD INCOME SUBREG PERCENT (11)
	PRINCETON TWP.	481	161	1109	4932	1.891	.923	2.380	.346	1.732	1.385	30.3
	TRENTON CITY	3411	2588	3479	30626							49.0
	WASHINGTON TWP.	481	42	1109	1428	2.455	.350	.351	.870	1.052	1.007	30.3
	WEST WINDSOR TWP.	481	62	1109	3306	3.255	2.203	1.167	4.841	2.208	2.866	30.3
MIDDLESEX												
	CARTERET BORO	2372	343	3200	6537							45.5
	CRANBURY TWP.	491	23	1010	766	2.042	1.173	.296	1.337	1.170	1.212	37.0
	DUNELLEN BORO	652	148	1557	2293	.228	.272	.669	-.590	.390	.145	34.0
	EAST BRUNSWICK TWP.	2177	176	2407	13448	3.910	5.466	5.071	9.324	4.816	5.943	42.9
	EDISON TWP.	652	590	1557	30286	6.734	14.022	9.358	8.705	10.038	9.705	34.0
	HELMETTA BORO	491	17	1010	305	.176	.058	.088	.315	.107	.159	37.0
	HIGHLAND PARK BORO	2177	152	2407	5543	.395	.792	1.664	-.193	.951	.665	42.9
	JAMESBURG BORO	491	71	1010	1481	.162	.292	.418	-.148	.290	.181	37.0
	METUCHEN BORO	652	101	1557	4655	.604	1.660	1.862	.042	1.375	1.042	34.0
	MIDDLESEX BORO	652	104	1557	4398	.758	1.773	1.422	1.410	1.318	1.341	34.0
	MILLTOWN BORO	2177	40	2407	2453	.352	.778	.823	.338	.651	.573	42.9
	MONROE TWP.	491	133	1010	8553	1.876	.382	2.390	.882	1.549	1.382	37.0
	NEW BRUNSWICK CITY	2177	1549	2407	14164							42.9
	NORTH BRUNSWICK TWP.	2177	182	2407	8826	2.637	3.970	3.139	7.312	3.248	4.264	42.9
	OLD BRIDGE TWP.	491	476	1010	18462	8.417	1.460	5.934	.732	5.270	4.136	37.0
	PERTH AMBOY CITY	2372	1633	3200	12784							45.5
	PISCATAWAY TWP.	652	463	1557	12507	4.152	8.015	4.571	11.391	5.579	7.032	34.0
	PLAINSBORO TWP.	491	50	1010	8404	1.377	1.042	1.523	3.680	1.314	1.906	37.0
	SAYREVILLE BORO	2372	258	3200	11608	3.647	2.144	3.319	-.584	3.037	2.131	45.5
	SOUTH AMBOY CITY	2372	168	3200	2718	.319	.736	.741	-.012	.598	.446	45.5
	SOUTH BRUNSWICK TWP.	491	150	1010	8088	5.307	3.175	2.113	7.022	3.532	4.405	37.0
	SOUTH PLAINFIELD BORO	652	150	1557	6180	1.802	4.796	2.175	1.131	2.924	2.476	34.0
	SOUTH RIVER BORO	2177	308	2407	4770	.615	.532	1.410	-.634	.853	.481	42.9
	SPOTSWOOD BORO	491	91	1010	2507	.472	.436	.888	.060	.599	.464	37.0
	WOODBIDGE TWP.	2372	798	3200	30420	5.075	11.807	10.457	12.775	9.113	10.028	45.5
MONMOUTH												
	ABERDEEN TWP.	1254	216	1516	6219	1.157	1.985	2.473	.181	1.872	1.449	31.5
	ALLENHURST BORO	1498	4	2315	337	.064	.288	.160	-.042	.171	.117	42.3
	ALLENTOWN BORO	230	23	1079	690							27.1
	ASBURY PARK CITY	1498	765	2315	7262							42.3
	ATLANTIC HIGHLANDS BORO	1254	45	1516	1867	.255	.903	.681	.816	.613	.664	31.5
	AVON-BY-THE-SEA BORO	1498	26	2315	1024	.085	.394	.334	.097	.271	.228	42.3
	BELMAR BORO	1498	181	2315	3132	.212	1.165	.809	1.340	.729	.882	42.3
	BRADLEY BEACH BORO	1498	149	2315	2206	.149	.284	.527	-.123	.320	.209	42.3
	BRIELLE BORO	1498	28	2315	1753	.350	.669	.787	1.054	.602	.715	42.3
	COLTS NECK TWP.	230	20	1079	2545	.135	.634	1.592	.991	.787	.838	27.1
	DEAL BORO	1498	6	2315	683	.255	.231	.508	-.058	.331	.234	42.3
	EATONTOWN BORO	871	105	1448	5332	1.232	4.683	1.659	5.127	2.525	3.175	40.0
	ENGLISHTOWN BORO	230	19	1079	470	.121	.769	.092	.346	.328	.332	27.1
	FAIR HAVEN BORO	871	30	1448	1971	.329	.242	1.000	.650	.524	.555	40.0
	FARMINGDALE BORO	230	16	1079	531							27.1
	FREEHOLD BORO	230	185	1079	3715	.403	3.014	1.145	1.301	1.521	1.466	27.1
	FREEHOLD TWP.	230	94	1079	7030	4.441	4.336	2.858	4.896	3.878	4.133	27.1
	HAZLET TWP.	1254	136	1516	7175	1.189	1.842	2.855	2.471	1.962	2.090	31.5
	HIGHLANDS BORO	1254	94	1516	2378	.136	.468	.752	.434	.452	.448	31.5
	HOLMDEL TWP.	1254	25	1516	3211	1.787	5.535	2.074	3.019	3.132	3.104	31.5
	HOWELL TWP.	230	335	1079	11205	5.802	2.016	3.345	2.738	3.721	3.475	27.1
	INTERLAKEN BORO	1498	5	2315	396	.081	.010	.199	.003	.096	.073	42.3
	KEANSBURG BORO	1254	274	1516	3516							31.5
	KEYPORT BORO	1254	151	1516	3122	.297	.991	.776	-1.381	.688	.171	31.5
	LITTLE SILVER BORO	871	23	1448	1948	.595	.654	1.106	1.011	.785	.841	40.0
	LOCH ARBOUR VILLAGE	1498	3	2315	127	.021	.030	.068	-.047	.040	.018	42.3
	LONG BRANCH CITY	871	816	1448	12506							40.0
	MANALAPAN TWP.	230	155	1079	7636	3.079	1.257	3.273	1.193	2.536	2.201	27.1
	MANASQUAN BORO	1498	97	2315	2256	.297	1.282	.717	1.514	.766	.953	42.3
	MARLBORO TWP.	230	78	1079	8377	4.769	1.906	3.431	4.475	3.369	3.645	27.1
	MATAWAN BORO	1254	85	1516	3183	.480	1.415	1.235	1.122	1.043	1.063	31.5
	MIDDLETOWN TWP.	1254	373	1516	23133	8.462	4.586	10.375	4.819	7.808	7.060	31.5
	MILLSTONE TWP.	230	93	1079	1410							27.1
	MONMOUTH BEACH BORO	871	19	1448	1511	.234	.225	.834	.436	.431	.432	40.0
	NEPTUNE TWP.	1498	559	2315	10704							42.3
	NEPTUNE CITY BORO	1498	66	2315	2267	.191	1.027	.681	-.694	.633	.301	42.3
	OCEAN TWP.	1498	125	2315	9213	2.378	6.367	3.607	12.697	4.117	6.262	42.3
	OCEANPORT BORO	871	23	1448	2113	.658	1.137	.843	-.204	.879	.608	40.0
	RED BANK BORO	871	225	1448	5004	.372	5.604	1.609	5.283	2.528	3.217	40.0
	ROOSEVELT BORO	230	13	1079	325							27.1
	RUMSON BORO	871	44	1448	2626	1.104	.488	1.949	.392	1.180	.983	40.0

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	SEA BRIGHT BORO	871	31	1448	1116	.127	.352	.366	.249	.282	.274	40.0
	SEA GIRT BORO	1498	5	2315	1056	.223	.372	.554	.197	.383	.336	42.3
	SHREWSBURY BORO	871	14	1448	1097	.488	1.450	.492	1.343	.810	.943	40.0
	SHREWSBURY TWP.	871	27	1448	556	.019	.189	.102	.266	.103	.144	40.0
	SOUTH BELMAR BORO	1498	34	2315	683	.042	.105	.171	.204	.106	.130	42.3
	SPRING LAKE BORO	1498	37	2315	1575	.276	.549	.752	.719	.526	.574	42.3
	SPRING LAKE HEIGHTS BORO	1498	34	2315	2782	.276	.569	.845	.765	.563	.614	42.3
	TINTON FALLS BORO	871	70	1448	3296	1.255	2.279	1.159	4.999	1.564	2.423	40.0
	UNION BEACH BORO	1254	118	1516	2126	.382	.430	.598	-.044	.470	.341	31.5
	UPPER FREEHOLD TWP.	230	47	1079	1051							27.1
	WALL TWP.	1498	191	2315	7350	3.688	2.898	2.598	4.309	3.061	3.373	42.3
	WEST LONG BRANCH BORO	871	23	1448	2538	.601	1.793	1.058	1.477	1.150	1.232	40.0
MORRIS												
	BOONTON TOWN	280	177	798	3255	.680	.622	.705	-.246	.669	.440	23.6
	BOONTON TWP.	280	63	798	1242	1.049	.253	.406	-1.144	.569	.141	23.6
	BUTLER BORO	418	84	1148	2672	.553	.323	.600	-.595	.492	.220	29.4
	CHATHAM BORO	537	36	741	3315	.660	.610	1.081	.463	.784	.704	24.1
	CHATHAM TWP.	537	20	741	3556	1.244	.247	1.394	.353	.962	.809	24.1
	CHESTER BORO	769	13	1211	497							28.2
	CHESTER TWP.	769	50	1211	1819							28.2
	DENVILLE TWP.	418	112	1148	4917	3.533	1.245	1.369	2.768	2.049	2.229	29.4
	DOVER TOWN	769	350	1211	5322	.705	1.434	1.101	-1.106	1.080	.534	28.2
	EAST HANOVER TWP.	280	50	798	2958	1.835	2.289	.849	3.478	1.658	2.113	23.6
	FLORHAM PARK BORO	537	7	741	3039	2.106	2.584	1.081	5.429	1.924	2.800	24.1
	HANOVER TWP.	280	40	798	3931	3.033	3.047	1.186	3.062	2.422	2.582	23.6
	HARDING TWP.	537	7	741	1315	1.353	.238	.911	1.014	.834	.879	24.1
	JEFFERSON TWP.	418	391	1148	5905	.056	.213	1.305	.096	.525	.418	29.4
	KINNELON BORO	418	56	1148	2672	.493	.162	.985	.142	.547	.446	29.4
	LINCOLN PARK BORO	418	60	1148	3893	1.138	.387	.684	-.183	.736	.507	29.4
	MADISON BORO	537	108	741	5384	1.180	1.088	1.750	1.269	1.339	1.322	24.1
	MENDHAM BORO	537	23	741	1766							24.1
	MENDHAM TWP.	537	33	741	1624	.048	.055	.703	.034	.269	.210	24.1
	MINE HILL TWP.	769	30	1211	1211	.829	.032	.277	.087	.379	.306	28.2
	MONTVILLE TWP.	280	98	798	4835	2.751	1.322	1.562	2.772	1.878	2.102	23.6
	MORRIS TWP.	537	99	741	7245	3.039	1.471	2.584	.587	2.365	1.920	24.1
	MORRIS PLAINS BORO	537	24	741	1831	.730	1.959	.626	3.963	1.105	1.820	24.1
	MORRISTOWN TOWN	537	349	741	7155	.803	6.305	1.587	11.712	2.898	5.102	24.1
	MOUNTAIN LAKES BORO	280	9	798	1239	.815	.205	.611	.183	.544	.453	23.6
	MOUNT ARLINGTON BORO	769	37	1211	1452	.190	.031	.352	.009	.191	.145	28.2
	MOUNT OLIVE TWP.	769	165	1211	6847	1.629	.552	1.648	1.279	1.277	1.277	28.2
	NETCONG BORO	769	35	1211	1380	.253	.179	.264	-.327	.232	.092	28.2
	PARSIPPANY-TROY HILLS TWP.	280	360	798	18470	6.030	5.581	4.689	13.996	5.434	7.574	23.6
	PASSAIC TWP.	537	35	741	2717	2.340	.331	.813	.191	1.161	.919	24.1
	PEQUANNOCK TWP.	418	65	1148	4394	1.678	.880	1.269	1.079	1.276	1.226	29.4
	RANDOLPH TWP.	769	180	1211	6708	4.000	.942	1.986	2.083	2.309	2.253	28.2
	RIVERDALE BORO	418	34	1148	877	.525	.285	.207	.128	.339	.286	29.4
	ROCKAWAY BORO	418	77	1148	2448	.562	.562	.616	.371	.580	.528	29.4
	ROCKAWAY TWP.	418	191	1148	6775	2.896	1.714	1.835	4.413	2.148	2.714	29.4
	ROXBURY TWP.	769	194	1211	6460	4.473	1.162	1.709	1.171	2.448	2.129	28.2
	VICTORY GARDENS BORO	769	32	1211	407	.056	.005	.079	.008	.047	.037	28.2
	WASHINGTON TWP.	769	124	1211	4789	.198	.251	1.255	.362	.568	.517	28.2
	WHARTON BORO	418	79	1148	1976	.548	.479	.477	.139	.501	.411	29.4
OCEAN												
	BARNEGAT TWP.	859	122	2258	3156	3.541	.297	.864	.613	1.567	1.329	53.1
	BARNEGAT LIGHT BORO	859	14	2258	405	.149	.161	.112	.142	.141	.141	53.1
	BAY HEAD BORO	730	9	2161	565	.127	.136	.221	.150	.161	.159	46.6
	BEACH HAVEN BORO	859	26	2258	942	.212	.558	.267	.037	.346	.269	53.1
	BEACHWOOD BORO	859	86	2258	2646	.583	.274	.759	.110	.539	.432	53.1
	BERKELEY TWP.	859	259	2258	15928	5.573	.922	2.853	7.338	3.116	2.521	53.1
	BRICK TWP.	730	494	2161	24040	5.544	4.201	6.634	1.819	5.460	4.550	46.6
	DOVER TWP.	730	537	2161	25834	8.838	11.897	7.969	10.933	9.568	9.909	46.6
	EAGLESWOOD TWP.	859	28	2258	399							53.1
	HARVEY CEDARS BORO	859	7	2258	297	.117	.067	.055	.039	.079	.069	53.1
	ISLAND HEIGHTS BORO	730	19	2161	631	.127	.059	.179	.028	.122	.098	46.6
	JACKSON TWP.	859	380	2258	8654	2.666	2.347	2.875	2.892	2.629	2.695	53.1
	LACEY TWP.	859	231	2258	7290	4.862	1.689	1.682	2.223	2.744	2.614	53.1
	LAKEHURST BORO	859	90	2258	905	.200	.495	.256	.749	.317	.425	53.1
	LAKEWOOD TWP.	730	742	2161	15893							46.6
	LAVALLETT BORO	730	25	2161	1122	.138	.444	.300	1.164	.294	.512	46.6
	LITTLE EGG HARBOR TWP.	859	153	2258	4153	2.207	.146	1.017	.304	1.123	.918	53.1
	LONG BEACH TWP.	859	58	2258	2487	.913	.356	.587	.268	.619	.531	53.1
	MANCHESTER TWP.	859	158	2258	17100	5.572	.771	3.808	.751	3.384	2.726	53.1

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

EXHIBIT 1
NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING
BASE DATA FOR MUNICIPAL LOW & MODERATE INCOME
HOUSING NEED CALCULATION
01 MAY 86

COUNTY	NAME	SUBREG MULTI INDEX NEED (1)	MUNIC. SINGLE INDEX NEED (2)	SUBREG SINGLE INDEX NEED (3)	1987 OCCUPIED HOUSING EST. (4)	% REG. GROWTH AREA (5)	% REG. EMPLOY MENT (6)	% REG. AGGREG INCOME (7)	% REG. EMPLOY CHANGE (8)	PRES. NEED REALLO FACTOR (9)	PROS. NEED ALLOCA FACTOR (10)	LOW- MOD INCOME SUBREG PERCENT (11)
	MANTOLOKING BORO	730	2	2161	204	.093	.099	.151	.271	.114	.154	46.6
	OCEAN TWP.	859	63	2258	1621	3.041	.210	.441	-.163	1.231	.882	53.1
	OCEAN GATE BORO	859	33	2258	610	.106	.024	.140	.039	.090	.077	53.1
	PINE BEACH BORO	859	8	2258	672	.127	.156	.224	.257	.169	.191	53.1
	PLUMSTED TWP.	859	145	2258	1785							53.1
	POINT PLEASANT BORO	730	136	2161	7488	.786	2.261	2.135	1.926	1.727	1.777	46.6
	POINT PLEASANT BEACH BORO	730	78	2161	2307	.319	1.215	.724	.393	.753	.663	46.6
	SEASIDE HEIGHTS BORO	730	78	2161	1206	.074	.696	.179	.511	.317	.365	46.6
	SEASIDE PARK BORO	730	40	2161	852	.127	.416	.265	.481	.270	.322	46.6
	SHIP BOTTOM BORO	859	35	2258	690	.151	.459	.202	.411	.271	.306	53.1
	SOUTH TOMS RIVER BORO	859	81	2258	1058	.256	.148	.305	.134	.236	.211	53.1
	STAFFORD TWP.	859	172	2258	5027	4.126	1.453	1.292	2.337	2.291	2.302	53.1
	SURF CITY BORO	859	32	2258	866	.138	.218	.198	.158	.185	.178	53.1
	TUCKERTON BORO	859	77	2258	1054	.786	.404	.258	-.060	.483	.347	53.1
PASSAIC												
	BLOOMINGDALE BORO	1082	108	1922	2790	1.477	.104	.559	-.156	.713	.496	29.4
	CLIFTON CITY	4533	1070	4293	31372	3.976	7.596	5.845	10.285	5.806	6.926	51.6
	HALEDON BORO	1082	119	1922	2760	.462	.321	.459	-.154	.414	.272	29.4
	HAWTHORNE BORO	1082	192	1922	7358	1.221	1.218	1.406	.887	1.282	1.183	29.4
	LITTLE FALLS TWP.	1082	90	1922	4438	.994	1.240	1.054	.849	1.096	1.034	29.4
	NORTH HALEDON BORO	1082	49	1922	2655	1.243	.213	.636	.291	.697	.596	29.4
	PASSAIC CITY	4533	3224	4293	19928							51.6
	PATERSON CITY	7036	7023	7023	46629							63.3
	POMPTON LAKES BORO	1082	68	1922	3871	1.012	.482	.883	.402	.792	.695	29.4
	PROSPECT PARK BORO	1082	127	1922	1991	.160	.057	.327	-.266	.181	.069	29.4
	RINGWOOD BORO	1082	117	1922	4011							29.4
	TOTOWA BORO	1082	89	1922	3573	1.420	2.144	.781	2.030	1.448	1.594	29.4
	WANAQUE BORO	1082	123	1922	3332	.590	.232	.675	-.030	.499	.367	29.4
	WAYNE TWP.	1082	239	1922	15901	8.836	6.286	4.324	8.487	6.482	6.983	29.4
	WEST MILFORD TWP.	1082	466	1922	7822	.087	.455	1.675	.910	.739	.782	29.4
	WEST PATERSON BORO	1082	135	1922	4241	1.047	.564	.846	-.022	.819	.609	29.4
SALEM												
	ALLOWAY TWP.	2377	84	3357	971							41.8
	CARNEYS POINT TWP.	2377	102	3357	3342	1.842	.292	2.298	-.293	1.477	1.035	41.8
	ELMER BORO	2377	18	3357	611							41.8
	EL SINBORO TWP.	2377	29	3357	555	.056	.046	.414	.122	.172	.159	41.8
	LOWER ALLOWAYS CREEK TWP.	2377	53	3357	615							41.8
	MANNINGTON TWP.	2377	71	3357	806							41.8
	OLDMANS TWP.	2377	31	3357	671	3.028	.568	.459	.468	1.352	1.131	41.8
	PENNS GROVE BORO	2377	187	3357	2216	.223	.961	1.002	-.134	.729	.513	41.8
	PENNSVILLE TWP.	2377	198	3357	5719	1.990	3.817	4.033	-5.931	3.280	.977	41.8
	PIESGROVE TWP.	2377	67	3357	1071							41.8
	PITTS GROVE TWP.	2377	120	3357	2607	.197	.224	1.727	-.537	.716	.403	41.8
	QUINTON TWP.	2377	89	3357	1103							41.8
	SALEM CITY	2377	200	3357	2843	.590	2.124	1.540	-5.032	1.418	-.195	41.8
	UPPER PITTS GROVE TWP.	2377	75	3357	1114							41.8
	WOODSTOWN BORO	2377	45	3357	1408							41.8
SOMERSET												
	BEDMINSTER TWP.	655	37	834	3539	1.331	1.397	.771	.397	1.166	.974	31.2
	BERNARDS TWP.	655	42	834	5418	3.341	2.018	2.290	5.033	2.550	3.170	31.2
	BERNARDSVILLE BORO	655	54	834	2344	.928	.537	1.396	.217	.954	.770	31.2
	BOUND BROOK BORO	655	201	834	3387	.352	1.067	1.029	-2.364	.816	.021	31.2
	BRANCHBURG TWP.	222	34	1072	2741	2.219	.684	1.129	1.349	1.344	1.345	32.3
	BRIDGEWATER TWP.	655	160	834	8913	6.820	3.452	4.161	-1.192	4.811	3.310	31.2
	FAR HILLS BORO	655	7	834	237	.095	.177	.176	.290	.150	.185	31.2
	FRANKLIN TWP.	222	344	1072	12151	4.220	4.336	4.040	10.897	4.199	5.873	32.3
	GREEN BROOK TWP.	655	32	834	1394	1.011	.695	.564	1.164	.757	.858	31.2
	HILLSBORO TWP.	222	103	1072	9248	3.795	.673	2.791	1.049	2.420	2.077	32.3
	MANVILLE BORO	222	183	1072	3787	.549	.471	1.113	-2.283	.711	-.037	32.3
	MILLSTONE BORO	222	2	1072	162	.053	.014	.073	-.438	.047	-.075	32.3
	MONTGOMERY TWP.	222	47	1072	2516	.014	1.430	1.102	.770	.849	.829	32.3
	NORTH PLAINFIELD BORO	655	208	834	7154	.593	.947	2.190	.802	1.244	1.133	31.2
	PEAPACK AND GLADSTONE BORO	655	25	834	764	.439	.257	.326	.429	.341	.363	31.2
	RARITAN BORO	222	122	1072	2210	.439	1.817	.619	2.009	.958	1.221	32.3
	ROCKY HILL BORO	222	6	1072	256							32.3
	SOMERVILLE BORO	222	154	1072	4467	.505	3.969	1.391	7.433	1.955	3.325	32.3
	SOUTH BOUND BROOK BORO	222	77	1072	1551	.154	.094	.406	-.319	.218	.084	32.3
	WARREN TWP.	655	52	834	3172	4.306	1.093	1.664	1.815	2.355	2.220	31.2
	WATCHUNG BORO	655	17	834	1753	1.318	1.248	1.063	-.362	1.210	.817	31.2

EXHIBIT 2 - BASE DATA BY HOUSING REGION

REGION	COLUMN A 1987 REGIONAL AVERAGE PERCENT DETERIORATION	COLUMN B REGIONAL POOL OF EXCESS DEFICIENT HOUSING UNITS	COLUMN C 1993 PROSPECTIVE NEED	COLUMN D 1987-1993 FILTERING ESTIMATES	COLUMN E 1980 MULTIFAMILY UNIT TOTALS	COLUMN F 1987-1993 RESIDENTIAL CONVERSION ESTIMATES	COLUMN G 1980 2-4 FAMILY UNIT TOTALS	COLUMN H 1987-1993 SPONTANEOUS REHABILITATION ESTIMATES	COLUMN I 1983/1984 AGGREGATE PER CAPITA INCOME (\$)
1	.075	17,676	5,509	12,202	410,972	5,138	224,294	1,884	21,112,820,558
2	.047	8,829	9,759	12,678	334,839	3,257	165,631	1,194	22,029,857,240
3	.025	1,631	13,661	7,222	104,428	1,048	50,697	384	12,235,480,836
4	.015	750	23,752	6,706	73,799	662	29,269	243	9,830,614,791
5	.026	4,060	18,179	9,587	121,352	1,478	42,692	542	14,201,442,966
6	.042	1,465	9,561	3,494	57,287	1,174	27,873	431	4,592,475,839

APPENDIX C

GROWTH AREA ALLOCATION INDEX TOTALS
UPON WHICH ALLOCATION PERCENTAGES ARE BASED¹

REGION	1984 TOTAL COVERED EMPLOYMENT	1977-1984 REGRESSED ANNUAL COVERED EMPLOYMENT CHANGE
1. Northeast	530,670	9,248
2. Northwest	472,159	13,295
3. West Central	347,443	10,622
4. East Central	187,414	6,618
5. Southwest	362,365	10,249
6. South-Southwest	152,928	6,353
Total	2,052,979	56,385

REGION	GROWTH AREA ² IN ACRES	1983-1984 AGGREGATE PER CAPITA INCOME
1. Northeast	180,278	\$15,200,259,200
2. Northwest	227,868	\$14,100,784,128
3. West Central	291,294	\$10,539,986,795
4. East Central	301,384	\$ 8,549,553,470
5. Southwest	409,260	\$12,406,160,844
6. South-Southwest	258,254	\$ 3,556,207,381
Total	1,668,338	\$64,352,951,818

Notes

- For all communities in the growth area with the exception of selected Urban Aid Cities. See Technical Appendix, *infra*.
- Includes applicable growth area designations of the *State Development Guide Plan*, Pinelands Commission, and the Coastal Zone. See Technical Appendix, *infra*.

APPENDIX D

SECTION 8 INCOME LIMITS BY COUNTY

COUNTY		1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
Atlantic	Moderate Income (80%)	\$14,850	\$16,950	\$19,100	\$21,200	\$22,550	\$23,850	\$25,200	\$26,500
	Low Income (50%)	9,300	10,600	11,900	13,250	14,300	15,350	16,450	17,500
Bergen	Moderate Income (80%)	20,380	23,300	26,210	29,210	30,940	32,760	34,580	36,400
	Low Income (50%)	12,740	14,560	16,380	18,200	19,340	20,475	21,610	22,750
Burlington	Moderate Income (80%)	17,100	19,500	21,950	24,400	25,950	27,450	29,000	30,500
	Low Income (50%)	10,700	12,200	13,700	15,250	16,450	17,700	18,900	20,150
Camden	Moderate Income (80%)	17,100	19,500	21,950	24,400	25,950	27,450	29,000	30,500
	Low Income (50%)	10,700	12,200	13,700	15,250	16,450	17,700	18,900	20,150
Cape May	Moderate Income (80%)	14,850	16,950	19,100	21,200	22,550	23,850	25,200	26,500
	Low Income (50%)	9,300	10,600	11,900	13,250	14,300	15,350	16,450	17,500
Cumberland	Moderate Income (80%)	14,300	16,300	18,350	20,400	21,700	22,950	24,250	25,500
	Low Income (50%)	8,950	10,200	11,450	12,750	13,750	14,800	15,800	16,850
Essex	Moderate Income (80%)	19,770	22,590	25,420	28,240	30,010	31,770	33,540	35,300
	Low Income (50%)	12,355	14,120	15,885	17,650	18,755	19,855	20,960	22,065
Gloucester	Moderate Income (80%)	17,100	19,500	21,950	24,400	25,950	27,450	29,000	30,500
	Low Income (50%)	10,700	12,200	13,700	15,250	16,450	17,700	18,900	20,150
Hudson	Moderate Income (80%)	14,050	16,100	18,100	20,100	21,350	22,600	23,850	25,150
	Low Income (50%)	8,800	10,050	11,300	12,550	13,550	14,550	15,550	16,550
Hunterdon	Moderate Income (80%)	21,620	24,700	27,790	30,880	32,810	34,740	36,670	38,600
	Low Income (50%)	13,510	15,440	17,370	19,300	20,505	21,710	22,920	24,125
Mercer	Moderate Income (80%)	18,950	21,700	24,400	27,100	28,800	30,500	32,200	33,900
	Low Income (50%)	11,850	13,550	15,250	16,950	18,300	19,650	21,000	22,350
Middlesex	Moderate Income (80%)	21,620	24,700	27,790	30,880	32,810	34,740	36,670	38,600
	Low Income (50%)	13,510	15,440	17,370	19,300	20,505	21,710	22,920	24,125
Monmouth	Moderate Income (80%)	17,900	20,500	23,050	25,600	27,200	28,800	30,400	32,000
	Low Income (50%)	11,200	12,800	14,400	16,000	17,300	18,550	19,850	21,100
Morris	Moderate Income (80%)	19,770	22,590	25,420	28,240	30,010	31,770	33,540	35,300
	Low Income (50%)	12,355	14,120	15,885	17,650	18,755	19,855	20,960	22,065
Ocean	Moderate Income (80%)	17,900	20,500	23,050	25,600	27,200	28,800	30,400	32,000
	Low Income (50%)	11,200	12,800	14,400	16,000	17,300	18,550	19,850	21,100
Passaic	Moderate Income (80%)	20,380	23,300	26,210	29,210	30,940	32,760	34,580	36,400
	Low Income (50%)	12,740	14,560	16,380	18,200	19,340	20,475	21,610	22,750
Salem	Moderate Income (80%)	17,550	20,100	22,600	25,100	26,650	28,250	29,800	31,400
	Low Income (50%)	11,000	12,550	14,150	15,700	16,950	18,200	19,450	20,700
Somerset	Moderate Income (80%)	21,620	24,700	27,790	30,880	32,810	34,740	36,672	38,600
	Low Income (50%)	13,510	15,440	17,370	19,300	20,505	21,713	22,920	24,125
Sussex	Moderate Income (80%)	19,770	22,590	25,420	28,240	30,010	31,770	33,540	35,300
	Low Income (50%)	12,355	14,120	15,885	17,650	18,755	19,855	20,960	22,065
Union	Moderate Income (80%)	19,770	22,590	25,420	28,240	30,010	31,770	33,540	35,300
	Low Income (50%)	12,355	14,120	15,885	17,650	18,755	19,855	20,960	22,065
Warren	Moderate Income (80%)	16,400	18,750	21,100	23,450	24,900	26,400	28,850	29,300
	Low Income (50%)	10,250	11,700	13,200	14,650	15,800	17,000	18,150	19,350

Source: 1) US Dept. of Housing and Urban Development estimates as of October 21, 1985.
2) For areas of unusually high income, a maximum income limit has been established at the national median family income level of \$27,000 applicable to the four person income limit for lower income (moderate) families. These figures above do not reflect this limit or cap.

APPENDIX E

AVERAGE COST OF REPLACING MAJOR SYSTEMS
FOR HOUSING REHABILITATION¹

	LOW RISE	HIGH RISE
Plumbing	\$ 3,000	\$ 3,300
HVAC ²	2,500	5,500
Electric	3,000	6,000
Dry Wall, Carpentry, Insulation	5,000	10,400
Painting	750	850
Roofing, Flashing	1,400	1,300
Windows	550	950
Kitchen Cabinets	850	1,100
Flooring	1,700	1,400
Ceramic Tile	450	450
TOTAL AVERAGE	\$19,200	\$31,250
AVERAGE OF TOTAL AVERAGE	\$ 9,600	\$15,625

¹ These are average figures that are not adjusted by municipality.

² Heating, ventilation, air conditioning.
Source: New Jersey Housing and Mortgage Finance Agency, April, 1986.

APPENDIX F

COUNTY REVIEW CHECKLIST

The Act allows a municipality to transfer up to 50% of its low and moderate income housing obligation to a willing receiving municipality. The terms of this transfer are determined by the individual negotiations between willing sending and receiving municipalities within the same housing region as adopted by the Council.

Recognizing the need for sound regional comprehensive planning, the Act permits the county of the receiving municipality to review the proposed RCA and submit its comments and recommendations to the Council. The Act indicates that this review shall be performed by the county planning board or other designated agency and that in its review, the county "shall consider the master plan and zoning ordinance of the sending and receiving municipalities, its own county master plan and the State *development *and* *R*edvelopment *[p]*lan".

The Act permits the Council to establish time limits for county review and, since the Council views expedient review of RCAs as crucial, it shall impose a 30 day limit for the county to complete its review. The Council may provide a 15 day extension if the county requests such an extension for legitimate reasons. If the county is unable to complete its review within the allotted time, or if there is no county planning board or designated county agency, the Council shall perform the required review.

To facilitate county review, the Council has developed a four section checklist. This checklist is to be completed as part of the county review process.

COUNTY REVIEW CHECKLIST

For Sound Comprehensive Regional Planning Of Proposed Low and Moderate Income Housing Sites Proposed Through Regional Contribution Agreements

SECTION I: ACCESS TO EMPLOYMENT OPPORTUNITIES

A. Does the proposed agreement provide realistic housing opportunities within convenient access to employment opportunities?

	Housing Site(s) Proposed	Check One	If Access Possible, Briefly Explain on Attached Sheet, By Site #	
			Yes	No
1. Within Receiving Munic.	Loc. #	A. <input type="checkbox"/> B. <input type="checkbox"/> C. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Within Sending Munic.		A. <input type="checkbox"/> B. <input type="checkbox"/> C. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B. Is the proposed housing served by available transit?

	Housing Site(s) Proposed	Check Appropriate Boxes If yes, check Type(s) of Service				If Transit Possible, Briefly Explain on Attached Sheet by Site #
		Yes	No	Inter-Municipal	Other	
1. Within Receiving Munic.	Loc. #	A. <input type="checkbox"/> B. <input type="checkbox"/> C. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Within Sending Munic.		A. <input type="checkbox"/> B. <input type="checkbox"/> C. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*These sites represent possible alternate locations of sites within the sending municipality that would be developed for housing in the absence of a successful RCA.

SECTION II: CURRENTLY ADOPTED AND/OR OFFICIAL LAND USE ELEMENT CONSISTENCY REVIEW (ATTACH RELEVANT PAGES OF DOCUMENTS CITED BELOW)

	Check One Complies in			Conflicts In Whole	Brief Explanation (Attach Additional Sheets as Necessary)
	Whole	Part (Explain)	No		
A. 1. Receiving Munic (a) Master Plan Of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
(b) Zoning Ordinance Of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
2. Sending Munic. (a) Master Plan Of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
(b) Zoning Ordinance Of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
B. 1. Receiving County Land Use Element Of: _____ County; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
2. Sending County (if different from B.1) Land Use Element of: _____ County; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	

**(CITE 18 N.J.R. 1560)
COMMUNITY AFFAIRS**

ADOPTIONS

C. 1. Other Regional Plan
Land Use Element(s)
Affecting: _____
(a) Receiving Munic: _____; Adopted: _____
(b) Sending Munic: _____; Adopted: _____

D. 1. State Development
Redevelopment Plan
(S.D.R.P.) 3) _____
(a) Receiving
Munic. _____
(b) Sending
Munic. _____

D. State Plan/Prog. 4)
(a) Plan; Adopted: _____
(1) Receiving Munic: _____
(2) Sending Munic: _____
(2) Program; Adopted: _____ _____
(1) Receiving Munic _____
(2) Sending Munic. _____

¹For example, is site(s) consistent with Hackensack Meadowland Development Commission's Adopted Land Use Element?
²Use official State Development Guide Plan until S.D.R.P. is adopted.

³For example, is site(s) consistent with the applicable H.M.D.C. and/or N.J. Turnpike plans and programs.
⁴Use current and official State Transportation Plan and Program as prepared by the N.J. Department of Transportation.

**SECTION III: CURRENTLY ADOPTED TRANSPORTATION
PLAN AND/OR PROGRAM ELEMENT
CONSISTENCY REVIEW (ATTACH RELEVANT
PAGES OF DOCUMENTS CITED BELOW)**

**SECTION IV: CURRENTLY ADOPTED WATER QUALITY
MANAGEMENT PLAN (208) (ATTACH
RELEVANT PAGES OF DOCUMENT)**

	Check One			Brief Explanation (Attach Additional Sheets as Necessary)
	Whole	Part (Explain)	Conflicts In Whole	
a. 1. Receiving Munic. (a) Plan of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
(b) Program of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
B. 1. Receiving County (a) Plan Of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
(b) Program Of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Sending County (if different from B.1.) (a) Plan of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
(b) Program of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
C. Other Regional Plan/Prog. 4) (a) Receiving Munic: (1) Plan; Adopted: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
(2) Program; Adopted: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
(b) Sending Munic. _____ (1) Plan; Adopted: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
(2) Program; Adopted: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

A. Is the proposed housing consistent with the 208 Plan?

	Housing Site(s) Proposed	Check One
1. Within Receiving Munic.	A.	<input type="checkbox"/>
	B.	<input type="checkbox"/>
	C.	<input type="checkbox"/>
2. Within Sending Munic.	A.	<input type="checkbox"/>
	B.	<input type="checkbox"/>
	C.	<input type="checkbox"/>

This review is certified by the undersigned as representing a true and accurate statement of fact.
Based on this review, it is found that the following sites are:

	Housing Site(s) Proposed Loc. #	In Keeping With Sound Regional Comprehensive Planning	Not in Keeping With Sound Regional Comprehensive Planning
1. Within Receiving Munic.	A.	<input type="checkbox"/>	<input type="checkbox"/>
	B.	<input type="checkbox"/>	<input type="checkbox"/>
	C.	<input type="checkbox"/>	<input type="checkbox"/>
2. Within Sending Munic.	A.	<input type="checkbox"/>	<input type="checkbox"/>
	B.	<input type="checkbox"/>	<input type="checkbox"/>
	C.	<input type="checkbox"/>	<input type="checkbox"/>

CERTIFIED BY: _____ DATE: _____
TYPE NAME: _____
TITLE: _____
REPRESENTING: _____
PROFESSIONAL
LICENSE #: _____
(AS APPLICABLE)

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

EDUCATION

(a)

STATE BOARD OF EDUCATION

Division of Adult Education

Adult Education High School Completion Programs

State Issued Diploma Programs for Adults

State Approved Adult High Schools (Locally Issued, State Endorsed, Diplomas for Adults)

Readoption with Amendments: N.J.A.C. 6:30-1

Adopted Repeal: N.J.A.C. 6:30-2

Adopted New Rules: N.J.A.C. 6:30-2

Proposed: May 5, 1986 at 18 N.J.R. 871(b).

Adopted: July 3, 1986 by State Board of Education,

Saul Cooperman, Secretary.

Filed: July 7, 1986 as R.1986 d.310, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:48-1, 18A:50-12, 13 and 14, 18A:7C-1.

Effective Date for Readoption: July 7, 1986.

Effective Date for Amendments, Repeal and New Rule: August 4, 1986.

Expiration Date: July 7, 1991.

Summary of Public Comments and Agency Responses:

Three letters with comments were received regarding N.J.A.C. 6:30-1 and 2. In one letter, five concerns were raised:

1. A fear that a statewide school district was being created in the awarding of diplomas through the GED test option.

2. Opposition to the use of surrogate parents when natural parents cannot be located for the signing of age exception forms.

3. Opposition to the administering of GED tests in Spanish and French.

4. A claim that the award of credit regulations would "water down" the locally issued diploma available through the adult high school.

5. A claim that proposed categorical funding legislation for adult high schools would transfer responsibility and supervision of this program to special education.

The reactions of the Department to these comments were:

1. The Department disagreed. All New Jersey high school diplomas are state endorsed. The GED test is a secure test and is most appropriately administered and scored at the state level, with the issuance of a diploma by the State. Also, this program has been administered in this fashion since 1968.

2. The Department disagreed. A surrogate parent who is independent of the agency responsible for a 16 or 17 year old youth is an important assurance that the rights of the youth, with regard to Thorough and Efficient education laws, will not be unduly influenced or compromised by the institution.

3. The Department disagreed. When administering GED tests in Spanish and French, an English language test is required in New Jersey. By 1989, the GED English fluency test will be comparable to the State English fluency test (Maculaitis). Offering of GED tests in other available languages has been a practice since the early 1970s.

4. The Department disagreed. Regulations related to the award of credit have been significantly changed and redefined to assure the integrity of diplomas awarded locally by adult high schools. Graduation standards in adult high schools must meet those district standards which have been established for the regular day high school.

5. The Department disagreed. The writer has improperly referenced pending legislation regarding revision of code and has misinterpreted the intent of the legislation which would, in fact, change the way State aid is distributed to districts with adult high schools.

In another letter, one concern was raised:

1. The writer would like to delete the regulation which requires that the adult high school total credit requirement for graduation meet the requirement for graduating from the district's regular high school. The writer would substitute wording allowing the district board of education discretion in establishing different standards for adults.

The reaction of the Department to the comment was:

1. The Department disagreed. The revised code reinforces the idea that the adult high school total credit requirement should not differ from the district's regular high school requirement.

In the last letter, three concerns were raised:

1. The contractual arrangement made for the Department of Corrections regarding the administration of GED tests should be extended to Department of Human Services facilities.

2. In any future revisions of code, increased input from the adult education community should be sought particularly with regard to criteria regarding the award of credit.

3. Opposition to the exclusion of adult high schools from state residential facilities.

The reaction of the Department to these comments was:

1. The Department disagreed. The volume of testing at correctional facilities is such as to warrant the contractual arrangement which has been made part of the code. In this arrangement, the Department of Corrections assumes the cost of test administration at its facilities.

2. Department staff made extraordinary efforts to meet with as many adult education program directors as possible. Seven meetings were held throughout the state to clarify and receive input regarding possible changes in code.

3. The Department disagreed. N.J.S.A. 18A:48-1 states that adult high schools may be established by local educational agencies. State agencies are not local educational agencies.

Full text of the adoption follows.

SUBCHAPTER 1. STATE ISSUED DIPLOMA PROGRAMS FOR ADULTS

6:30-1.1 Functions

(a) The Division of Adult Education is responsible for educational leadership and funding for adult high school completion programs.

(b) The division is responsible for the:

1. Allocation of funds to local school districts, county community colleges and county and State institutions for the operation of high school completion instructional programs.

2. Monitoring and evaluation of high school completion instructional programs and adult high schools.

3. Provision of technical assistance to programs funded under this chapter.

4. Supervision of General Educational Development (GED) Testing Centers.

5. Evaluation of secondary school and college transcripts of persons applying for a State issued high school diploma.

6. Administration of all examinations to qualify for a State issued high school diploma.

7. Awarding of State issued high school diplomas to applicants meeting the requirements of N.J.A.C. 6:30-1.3(a)1, 2, and 3.

6:30-1.2 Age and out-of-school requirements

(a) All persons applying for a State or locally issued high school diploma must be 18 years of age and out of school. Exceptions to this rule may be made in special cases for out-of-school youth, 16 and 17 years of age.

(b) Requests for exceptions to this section for out-of-school youth 16 and 17 years of age residing in a natural or foster home must be approved by either a parent, guardian, probation or parole officer, State rehabilitation counselor or judge and one of the following representatives of the school district in which the applicant resides:

1. High school principal; or

2. Superintendent of schools.

(c) All requests for exceptions shall state why the individual should be allowed to attend an adult education program or be tested before meeting the age and out-of-school requirement and shall certify that the applicant and his/her parents or guardian have been counseled about the opportunity to attend available in-school program options provided by the district.

(d) Requests for exceptions to this section for out-of-school youth 16 and 17 years of age who are residing in a State, county or municipal institution, or in residential rehabilitation settings must be signed by the chief school administrator or the education director of the institution or program and the parent, guardian, or, when neither is available, a surrogate parent.

1. Each institution shall ensure that the rights of a youth are protected through the provision of a surrogate parent who shall assume all parental rights under this chapter, when either:

- i. The parent(s) cannot be located after reasonable efforts; or
 - ii. The youth is a ward of the State of New Jersey.
2. Each institution shall establish a method for selecting and training surrogate parents.
3. The person serving as a surrogate parent shall have:
- i. No interest that conflicts with those of the youth he/she represents;
 - ii. Knowledge and skills that ensure adequate representation of the youth.
4. The person(s) serving as a surrogate parent may not otherwise be an employee of the institution. A surrogate parent may be paid solely to act in that capacity.

6:30-1.3 Certification by examination or course credit

(a) Any one of the following methods may be used by eligible adults to qualify for the State issued high school diploma:

1. The General Educational Development (GED) Test Battery of the American Council on Education shall be used as the basis for qualifying for a State issued high school diploma.

i. The State Board of Education, after consultation with the Commissioner, shall establish uniform, statewide standard scores for passage of the GED test. The Board shall also establish a test of English fluency and standard scores for passage for candidates taking the GED test in Spanish or French.

ii. These standard score requirements shall be adopted and subject to change by resolution of the State Board of Education. The State Board shall announce its intent to change GED score requirements no less than 28 days prior to final adoption.

2. Persons may apply for a State issued high school diploma by presenting evidence of basic skills mastery as determined by the Commissioner of Education and official transcripts showing the minimum number of high school credits as required in N.J.A.C. 6:8-4.2, Promotion and graduation, with the exception of physical education, health and safety which shall be limited to no more than 20 credits.

3. Persons may apply for a State issued high school diploma by presenting evidence of basic skills mastery as determined by the Commissioner of Education and an official transcript(s) showing at least 24 general education credits leading to a degree at an accredited institution of higher education. Included in the 24 credits must be a minimum of three credits in each of the general education categories of communications, mathematics and sciences, social sciences and humanities as defined in N.J.A.C. 9:4-1.6, Educational programs.

6:30-1.4 Fees

(a) Persons submitting application for a State high school diploma by examination or reexamination must pay a fee of \$15.00 in the form of a money order or bank certified check made payable to the Commissioner of Education.

(b) Persons taking the statewide assessment test as specified by the Commissioner of Education at times other than during the regularly scheduled statewide administration to meet State basic skills testing requirements for a State endorsed high school diploma issued through programs specified in N.J.A.C. 6:30-1.3(a)2, 3 or N.J.A.C. 6:30-2, State Approved Adult High Schools must pay a fee of \$10.00 in the form of a money order or bank certified check made payable to the Commissioner of Education.

(c) Persons housed under the custody and supervision of the New Jersey State Department of Corrections may, by contractual agreement with the New Jersey State Department of Education, be administered the GED test without charge to either the candidate or the New Jersey State Department of Corrections.

(d) Persons requesting the issuance of a State high school diploma based on evaluation of secondary school credit or college coursework and those requesting a duplicate diploma must pay \$5.00 in the form of a money order or bank certified check made payable to the Commissioner of Education.

6:30-1.5 Eligibility for instructional program funding

(a) School districts, county community colleges, and county and State institutions may apply to the Commissioner of Education for funds equal to the amount of anticipated costs to operate high school completion instructional programs for adults and out-of-school youth who do not possess a high school diploma, are residents of New Jersey and meet the age and out-of-school provisions of N.J.A.C. 6:30-1.2.

(b) In order that the Commissioner may estimate by November 15 the amount to be appropriated to carry out the provisions of statute, eligible agencies shall submit a statement of anticipated funding needs for the succeeding fiscal year. These statements shall be submitted to the division no later than August 31 of the pre-budget fiscal year.

(c) Eligible agencies shall submit a final application for funds in accordance with procedures established by the division no later than June 15 of the pre-budget fiscal year. All applications will be reviewed and approved for funding amounts on a formula basis in accordance with established criteria. Eligible agencies which are approved for funding will receive contract offers. Contracts will be approved by the Department based on an agency's certification that contractual terms and conditions will be met.

(d) Agencies with approved contracts shall maintain financial and program records and submit all reports as required by the terms and conditions of their contracts.

(e) Applicants seeking administrative appeal of a notification of funding from the director, Division of Adult Education, shall adhere to the following procedures and timelines or forfeit their rights of appeal:

1. File a written request for a hearing with the assistant commissioner, Educational Programs, within 15 calendar days of receipt of the notification.

2. The assistant commissioner, Educational Programs, or a designee, shall conduct a hearing and forward a written decision to the appellant within 15 calendar days after the conclusion of the hearing.

6:30-1.6 Implementation

This subchapter shall be in effect until August 31, 1988 or at such earlier date when amended.

SUBCHAPTER 2. STATE APPROVED ADULT HIGH SCHOOLS (LOCALLY ISSUED, STATE ENDORSED, DIPLOMAS FOR ADULTS)

Full text of the rules adopted for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 6:30-2.

Full text of the adopted new rules follows.

6:30-2.1 General provisions

Rules applicable to adult high schools should be directed toward the adult student. Adult high schools should offer adults opportunity, accessibility and flexibility while maintaining the high standards inherent in the awarding of a high school diploma. Courses should be sufficiently varied for meeting the educational needs of adults and should be designed to challenge participants to achieve their highest level of educational ability.

6:30-2.2 Definitions

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

"Accredited" means that the high school, college or university has met the criteria and standards set by the appropriate accrediting agency such as the Middle States Association.

"Adult" means a person 18 years of age or older.

"Adult high school" means a school conducting supervised educational activities in the day or evening to provide adults with the necessary instruction to enable them to complete the requirements for a locally issued, State endorsed diploma.

"Apprentice training" means a formal trade or industrial training program for one to five years duration which is based on at least 2,000 hours of supervised training and may include 144 hours of related instruction for each year of the apprenticeship.

"Attendance" means participation in a learning activity for four hours or more for a full-day presence or participation for less than four hours but more than one hour for a half-day presence. Any adult participating in a learning activity for less than one full hour is not considered as attending a scheduled session and is not present for that session.

"Comprehensive examination" means a test designed to assess mastery of a given set of proficiencies.

"Contact time" means the time which a student interacts with a staff member of the adult high school at a Department of Education approved facility for purposes of instruction or counseling.

"Course" and "coursework" mean activities and projects which are geared toward mastery of a set of proficiencies.

"DD-214" means a Department of Defense form issued to all members of the military which describes their service record.

"Educational plan" means a signed and dated statement developed by the student and a professional staff member of the adult high school. The educational plan reflects the student's past academic record, an analysis of past experiences for which credit may be awarded, graduation requirements, and a proposed schedule of courses for the current school year leading to completion of the requirements for graduation.

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"Enrolled" means that an adult has completed and filed an application for enrollment and assisted in the development and completion of an educational plan.

"Flexible course" means a course that identifies and prescribes activities and projects necessary to achieve an accepted level of proficiency rather than a specified number of minutes of class time.

"Full-time employment" means work that is not less than 30 hours per week.

"Handicapped adult" means any adult who has any physiological disorder or condition, any mental or psychological disorder which substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment.

"Language fluency" means the ability to understand conversational English and to speak the language with sufficient structural accuracy, to use vocabulary to participate effectively in most formal and informal conversations on practical, social and school topics, to read material for information and to complete forms and write essays and reports on familiar topics.

"Locally issued, State endorsed diploma" means a high school diploma awarded to an individual by a district board of education endorsed by the State Board of Education.

"Monitoring" means a process conducted by representatives of the Department of Education to evaluate programs for compliance with law and rule.

"New Jersey resident" means a person who resides in the State of New Jersey. The residence of a person is defined in terms of domicile. Domicile is defined as the place where a person has his/her true, fixed permanent home and principal establishment and to which, whenever absent, he/she has the intention of returning.

"Official transcript" means an individual's record of high school or college courses, grades and credits awarded. It shall have either of the following indicators: a raised seal or the original signature of an administrator of the school.

"Part-time employment" means work that is more than 15 hours but less than 30 hours per week.

"Proficiency" means an explicitly stated and demonstrable knowledge and/or skill used to define a desired learning outcome.

"Provisional approval" means approval to begin to operate an adult high school for a period not to exceed one year during which time monitoring shall occur and approval may be subsequently granted.

"Proprietary school" means a privately owned school.

"Remedial college courses" means those courses taken at an accredited college or university which are not applied toward graduation and for which no college academic credit is awarded.

"School year" means a period of time commencing on July 1 and ending on June 30 of the following year.

"State issued diploma" means a diploma issued by the State of New Jersey. This is contrasted with a locally issued, State endorsed diploma.

"Statement of responsibilities" means an agreement signed by both the student and a representative of the adult high school setting forth the requirements of each to engage in a successful academic program.

"Traditional course" means a course which has specified lengths of time for class meetings and the completion of activities necessary to achieve the accepted level of proficiencies for the award of credit. In a five-credit course, the specific time is 7,200 minutes.

6:30-2.3 Administration of adult high schools

(a) The responsibilities of the Department of Education shall be to:

1. Grant provisional approval for the establishment, expansion or relocation to another site of an adult high school;
2. Monitor adult high schools to evaluate compliance with law and rule;
3. Provide for channels of communication between the Department of Education and the district board of education;
4. Provide for technical assistance to the school district's adult high school; and
5. Approval of adult high schools which meet established law and rule.

(b) The responsibilities of the district board of education shall be to:

1. Adopt policies and procedures to maintain an approved adult high school program which adheres to law and rule.
2. Award a locally issued, state endorsed diploma to adults who successfully meet graduation requirements established by the district board of education and the State.
3. Provide for channels of communication between the district board of education and the Department of Education.

6:30-2.4 Permission to establish, expand, or relocate an adult high school

(a) To establish an adult high school, the district board of education shall file a request with the Division of Adult Education prior to December 31 preceding the year of anticipated operation. The request shall include:

1. Data documenting community need;
2. Identification and description of the proposed program site;
3. A projection of enrollment for the first year of operation;
4. A projection of staff by job title;
5. A locally approved program of studies which includes state mandated courses required for graduation as prescribed in N.J.A.C. 6:30-2.14;
6. A projected budget for the first year of operation; and
7. A district board of education resolution approving the establishment of an adult high school.

(b) The Division of Adult Education shall evaluate the application of the district board of education and visit the proposed site before the Division director shall grant or deny provisional approval to establish an adult high school.

1. ***Provisional*** [Divisional]* approval shall mean that the adult high school may begin operation during the subsequent school year and operate for one year.

2. If permission is not granted, the district may resubmit an amended application.

3. If permission is not granted following resubmission, the proposed adult high school may not begin operations during the subsequent school year.

(c) To expand or to relocate an existing program to another site, the district board of education shall file a request with the Division of Adult Education three months prior to the anticipated change. The request shall include elements (a)2, (a)3, and (a)4 listed above.

6:30-2.5 Evaluation requirement

(a) The Commissioner shall conduct uniform, statewide evaluations of adult high schools to ensure that each is performing according to the standards and procedures prescribed by law and rule.

(b) Based upon the evaluation, the Commissioner shall recommend to the State Board of Education approval or non-approval of each adult high school.

(c) The State Board of Education shall grant or deny approval of each adult high school.

6:30-2.6 Evaluation process

(a) Each adult high school shall be monitored within two years following the adoption of these rules.

1. The monitoring team shall be composed of representatives of the Division of Adult Education.

2. The director, Division of Adult Education shall cooperatively establish a monitoring schedule with the chief school administrator for each district being monitored.

3. An entrance conference with the chief school administrator and the principal of the adult high school shall be scheduled prior to the monitoring visit.

4. The monitoring team shall evaluate the adult high school pursuant to the elements set forth in N.J.A.C. 6:30-2.7.

6:30-2.7 Evaluation elements

(a) Ten essential elements shall be evaluated by the monitoring team as specified below:

1. Educational planning;
2. School and community relations;
3. Curriculum and instruction;
4. Attendance and register maintenance;
5. Facilities;
6. Staff;
7. Mandated programs;
8. Mandated statewide assessment testing;
9. Equal educational opportunity and affirmative action; and
10. Financial administration.

(b) The director, Division of Adult Education shall establish guidelines, indicators and evaluation worksheets for the monitoring of adult high schools.

6:30-2.8 Findings

(a) The monitoring team shall record its findings on each element using worksheets as prescribed in N.J.A.C. 6:30-2.7(b).

1. The monitoring team shall meet with the chief school administrator and the principal of the adult high school at an exit conference to review

its findings and outline future directions for the adult high school.

2. The director, Division of Adult Education shall send formal notification of the findings to the chief school administrator and the principal of the adult high school within 30 days after the completion of the monitoring visits.

3. The notification shall include:

- i. Copies of the completed worksheets;
- ii. A copy of the recommendation to the Commissioner of the approval status of the adult high school; and
- iii. If necessary, a statement of future directions to be taken by the adult high school.

6:30-2.9 Approval

(a) Approval of an adult high school shall be based on an acceptable rating on all of the ten essential elements.

1. For each adult high school that receives an acceptable rating on each of the ten essential elements, the director, Division of Adult Education shall submit a summary report of findings and recommendations to the assistant commissioner, Educational Programs for submission to the Commissioner.

i. The Commissioner shall notify the appropriate county superintendent of schools regarding approval of the adult high school by the State Board of Education.

2. For each adult high school that receives an unacceptable rating on any of the ten essential elements, the director, Division of Adult Education shall submit a summary report of findings and recommendations to the assistant commissioner, Educational Programs that the adult high school not be approved. The district will then implement the corrective action process pursuant to N.J.A.C. 6:30-2.10.

(b) An adult high school rated as unacceptable may, with the approval of the district board of education, petition the assistant commissioner, Educational Programs to rescind the rating by presenting written documentation on its performance on the elements rated as unacceptable.

1. The assistant commissioner Educational Programs, shall rule on such petitions.

6:30-2.10 Corrective action process

(a) A school district which is denied approval shall implement the following program improvement process:

1. The chief school administrator shall organize a self-study team, which shall include the principal of the adult high school, to analyze the nature and causes of the problem(s) identified by the monitoring team.

2. The team shall analyze the nature and causes of the problem(s) identified by the monitoring team and within 30 days of receipt of notification of non-approval develop an improvement plan to correct the problems. The improvement plan shall contain the following components:

- i. Objectives;
- ii. Activities;
- iii. Persons responsible;
- iv. Resources;
- v. Timelines; and
- vi. Documentation and evaluation of completed activity.

3. The plan shall be submitted to the director, Division of Adult Education who shall approve or disapprove the plan within 14 days of receipt.

4. If the plan is approved, it shall be referred to the chief school administrator for implementation.

5. If the plan is unacceptable, it shall be referred to the chief school administrator with recommendations for improvement.

i. The chief school administrator shall have 30 days to make the necessary revisions and resubmit the plan to the director, Division of Adult Education.

ii. Failure to resubmit a plan shall result in the development of an improvement plan by the director, Division of Adult Education which shall be transmitted to the chief school administrator.

iii. The district shall have 90 days from the date of improvement plan transmittal to implement the plan.

6. Upon completion of improvement plan activities, the monitoring team shall remonitor the adult high school to evaluate whether previously identified deficiencies have been corrected.

7. Following the remonitoring, the director, Division of Adult Education shall submit a summary report of the findings and recommendations to the assistant commissioner, Educational Programs for submission to the Commissioner. The approval process shall be completed pursuant to N.J.A.C. 6:30-2.9(a).

8. For an adult high school that receives an unacceptable rating following the implementation of a program improvement plan, the director,

Division of Adult Education shall request that the assistant commissioner, Educational Programs convene an external team made up of three adult high school principals and two nonadministrative professional adult high school staff members from programs outside of the county of the adult high school which has failed to receive approval.

i. The members of the external team shall review reports and events leading to non-approval and schedule visits to the program site in order to render an advisory report to the assistant commissioner, Educational Programs regarding the adult high school's rating on each of the ten essential elements.

ii. Following the receipt of the advisory report from the external team, the assistant commissioner, Educational Programs may recommend to the Commissioner the continuance or discontinuance of the adult high school program.

6:30-2.11 Eligibility for enrollment and State aid

(a) To qualify for enrollment in an adult high school, a person shall:

1. Be a New Jersey resident;
2. Meet the age and out-of-school requirements of N.J.A.C. 6:30-1.2; and
3. Complete and sign an application for enrollment and a statement of responsibilities.

(b) To qualify for state aid a person shall:

1. Have met the requirements set forth in (a) above;
2. Have not earned a locally issued, state endorsed high school diploma;
3. Have an educational plan on file; and
4. Have met the following attendance requirements:
 - i. Be enrolled and on the school register as of September 30 of the current school year; and
 - ii. Be in attendance at least once during the first fourteen days in October, unless excused by the adult high school principal for reasonable cause.

(c) Adults who qualify for state aid shall be reported for state aid purposes on the basis of the number of course credits projected in the educational plan for the current school year on the following schedule:

1. One to and including fourteen credits as a value of 0.5.
2. Fifteen or more credits as a value of 1.0.

6:30-2.12 Adults with special needs

(a) Adults with limited English language proficiency shall be tested upon enrollment using a test selected by the Department of Education to judge whether the adult can demonstrate language fluency in English.

1. The principal of the adult high school shall review the results of the test to determine the need for a special instructional program in English as a second language (ESL).

i. If the language improvement needs of the adult can be met by the program, then the adult shall be placed in a class for that purpose.

ii. If the language improvement needs of the adult cannot be met by the program, then the principal shall promptly refer the adult to the nearest adult high school with staff available to meet those needs.

(b) For an adult with previous experience in a special education program now seeking similar services at an adult high school, the principal of the adult high school with the concurrence of the adult shall request the most recent evaluation and individualized education program (IEP) for that adult from the high school of last attendance, provided the evaluation was made within the last three years.

1. The principal shall review the IEP to determine the services required by the plan and also the availability of such services in the adult high school.

i. If the IEP can be carried out, it shall serve as the instructional guide for that adult.

ii. If the principal determines that the IEP cannot be carried out, the principal shall promptly refer the adult to the nearest adult high school with staff available to offer the special services required in the IEP or to appropriate county or state agencies or institutions with resources and personnel able to serve the special needs of the adult.

2. If the evaluation was made more than three years prior to application to the adult high school, the IEP may not serve as a guide for the adult's instructional program at the adult high school.

(c) Handicapped adults without previous experience in a special education program shall be counseled regarding educational options which would lead to high school graduation and shall be served to the maximum extent appropriate to the needs of the handicapped adult within the capability of the program to provide such services.

6:30-2.13 Curriculum

(a) The adult high school curriculum shall comply with the requirements of law and rule and shall include a program of studies which has

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been adopted by the district board of education.

(b) A copy of the program of studies together with the rules governing its administration as formulated locally and approved by the district board of education shall be kept on file in the principal's office of each adult high school. It shall include the course offerings, both required and elective, and the number of credits for each course.

(c) The program of studies shall include all course descriptions. Each course description outline shall include:

1. Course title;
2. Course description;
3. Topical listing of course content;
4. List of course proficiencies;
5. Evaluation criteria and standard of mastery; and
6. A comprehensive examination.

(d) The comprehensive examinations for all courses, except for those in the fine, practical or performing arts, shall be written examinations.

(e) When similarly titled courses exist in the adult high school and in high schools of the district, the proficiencies for adult high school courses must meet or exceed the proficiencies previously established for those courses in the high schools of the district.

(f) The program of studies shall indicate whether a course is traditional or flexible.

1. Traditional courses shall be held in classroom sessions which meet a minimum of 7,200 minutes for each one-year, five credit course.

2. Flexible courses shall require the completion of projects and activities which shall be reviewed in biweekly meetings between a subject area specialist and a student.

6:30-2.14 Graduation

(a) The district board of education of each adult high school shall adopt policies for adult high school graduation requirements pursuant to law and rule. Policies shall include passing the statewide assessment test.

(b) The district board of education of each adult high school shall establish graduation requirements on the basis of credit which meets the requirements of the district's regular high school.

1. Of the required credits, no more than 15 credits may be in physical education.

2. Of the required credits, at least 10 credits must be earned in coursework taken at the adult high school issuing the diploma.

(c) Each adult high school shall establish minimum curriculum graduation requirements which shall meet the requirements of the district's high school and include the following:

1. 20 credits of communication, of which five credits shall be in literature;
2. 10 credits of computation;
3. 10 credits of history as required by N.J.S.A. 18A:35-1 and 2;
4. 5 credits of natural or physical science;
5. 5 credits of fine, practical, or performing arts;
6. 5 credits in health and safety; and
7. 2.5 credits of career exploration or development.

(d) The staff of each adult high school shall distribute to each entering adult a copy of all State and local adult high school graduation requirements. In addition, all adults shall receive at the beginning of each course a list of proficiencies required for successful completion of that course.

(e) Successful completion of the requirements set forth in (a), (b) and (c) above, and those established by the district board of education shall be required as conditions for awarding a locally issued, state endorsed diploma.

(f) No district board of education may issue an adult high school diploma without State endorsement.

(g) No district board of education may issue an adult high school diploma without signed verifications for all credit awarded for experience and official transcript(s) on file.

6:30-2.15 Award of credit

(a) The district board of education of each adult high school shall adopt policies at a public meeting which provide for the awarding of credit.

1. Credits verified by an official transcript may be transferred from accredited high schools or institutions. Experiences being considered for transfer credit from proprietary schools or public vocational training programs shall be assessed in terms of proficiencies for district courses offering similar experiences.

2. Credits may be awarded for other than remedial courses which lead to a degree and are taken at an accredited college. They must be verified by an official transcript. Five credits may be awarded for three college credits earned.

3. Credits may be awarded for physical education and basic military training with the following limitations:

i. Up to fifteen credits may be awarded for previously earned high school physical education credits verified by an official transcript.

ii. Up to ten credits verified by a DD-214 form may be awarded for basic military training.

iii. The combination of (a)3i and ii above may not exceed 15 credits.

4. A maximum of 2.5 credits in health and safety may be awarded for the possession of a valid New Jersey driver's license if credit for driver's education has not been awarded.

5. Credits may be awarded for work experience with the following limitations:

i. 2.5 credits may be awarded for each 12 months of full-time employment that is verified by a signed statement from the employer(s).

ii. 2.5 credits may be awarded for each 24 months of part-time employment that is verified by a signed statement from the employer(s).

iii. The combination of (a)5i and ii above may not exceed 10 credits and may not duplicate credits awarded for apprentice training or on-the-job training.

6. Credits may be awarded for completion of apprentice training with the following limitations:

i. The apprentice training must meet standards established by the U.S. Department of Labor, Bureau of Apprenticeship and Training;

ii. Completion of training must be verified by a signed document from a union or employer;

iii. The award may not exceed 20 credits, may be allocated on the basis of five credits for each 2,000 hours of training and may not duplicate credits awarded for work experience, on-the-job training or transferred credit from an official transcript.

7. Credit may be awarded for on-the-job training and advanced military training with the following limitations:

i. Five credits may be awarded for each 120 hours of on-the-job training that is formally supervised, follows a prescribed training outline and is verified by a signed statement from the employer.

ii. One credit may be awarded for each week of advanced military training not to exceed 10 credits that is verified by the Military Occupational Speciality designation which appears on the DD-214 form.

iii. The combination of (a)7i and ii above may not exceed 20 credits and may not duplicate credits awarded for work experience or apprentice training.

8. The cumulative award of credit for (a)5, 6, and 7 above shall not exceed 30 credits.

9. Credit may be awarded for passing a comprehensive examination with the following limitations:

i. The award shall not exceed five credits;

ii. The comprehensive examination must be part of an approved course and may only be used to award credit for a single course;

iii. The comprehensive examination may not be a standardized test, such as the General Education Development Test.

10. Credit may be awarded for compensatory communication or computation courses for adults.

i. Credits may only be awarded to adults who have demonstrated reading or computational proficiency below grade level 9 on a standardized test.

ii. The award of credit in compensatory communications courses may not exceed 15 credits.

iii. The award of credit in compensatory computation courses may not exceed 10 credits.

11. Credit may be awarded for coursework in English as a second language (ESL) to adults who have not demonstrated on a test selected by the Department of Education that they have attained language fluency in English.

i. The award of credit in English as a second language may not exceed 20 credits.

ii. No more than 10 credits awarded in English as a second language may be applied to fulfilling graduation requirements in communication.

iii. Courses in English as a second language shall be offered only as traditional courses.

6:30-2.16 Maintaining student records

(a) Each adult high school shall have the responsibility to compile, maintain and retain student records and to regulate access to and security of such records as prescribed in N.J.A.C. 6:3-2.

(b) The attendance records of all adult high schools shall be maintained annually in the official New Jersey Adult High School Register in accordance with the procedures prescribed therein.

6:30-2.17 Maintaining financial records

- (a) The financial records of all adult high schools shall be:
 1. Maintained in accordance with law and rule; and
 2. Maintained in the appropriate accounts.

6:30-2.18 Staffing

(a) The adult high school shall have an adequate number of professional staff, properly certified for their respective assignments; however, those persons involved in adult advisement shall be certified as principal, supervisor, counselor or teacher.

(b) District boards of education shall assign position titles to professional staff members which are recognized in N.J.A.C. 6:11.

6:30-2.19 Special conditions

The rules set forth in Title 6 of the New Jersey Administrative Code governing the operation of a high school within a school district shall govern the operation of an adult high school unless otherwise explicitly stated in this subchapter.

6:30-2.20 Implementation

This subchapter shall be in effect until August 31, 1988 or at such earlier date when amended.

ENVIRONMENTAL PROTECTION

(a)

ENVIRONMENTAL PROTECTION
DIVISION OF FISH, GAME AND WILDLIFE
Fish and Game Council
1986-87 Game Code

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

Proposed: May 19, 1986 at 18 N.J.R. 1026(b).

Adopted: July 10, 1986 by Fish and Game Council,
Anthony E. DiGiovanni, Chairman.

Filed: July 14, 1986 as R.1986 d.325, 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. 13:1B-30 et seq. and 23:1-1 et seq.

Effective Date: August 4, 1986.

Expiration Date: February 18, 1991.

DEP Docket No. 021-86-04.

Summary of Public Comments and Agency Responses:

Thirty-one written comments were received during the public comment period. Seventeen verbal comments were heard at the public hearing held by the New Jersey Fish and Game Council on June 10, 1986. Ten written comments in support of proposals to include the use of the rifled shotgun barrel and two written comments in support of the bow and arrow only fox season were received. Four comments received endorsed the special bow and arrow permit deer season.

One letter received from a sportsman and one of the verbal comments heard at the public hearing were supportive of the proposed Code in its entirety.

COMMENT: Six letters received during the comment period stated general opposition to the sport of hunting, or trapping, or both. Specific reference was made to additional hunting seasons, increases in season durations, increases in bag limits or harvest, the Great Swamp National Wildlife Refuge deer hunt and the need for the Council to consider the views and sociological concerns of those who oppose hunting.

RESPONSE: The right of individuals and organizations to be philosophically opposed to hunting and trapping is recognized by the Council. The Council is legally mandated to manage wildlife as a renewable natural resource and to maximize the benefits to be derived from this resource while minimizing its negative impacts. Only through annual promulgation of amendments to the Game Code can these responsibilities be met. The Council has considered the best scientific information available in establishing seasons, bag limits and methods of take.

COMMENT: Seven comments received opposed the expansion of the steel shot area and the use of steel shot in general for waterfowl hunting. Concerns were expressed over the effectiveness of steel shot, availability of steel shot, increased crippling losses, and added costs to hunters.

RESPONSE: With the exception of the minor economic impact on hunters as noted in the proposal, and the possibility of an insufficient supply of steel shot for an expanded zone, the Council does not give credence to the comments provided. Lead shot is a toxic substance and

its annual deposition into the environment by waterfowl hunters results in substantial annual losses of waterfowl. Steel shot has been demonstrated to be an effective substitute for lead shot in waterfowl hunting without any inordinate crippling losses. The Council recognizes the need to expand the steel shot program when necessary to further resolve the lead poisoning problem. At this time, however, the Council believes that it is in the best interest of the steel shot program and those who are involved, not to expand the steel shot areas as proposed for several reasons. First, federal and State steel shot regulations should be consistent for an effective and enforceable program. In 1986-87 however, the U.S. Fish and Wildlife Service, due to an earlier schedule in its regulatory process, did not propose any change in New Jersey's steel shot area. Therefore, the federal regulations pertaining to steel shot in New Jersey will remain unchanged for 1986-87. Also the federal guidelines for the expansion of steel shot zones, based on 1985-86 surveys, require implementation in 1987-88, not in 1986-87 as proposed by the Council. The Council also recognized the possibility of an insufficient supply of steel shot for 1986-87.

Therefore, to be consistent with the federal steel shot regulations and conform to the federal guidelines in steel shot implementation, as well as some concern over the availability of steel shot, the Council has elected to retain the present steel shot zone and not expand it as had been proposed.

COMMENT: One comment from an animal rights organization expressed opposition to the proposed change allowing the use of passage merlins for falconry. Major points of opposition voiced in this letter were that non-selective trapping techniques could result in the capture of other raptors, including endangered species and that merlins are difficult to maintain in captivity. The writer also questioned the number of merlins expected to be taken, the number of falconers eligible to take merlins and whether falconers could sell the birds.

RESPONSE: The Council recognizes the right of individuals and organizations to oppose the sport of falconry. Falconry is, however, a legal sport in New Jersey and is intensely regulated by both State and federal law. Capture techniques used by falconers for migrating merlins are identical to those used by bird banders. These highly refined capture techniques allow raptors other than passage merlins captured by falconers to be released unharmed. To insure proper care, falconers are required by State and federal regulations to have adequate housing facilities, food and veterinary care for all raptors in possession. Only General and Master Falconers with more than two years experience in the care and handling of birds of prey may take merlins. Merlins taken by New Jersey falconers will number less than ten. Under federal regulation, no wild raptor taken for falconry may be sold.

COMMENT: Letters received from two individuals, representing groups opposed to hunting, expressed concern about allowing 14 to 17-year olds to hunt for squirrels with muzzleloading rifles.

RESPONSE: The 14 to 17 year old age group may currently use muzzleloading rifles for deer hunting and modern rifles for woodchuck hunting. This age class has consistently been one of the safest groups of hunters. They are required to complete two hunter education classes prior to obtaining a rifle permit. The Council considered the concerns expressed by these individuals but could not determine any need to reconsider this amendment.

COMMENT: One letter was received during the comment period from an individual requesting a change in the Code to allow the use of crossbows during the archery deer seasons. Two commenters at the public hearing asked that the Council consider a crossbow season and that the Division conduct research on the use of this weapon. Two other commenters representing archery clubs voiced opposition to the use of crossbows for deer hunting.

RESPONSE: As the use of crossbows was not addressed in the proposal, this issue was not placed under further consideration by the Council at this time.

COMMENT: Three letters received during the comment period, one from a hunting organization and two from individuals, were in support of the special permit bow and arrow deer season in certain deer management zones. One individual and a representative of an archery club commented in favor of the special permit season proposals. Three commenters at the public hearing spoke in opposition to this proposal, claiming that archers would be required to pay a permit fee to participate in the season and would be restricted to a particular deer management zone, possibly limiting their success.

RESPONSE: Special permit bow and arrow deer seasons are proposed in an effort to reach deer population management goals recommended by the Division. Harvest goals may best be reached by controlling hunter numbers within specific management zones. A fee for a special bow and

arrow season permit is consistent with the fees in effect for both the special shotgun and special muzzleloading rifle permits. All three seasons enable the Division to obtain antlerless deer harvest quotas. In that the extended archery season is a viable method of managing the deer harvest on a zone basis and will provide additional recreational opportunity, the Council has decided to retain the section referring to this issue in the Game Code.

COMMENT: Reduction of weekly permit quotas for Turkey Hunting Area 14 was suggested in one letter received during the comment period and by a representative of a sportsmen's organization. Both suggested the reduction based on interference of one hunter with another experienced during the hunting season. Higher than desirable hunter densities resulted from land access patterns and distribution of the wild turkey population.

RESPONSE: The Council considered the request. Because the request was based on aesthetic considerations regarding the quality of the hunting experience and no biological concerns were expressed by the Division, the Council voted to amend the section. The weekly permit quota for Area 14 was reduced from 100 to 50. The change specifically affected N.J.A.C. 7:25-4.7(k).

COMMENT: A letter from an individual representing an animal rights group suggested a wording change in a section of the proposed Code pertaining to control of coyotes by farmers. Another animal rights organization submitted a letter in opposition to destruction of coyotes under any circumstances.

RESPONSE: The Council considered the suggested change in this section. Coyote populations appear to be on the increase, based on data collected in recent years. The animals have the potential to cause agricultural damage and compete with native furbearer species. The Council recognizes the rights of those opposed to the taking of any animal but is responsible both for the management of all game species and for providing methods of minimizing potential for damage and financial loss. The suggested wording change as per public comment would clarify farmers' rights to control coyotes causing damage and be consistent with other wildlife control regulations. The Council voted to amend the section. The change specifically affected N.J.A.C. 7:25-5.11(f).

COMMENT: One letter submitted by 20 hunters and a letter from an individual representing a group philosophically opposed to hunting were received during the comment period referring to a section in the proposed Code allowing hunters to take foxes during the fall archery season. Another letter from an individual proposed an extension of the fox season in southern New Jersey.

RESPONSE: The right of individuals and organizations to disagree for a variety of reasons with proposals designed to expand the harvest of foxes and recreational opportunity for archers is recognized by the Council. Recent legislation on trapping devices has limited the ability of the Division to effectively manage certain furbearer populations. Allowing archers to take foxes during the fall archery deer season even though the harvest will be minimal, will help sustain current harvest levels and provide additional recreational opportunity to archers. An extension of the fox season in southern New Jersey was part of the proposed Code and so adopted. The Council elected not to amend either section.

COMMENT: Twenty individual hunters provided a single letter received during the comment period opposing a section in the proposed Code which restricts the either-sex deer season permits to muzzleloading rifle hunters in certain deer management zones. This letter cited the loss of recreational opportunity for shotgun deer hunters as the primary reason for opposition.

RESPONSE: While the Council appreciates the opinions of the commenters, proposed seasons and bag limits are designed to provide recreational opportunity and enhance the ability of the Division to effectively manage the deer herd. The lower success rates of muzzleloader hunters allows for a greater number of permits to be issued for a given deer quota and muzzleloader hunters tend to provide for a more evenly distributed deer kill throughout the zone. Based on these considerations, the Council elected to retain the section referring to muzzleloading rifle either-sex deer permits.

COMMENT: Five comments received during the comment period expressed support for the use of body gripping snares but indicated disapproval of certain amendments which place restrictions on their use. Five comments, including four letters from animal rights groups, received during the same period were in opposition to the use of body gripping snares, claiming that the use of these devices is illegal.

RESPONSE: Body gripping restraining snares have been a legal device and a useful management tool in New Jersey since 1928. Most people are unaware of its use and its role in furbearer management. Legislation

prohibiting use of steel-jaw leghold type traps has resulted in increased use of the body-gripping restraining snare. Since the use of body-gripping snares is new to some trappers the restrictions provided in the proposed Code, including a requirement for all trappers to be trained in their use, are designed to ensure that the snare will continue to be used properly as a restraining device. As such, body gripping restraining snares will continue to be an effective and acceptable management tool. The Council, while recognizing the rights of groups and individuals to oppose trapping of wild furbearers, as well as those who opposed restrictions on trapping and trapping devices, determined that the proposed restrictions are in the best interest of managing the furbearer resource. The Council voted to retain the section of the proposed Code referring to body-gripping restraining snares.

Agency-Initiated Changes: The Council reviewed the proposal to restrict quail hunting in certain areas of Hunterdon and Sussex Counties. This proposal was based on the anticipated progress of bobwhite quail reintroduction efforts. Since no wild-trapped quail were released at the Sussex County restoration site, it was unnecessary for the quail season to be curtailed in the area. The Council voted to amend the section referring to closing the quail season in certain areas, eliminating the closure in the Sussex County release area and clarifying the wording of the section. Specifically affected was N.J.A.C. 7:25-5.3(d).

A change in the application dates for spring gobbler hunting permits was approved by the Council. This change was suggested by the Division in order to increase the time available for permit processing between the application deadline and the opening of the season. New application and selection procedures require additional preparation time. Specifically affected was N.J.A.C. 7:25-5.7(h)3 and (i)3.

One typographical error addressing dates for the fox hunting season was corrected by Council. N.J.A.C. 7:25-5.19(a)1. was affected.

The Council voted to amend the proposed Code to allow the use of "T" (.200") steel shot for waterfowl hunting. BB steel shot was formerly the largest steel shot size approved for waterfowl hunting. Recent ballistics tests have indicated improved efficiency at various ranges using "T" shot. N.J.A.C. 7:25-5.23(f) was specifically affected.

The Council approved a change in shotgun either-sex deer permit quotas for deer management zone 15. A review of the permit quotas calculations revealed an error in computation of the zone quota. The Division recommended that the either-sex shotgun quotas for Zone 15 remain unchanged from 1985. Specifically affected was N.J.A.C. 7:25-5.29(L).

A suggestion by the Division to add a subsection to the regulations covering the use of special bow and arrow permits was reviewed by the Council. The provisions of the subsection are identical to those of three other sections of the proposed code, except as to the specific permits referred to in those sections. While the subsection was inadvertently omitted, its provisions relating to who may hunt, where hunting under the permits may occur, deer quotas, deer management zone maps and non-transferability to the special bow and arrow permits are set forth elsewhere in the subchapter.

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

7:25-5.1 General provisions

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

(c) This Code, when adopted and when effective, shall supersede the provisions of 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 8, to December 6, inclusive and December 15 through January 3, 1987 excluding December 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 6 inclusive and December 15 through March 31, 1987 excluding November 7 and December 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 8 to December 6, inclusive and December 15 through February 7, 1987 excluding December 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 3, 1987.

(e) The hours for hunting pheasants on November 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 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 chukar partridge and quail shall be November 8 through December 6 inclusive, and December 15, 1986 to February 7, 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) 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.

(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 6 inclusive and December 15, 1986 through March 31, 1987 excluding November 7 and 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.

(d) The bobwhite quail season *[enumerated by this section]* ***as described in (a) above*** 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.

(e) (No change in text.)

(f) The hunting hours for the animals enumerated in this section are as follows: November 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.

(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 11 through December 6 inclusive and December 15 to February 7, 1987, excluding December 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 18 through December 6 inclusive and December 15 to February 7, 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 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 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 11 through December 6 inclusive and December 15 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 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 18 through December 6 inclusive and December 15 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 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 6 inclusive and December 15 through March 31, 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.

(d) (No change.)

(e) Hunting hours for squirrels shall be sunrise to 1/2 hour after sunset, with the exception of November 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 five separate hunting periods of three or five days each. The hunting periods for hunting areas 1-9 shall be:

1. Monday, April 27-Friday, May 1
2. Monday, May 4-Friday, May 8
3. Monday, May 11-Friday, May 15
4. Monday, May 18-Friday, May 22
5. Saturday, May 2; Saturday, May 9; Saturday, May 16

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

1. Monday, April 20-Friday, April 24
2. Monday, April 27-Friday, May 1
3. Monday, May 4-Friday, May 8
4. Monday, May 11-Friday, May 15
5. Saturday, May 2; Saturday, May 9; Saturday, May 16

(b) Bag limit: One male wild turkey may be taken with 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 will be permitted in 16 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 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 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, 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 *13-28* *1-14*, 1987, inclusive. Applications received after February *28* *14* 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 *13-28* *1-14* *, 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
1987 SPRING TURKEY HUNTING SEASON PERMIT QUOTAS

Turkey Hunting Area Number	Weekly		Season Total	Portions of Counties Involved
	Permit	Quota		
1	100*		500	Sussex
2	120*		600	Sussex, Warren
3	80*		400	Sussex, Warren
4	100*		500	Sussex, Warren, Morris
5	100*		500	Sussex
6	150*		750	Sussex, Passaic, Bergen
7	150*		750	Sussex, Morris, Passaic
8	50*		250	Warren, Hunterdon
9	50*		250	Warren, Hunterdon, Morris
14	*[100]* * 50**		*[500]* * 250*	Burlington, Ocean
15	50**		250	Burlington, Camden, Atlantic
16	100**		500	Burlington, Atlantic
17	50**		250	Burlington, Ocean
18	50**		250	Atlantic, Cape May, Cumberland
20	50**		250	Cumberland, Salem
22	100**		500	Atlantic, Cape May, Cumberland
	[1400] *1350*		*[7000]* *6750*	

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

- A. Monday, April 27-Friday, May 1
- B. Monday, May 4-Friday, May 8
- C. Monday, May 11-Friday, May 15
- D. Monday, May 18-Friday, May 22
- E. Saturday, May 2; Saturday, May 9; Saturday, May 16

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

- A. Monday, April 20-Friday, April 24
- B. Monday, April 27-Friday, May 1
- C. Monday, May 4-Friday, May 8
- D. Monday, May 11-Friday, May 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 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.

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.

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.

16. (No change in text.)

7:25-5.8 Mink (*Mustela vison*), 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, 1986 through March 15, 1987, inclusive, except on State Fish and Wildlife Management Areas.

2. Southern Zone: 6:00 a.m. on December 1, 1986 through March 15, 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, 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, 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, 1986-December 25, 1986. Applicants may apply for only one beaver trapping permit and must provide their 1986 trapping license number. Permits will be allotted on a zone basis as follows: Zone 1—6, Zone 2—7, Zone 3—2, Zone 4—4, Zone 5—2, Zone 6—4, Zone 7—2, Zone 8—6, Zone 9—5, Zone 10—11, Zone 11—5, Zone 12—5, Zone 13—1, Zone 14—2, Zone 15—0. Total 62. Successful applicants must provide their 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 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, 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, 1986-December 25, 1986. Only 1 application per person may be submitted for trapping otter and applicants must provide their 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—12, Zone 14—5, Zone 15—10. Total 78. Successful applicants must provide their 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 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, 1986 to March 15, 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, 1987, inclusive.

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

(f) Farmers *or their agents* may trap fox and coyote *by lawful procedures at any time when found* destroying poultry, crops or property *at any time of the year* *subject to State law and local ordinances*.

(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.

(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 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 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 1986-87 hunting season.

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

(i) A special canvasback permit shall be required to hunt canvasback ducks 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 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 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 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 1 through November 8, 1986 inclusive.

ii. (No change.)

3. Woodcock

i.-ii. (No change.)

iii. Hunting hours for woodcock are sunrise to sunset except on November 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 *[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 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]* *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*.

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 18, 1986 through March 28, 1987 inclusive, excluding December 8-13 and December 18, 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 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 or Cooper's Hawks 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 of 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. 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, 1986 to one hour before sunrise on March 1, 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 8-13 and on December 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, 1986 and from March 1 to May 1, 1987. The training hours shall be one hour after sunset to one 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 14-September 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 8, 1986 through February 28, 1987 inclusive, excluding December 8-13 and 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 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 8, 1986 through *February* February 28, 1987 excluding December 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 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 7 and on Clinton, Flatbrook, Black River, Assunpink and Whittingham WMA's on the following Sundays: November 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.) 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.

(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 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 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* *T (.200)* 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 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. 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. Per-

sons 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 barrelled 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 smoothbore 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 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 27-November 7, 1986 in most deer management zones; September 27-December 6, 1986, excluding November 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 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 27-November 7, 1986, inclusive*[*];**.* 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 1986 fall bow and arrow deer season. This permit shall not be valid on the day of issuance.

1. (No change.)

(c) This season shall be open only to holders of a valid 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 3 to 1/2 hour after sunset on January 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 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 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 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 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 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 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 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, 20, 22, 23, 26, 27, 29 and 30, 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 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 the back display portion of the permit will be conspicuously displayed on the outer clothing in addition to the valid firearm license. 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 on December 15, 16, 20, 22, 23, 26, 27, 29 and 30, 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 checking 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 1986 firearm hunting licenses may apply by detaching from their hunting license stub marked "Special Deer Season 1986 signing as provided on the back, and sending the stub, together with 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.-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, 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 which are received in the Trenton office during the period of August 25-September 10, 1986 inclusive. Applications postmarked after the 10th 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. Successful applicants will receive their permits by mail. 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 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.)

8	408	1275	Warren, Hunterdon, Morris, Somerset
9	86	265	Morris, Somerset
10	233	670	Warren, Hunterdon
11	127	355	Hunterdon
12	271	800	Mercer, Hunterdon, Somerset
13	27	115	Morris, Somerset
14	78	370	Mercer, Somerset, Middlesex, Burlington
15	36	210	Mercer, Monmouth, Middlesex
16	64	305	Ocean, Monmouth
17	46	220	Ocean, Monmouth, Burlington
18	17	150	Ocean
19	16	140	Camden, Burlington
20	21	150	Burlington
21	64	460	Burlington, Ocean
22	9	60	Burlington, Ocean
23	72	400	Burlington, Camden, Atlantic
24	57	300	Burlington, Ocean
25	47	235	Gloucester, Camden, Atlantic, Salem
26	80	335	Atlantic
27	63	275	Salem, Cumberland
28	45	166	Salem, Cumberland, Gloucester
29	96	360	Salem, Cumberland
30	11	44	Cumberland
31	5	25	Cumberland
32	3	20	Cumberland
33	12	75	Cape May, Atlantic
34	68	320	Cape May, Cumberland
35	37	215	Gloucester, Salem
41	108	326	Mercer, Hunterdon
42	11	35	Atlantic
43	16	80	Cumberland
44	8	21	Cumberland
45	25	110	Cumberland, Atlantic, Cape May
46	28	85	Atlantic
47	3	30	Atlantic, Cumberland, Gloucester
48	12	120	Burlington
49	0	0	Burlington, Camden, Gloucester
50	10	83	Middlesex, Monmouth
51	8	80	Monmouth, Ocean
Total	3,406	13,608	

(l) Muzzleloader, either-sex permits not applied for by September 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 17, 1986 except that in zones 2, 5, 6, 7, 8, 9, 10, 12, 13, 14, 41, 50 and 51 the special permit shotgun season will also include December 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 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". 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 "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. 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

1986 MUZZLELOADING RIFLE DEER SEASON PERMIT QUOTAS EITHER SEX

Deer Mgt. Zone No.	Anticipated Deer Harvest	Permit Quota	Portions of Counties Involved
	1986		
1	88	435	Sussex
2	105	301	Sussex
3	93	465	Sussex, Passaic, Bergen
4	222	1160	Sussex, Warren
5	278	887	Sussex, Warren
6	114	515	Sussex, Morris, Passaic, Essex
7	178	560	Warren, Hunterdon

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 1986 firearm hunting licenses including juvenile firearm license holders may apply by detaching from their hunting license stub marked "Special Deer Season 1986" signing as provided on the back, and sending in stub, together with a \$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, 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 which are received in the Trenton office during the period of August 25—September 10, 1986. Applications post marked after the 10th 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. Successful applicants will receive their permits by mail. 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 completed 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 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).

23	0	0	Burlington, Camden, Atlantic
24	0	0	Burlington, Ocean
25	46	334	Gloucester, Camden, Atlantic, Salem
26	0	0	Atlantic
27	101	443	Salem, Cumberland
28	0	0	Salem, Cumberland, Gloucester
29	218	730	Salem, Cumberland
30	14	81	Cumberland
31	0	0	Cumberland
32	0	0	Cumberland
33	27	169	Cape May, Atlantic
34	10	57	Cape May, Cumberland
35	59	278	Gloucester, Salem
41*	280	710	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	69	260	Burlington
49	0	0	Burlington, Camden, Gloucester
50*	39	240	Middlesex, Monmouth
51*	30	300	Monmouth, Ocean
Total	*[7,503]**7,533*	*[27,934]**28,203*	

*Indicates two day zones (December 17 and 18, 1986) with provision for second deer tag.

(a) Shotgun, either-sex permits not applies for by September 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

1986 SHOTGUN DEER SEASON PERMIT QUOTAS EITHER SEX

Deer Mgt. Zone No.	Anticipated Deer Harvest 1986	Permit Quota 1986	Portions of Counties Involved
1	225	1222	Sussex
2*	254	980	Sussex
3	91	794	Sussex, Passaic, Bergen
4	311	1505	Sussex, Warren
5*	849	2650	Sussex, Warren
6*	303	1546	Sussex, Morris, Passaic, Essex
7*	418	1323	Warren, Hunterdon
8*	1167	3647	Warren, Hunterdon, Morris, Somerset
9*	261	1123	Morris, Somerset
10*	673	1680	Warren, Hunterdon
11	356	1150	Hunterdon
12*	663	1780	Mercer, Hunterdon, Somerset
13*	250	1152	Morris, Somerset
14*	464	1740	Mercer, Somerset, Middlesex, Burlington
15	*[35]** 65*	*[219]** 488*	Mercer, Monmouth, Middlesex
16	59	477	Ocean, Monmouth
17	103	400	Ocean, Monmouth, Burlington
18	41	277	Ocean
19	35	225	Camden, Burlington
20	32	278	Burlington
21	0	0	Burlington, Ocean
22	20	164	Burlington, Ocean

"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:

*1. The special bow and arrow deer permit is valid only in the deer management zone (DMZ) designated and is not transferable. The special bow and arrow farmer deer permit is valid only on the farm occupied and designated in the application. The DMZ quota follows below at 3. The DMZ map is on file at the Office of Administrative Law. The special bow and arrow permit hunter is responsible for hunting in the correct DMZ or farm as indicated and in ascertaining the boundaries.

2. Neither the special bow and arrow deer permit nor the special bow and arrow farmer deer permit is transferable from DMZ to DMZ, or from farm to farm, or from individual to individual. The permit must be used on the farm, in the DMZ, and by the individual to whom it was issued.*

*3. 1986 BOW AND ARROW DEER SEASON PERMIT QUOTAS EITHER-SEX

Deer Mgt. Zone No.	Anticipated Deer Harvest	Permit Quota		Portions of Counties Involved
		1986	1986	
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.

7:25-5.31 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, January 8, 9 and 10, 1987 or as may otherwise be designated by the U.S. Fish and Wildlife Service.

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

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

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
 - Delaware Water Gap Nat'l Recreation Area

3. (No change in text)

- 7:25-5.34 Controlled hunting wildlife management areas
 - (a) No wildlife management areas have been selected for limited hunter density for the 1986-87 season.
 - (b) (No change in text)
- 7:25-5.35 (No change in text.)
- 7:25-5.36 (No change in text.)
- 7:25-5.37 Fish and Game Law Enforcement Region Headquarters
 - (a) North—No. Region Office, R.R. 1, Box 383, Hampton, N.J. 08827 (201-735-8240)
 - (b)-(d) (No change in text.)
- 7:25-5.38 (No change in text.)

HEALTH

(a)

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

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

Proposed: May 19, 1986 at 18 N.J.R. 1038(a).
 Adopted: July 14, 1986 by Evelyn Geddes, Chairperson, Public Health Council.
 Filed: July 14, 1986 as R.1986 d.329, **without change**.
 Authority: N.J.S.A. 26:1A-7.
 Effective Date: August 4, 1986.
 Expiration Date: August 4, 1991.

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

Full text of the expired rule adopted as new appears in the New Jersey Administrative Code at N.J.A.C. 8:22-1.

(b)

PUBLIC HEALTH COUNCIL
ENVIRONMENTAL HEALTH SERVICES
Chapter IX—State Sanitary Code
Public Recreational Bathing

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

Proposed: May 19, 1986 at 18 N.J.R. 1040(a).
 Adopted: July 14, 1986 by Evelyn Geddes, Chairperson, Public Health Council.
 Filed: July 14, 1986 as R.1986 d.328, **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. 26:1A-7.
 Effective Date: August 4, 1986.
 Operative Date: August 4, 1986 for subsections of subchapters 7 and 8 which relate to tidal bathing waters.
 Operative Date: November 4, 1986 for remaining rules contained in this chapter.
 Expiration Date: August 4, 1991.

Summary of Public Comments and Agency Responses:

Typographical errors as published in the New Jersey Register have been corrected at sections 8:26-3.15(b), 8:26-3.15(g), 8:26-3.16(d), 8:26-3.17(a), 8:26-3.20(c)8, 8:26-4.6(b), 8:26-4.8(c), 8:26-5.2(a)2, 8:26-5.6(e), 8:26-5.7(c)8, 8:26-5.9(a)4, 8:26-6.5(e)2, 8:26-7.12(a)1, 8:26-7.13(c), 8:26-7.19 and 8:26-8.5(d)li.

At a public hearing on June 9, 1986, 30 people were present and comments were received on various general and specific aspects of the proposed new rules. In addition, a number of written comments were received by the Department of Health. The oral and written comments and the Department's responses follow, in summary form. (The commenters have received individual responses from the Department on the issues of particular interest to them.)

COMMENT: Several comments regarding the adequacy of the notice were received.

RESPONSE: The Department made extensive efforts to contact and solicit responses from as many interested parties as possible. In fact, approximately 55 people actively participated in the five subcommittees who authored these new rules. The aforementioned actions taken in drafting these rules far exceed the adequate notice procedures required by the N.J.S.A. 52:14(b) 1 et seq. and N.J.A.C. 1:30-1.1 et seq.

COMMENT: Several comments were received regarding the differentiation between public and private recreational bathing places.

RESPONSE: This issue has been addressed by the New Jersey Superior Court in *Raponotti vs. Burnt-Mill Arms, Incorporated* (113 N.J. Super 173, 273 A.2d. 372 (A.D. 1971). The court decided that only such swimming pools maintained for use by a family and its guests shall be considered private.

COMMENT: Several comments were received regarding the date by which public recreational bathing places must comply with these rules.

RESPONSE: While the rules are effective on the date of publication, the Department will not require compliance until the operative date.

COMMENT: A comment was received regarding a possible conflict between N.J.S.A. 5:1-1 to 5.4 and these rules.

RESPONSE: The Department was careful to avoid conflict in this area, and the current rules do not contain any conflicts.

COMMENT: A comment was received requesting information on suppliers of test kits and equipment required by the rules.

RESPONSE: The Department cannot make recommendations on specific suppliers, however, such information can be obtained from one's Yellow Pages under Pools, Supplies, Safety Equipment or Scientific Supply Houses. Further guidance, if necessary, can be obtained from the Department.

8:26-1.2 **COMMENT:** A comment was received from the New Jersey County Sheriff's association regarding the addition of sheriff's departments to this section.

RESPONSE: This has been done on adoption.

COMMENT: A comment was made that this regulation does not address persons who choose to swim outside the designated bathing area.

RESPONSE: This is correct. It was not the Department's intent to regulate these areas outside the designated bathing area.

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

8:26-1.3 COMMENT: Comments were received regarding definitions.

RESPONSE: The definition for deck was added, and the definition for lifeguard and swimming pool were changed.

8:26-2.5 COMMENT: A comment was received regarding the "Grandfathering" in of existing facilities.

RESPONSE: The Department's position is that the "Grandfather" clause is appropriate as written.

8:26-2.8 COMMENT: A comment was received regarding whether the approval to operate was a one-time or annual approval.

RESPONSE: The Department is requiring an initial approval for all new or altered facilities and additional approvals as deemed necessary by the health authority.

COMMENT: A question was received on the treatment of multiple bathing sites in regard to approval to operate.

RESPONSE: The Department's intent is to have an approval issued for each bathing site, which is referred to in the rules as "designated bathing beach".

8:26-3.1(c) COMMENT: A comment was received regarding changing the word "feet" to "bather".

RESPONSE: This has been done.

8:26-3.2(d) COMMENT: A comment was received on the clarity of the water.

RESPONSE: This has been addressed in N.J.A.C. 8:26-7.10.

8:26-3.3(b) COMMENT: A comment was received regarding the criteria for pool capacity.

RESPONSE: The method for determining pool capacity was adapted from National Spa and Pool Institute standards, and it is the Department's position that these standards are appropriate.

8:26-3.8 and 3.9 COMMENT: A comment was received regarding the varying pool water depths created by a combination of overflow and gutter systems.

RESPONSE: The Department's position is that the operating range of many types of overflow and skimmer systems will cause major variations in pool water depth. The expense necessary to eliminate this variation is not considered to be in the best public interest.

8:26-3.12 COMMENT: A comment was received regarding the Department's inclusion of a recommendation for a ten-foot-high fence.

RESPONSE: The Department is not empowered to require a specific fence height, but is of the opinion that a ten-foot-high-fence provides an added measure of safety and is therefore making such a recommendation.

8:26-3.20(c)4 COMMENT: A comment was received regarding the necessity for a respirator.

RESPONSE: The Department sought the advice of an expert at OSHA who recommended the requirement remain as written, with one addition, which was made.

8:26-4.4(d) COMMENT: A comment was received regarding the accuracy of the thermometer.

RESPONSE: The Department has added a requirement that the thermometer be accurate to plus or minus two degrees Fahrenheit.

8:26-5.1(c) COMMENT: A comment was received regarding the role of the certified pool operator relative to the supervision of the entire facility.

RESPONSE: The Department has further clarified this subsection on adoption.

8:26-5.1(d) COMMENT: A comment was received regarding raising the square footage requirement to 3,000 square feet for lifeguarding personnel.

RESPONSE: This comment was carefully reviewed and discussed with members of the Department sub-committee and other experts in the field. The Department's decision is that the requirement will not be changed. The 2,000 square foot requirement was based on national standards. The Department's position is that a 3,000 square foot area is too large an area for one lifeguard to supervise.

COMMENT: Comments were received regarding the need for a lifeguard in addition to the lifeguard instructor during swim classes.

RESPONSE: The type of instructional program will dictate the number of lifeguards necessary. The rule requires at minimum one certified lifeguard.

8:26-5.1(d)1 COMMENT: A comment was received regarding the addition of the emergency plan to this subsection.

RESPONSE: This is covered by N.J.A.C. 8:26-5.1(h).

8:26-5.1(f) COMMENT: A question was raised whether the lifeguard may take chlorine and pH readings while on duty.

RESPONSE: While the lifeguard is assigned to supervision of the bathers, he or she shall not be assigned any duties which may distract their attention from the proper supervision of the bathers.

8:26-5.2(a)2 COMMENT: A comment was received that the Red Cross does not approve ring buoys or rescue tubes, but that the Underwriter's Laboratory does.

RESPONSE: The Department agrees and the changes have been made.

COMMENT: A comment was received regarding the enforcement of the personal regulations.

RESPONSE: The owner and/or operator is responsible for designating enforcement personnel.

8:26-5.3(a)5 COMMENT: A comment was received regarding the necessity of requiring bathers to take a shower before entering the water.

RESPONSE: This is a good public health practice which reduces the organic load on the pool water disinfectant and filtering system.

8:26-5.3(a)6 COMMENT: A comment was received that the word "running" should be deleted.

RESPONSE: The intent of including "running" was to prohibit this activity around the deck areas of a pool. To clarify the Department's intent to allow jogging along a beach would be difficult. The word "running" has been omitted. Although "running" may not pose a hazard on a beach, it poses a hazard around a pool, and is covered under this subsection by "conduct affecting the safety and comfort of others shall not be permitted."

8:26-5.3(b) COMMENT: A question was raised regarding clarification of the term supervisor.

RESPONSE: The Department intends "supervisor" to be the individual designated by the owner and/or operator to act in the capacity of the "Designated Adult Supervisor," as defined in the rules. The rule has been changed to clarify this point.

8:26-5.3(b)1 COMMENT: A comment was received regarding the use of pool toys.

RESPONSE: It is the Department's position that all pool toys do not present a hazard in all situations and, therefore, the facility should make that determination.

8:26-5.4(a) COMMENT: The question was asked whether one lifeguard could act as the adult supervisor's representative for the wading pool and perform their lifesaving duties at the swimming pool at the same time.

RESPONSE: As written in the rules, the wading pool must have present a responsible individual knowledgeable and trained in a program developed by the designated adult supervisor. This individual should not be the lifeguard, but should be in addition to the lifeguard who may be guarding an entire swimming pool.

8:26-5.4(b) COMMENT: A suggestion was made that the language be changed to "C.P.R., including infant and child technique".

RESPONSE: The Department has changed the rule to further specify the requirement.

8:26-5.5 COMMENT: A comment was received regarding use of water slides licensed by the Department of Labor and Industry.

RESPONSE: The Department never intended to regulate the use of these amusements, however, the Department does have jurisdiction over the water quality and lifeguarding of waters which are used in conjunction with same.

COMMENT: A comment was received regarding whether one lifeguard can supervise the activities at the water slide and perform his or her duties at the pool at the same time.

RESPONSE: In addition to the lifeguard, at least one other person must be assigned to the water slide. The intent here is that although the lifeguard is responsible to guard the entire swimming pool, his or her attention should not be directed to any one activity that would distract from the observation of all persons in the pool or prevent immediate assistance to someone in distress in water.

8:26-5.6(a) COMMENT: A question was raised whether one lifeguard could supervise a spa and perform assigned duties at the pool at the same time.

RESPONSE: The rules do not require that a lifeguard be present at a spa or hot tub.

8:26-5.7(b) COMMENT: A question was raised regarding the need for a 200-foot neutral zone between the bathing area and water craft activities.

RESPONSE: The Department's intent was to provide the prescribed safety zone for non-human-powered watercraft and has made changes to reflect this.

8:26-5.7(c)1 COMMENT: A question was raised regarding the utilization of the United States Lifesaving Association Training Program (U.S.L.S.A.) as a training tool for lifeguards for ocean and tidal waters.

RESPONSE: The Department, utilizing recommendations made by a committee of water safety experts, has determined that the U.S.L.S.A.

is the sole agency certifying lifesaving programs for ocean and tidal waters.

COMMENT: A comment was received recommending that the Department establish standards and certify lifesaving personnel for ocean and tidal waters.

RESPONSE: The Department does not have the expertise in this area, and therefore utilizes the United States Lifesaving Association as a recognized authority.

8:26-5.7(c)2 COMMENT: A comment was submitted regarding the necessity of providing a lifeguard for 300 feet of visible shore line.

RESPONSE: The Department agrees that this is unclear and has made appropriate changes.

COMMENT: A comment was received that a minimum standard should be two lifeguards.

RESPONSE: The Department agrees that although two lifeguards may be necessary at the ocean, this does not apply to all situations, and thus the rule remains unchanged.

8:26-5.7(c)7 COMMENT: A comment was received that the regulations do not address persons who choose to swim outside the designated bathing area or while the area is closed.

RESPONSE: The Department's position is that the purpose of these regulations is to provide the State of New Jersey with minimum standards for the operation of designated recreational bathing places. The regulations are not intended to regulate those areas outside the designated recreational bathing place.

8:26-5.8 COMMENT: Comment was received requesting the deletion of 8:26-5.3(a) 1 and 2, referenced in 8:26-5.8.

RESPONSE: The Department has deleted these references.

8:26-5.9 COMMENT: Comments were received from individuals who operate ocean bathing beaches stating that some of the rule was not applicable to ocean bathing, and that certain necessary equipment had been omitted.

RESPONSE: The Department has concluded that many of the points were well-taken and has made the changes, where necessary.

COMMENT: A comment was received regarding the necessity of life-saving equipment as required for lakes.

RESPONSE: The Department's position is that the equipment required on adoption is a necessary minimum standard and shall remain unchanged.

8:26-5.10(b)2 COMMENT: A comment was received regarding the depth of water surrounding a diving board.

RESPONSE: The Department has reviewed this comment and has taken the appropriate action. (See the changes made on adoption.)

8:26-6.1 COMMENT: A comment was raised that allowing the local health authority latitude in determining sanitation requirements negates the goal of a Uniform State Code.

RESPONSE: This rule, as with any rule, cannot address every individual situation or hazard which may exist, thus this statement is necessary.

8:26-6.3(b) COMMENT: A question was raised regarding the necessity of curbs in showers.

RESPONSE: The material was evaluated and deleted, as not necessary.

8:26-6.12 COMMENT: A question was raised regarding the inspection of recreation equipment.

RESPONSE: It is the Department's intent that only recreational equipment that is within the jurisdiction of the swimming pool or bathing beach be inspected during an inspection.

8:26-7.2 COMMENT: A comment was received that many private lakes have an excellent testing program of their own and collect samples themselves. They questioned if they can continue if they follow regulations.

RESPONSE: The Department's position is that you can collect your own samples as long as they are tested by a laboratory certified by the New Jersey Department of Environmental Protection as specified in 8:26-7.2.

8:26-7.4(b)1 COMMENT: A comment was received regarding sampling frequency.

RESPONSE: The Department's position is that the rule is correct as written.

8:26-7.5 COMMENT: Questions were raised regarding the time and temperature constraints on sampling.

RESPONSE: The rule has been revised on adoption and appropriate changes have been made.

8:26-7.7 COMMENT: A comment was received that this section on samples not meeting standards is in the wrong place in the regulations.

RESPONSE: The Department's position is that the current ordering does not present a problem.

8:26-7.7(a) COMMENT: A comment was received that the notification requirements for samples not meeting standards differs between bathing beaches and swimming pools.

RESPONSE: The two sections under question were reviewed and the necessary corrections made.

8:26-7.8(d)1 COMMENT: A comment was received indicating that the disinfectant residual and pH measuring devices be available at the pool during periods of pool use.

RESPONSE: The Department agrees and the change has been made.

8:26-7.12(b)1&2 COMMENT: Several comments were received regarding technical changes that should be made.

RESPONSE: The Department made the appropriate changes that were deemed necessary.

8:26-7.13(c) COMMENT: A comment was received regarding the maximum limit for combined bromine.

RESPONSE: The comment was carefully considered and this limit has been removed from the adoption.

COMMENT: A comment was received that the disinfectant values and chemical levels for hot tubs and spas should be changed.

RESPONSE: The Department agrees with this recommendation and has made the necessary changes in this requirement.

8:26-.16 COMMENT: A comment was received that the sanitary survey as defined is arbitrary and that one expert's opinion can be used against another's.

RESPONSE: This statement has basis, however, the regulations as written demonstrate an excellent tool to assess potential or existing problems.

COMMENT: A comment was received that the contents of the comprehensive sanitary survey is not clearly defined.

RESPONSE: The definition of a sanitary survey can be found in 8:26-1.3. The Department feels that this definition is adequate.

8:26-7.17(a)3 COMMENT: Comments were received that requiring the information in this section imposes a severe hardship and requires a certain degree of expertise.

RESPONSE: The Department expects the best possible information available and that it be as accurate as possible, since these factors may have a bearing on water quality and add to the value of the monitoring program.

8:26-7.21(a)2 and 3 COMMENT: A comment was received recommending that 8:26-7.21(a)2 (that deals with the recommended pH levels for natural bathing waters) and 8:26-7.21(a)3 (that deals with the analysis of suspected toxic substances in natural bathing waters) were not reasonable and should be deleted.

RESPONSE: After carefully reviewing the comments received, the Department agrees and will omit these requirements from the rules.

8:26-7.22 COMMENT: A comment was received that the words used in this section are not defined and therefore arbitrary and open for interpretation.

RESPONSE: The intent of the Department is that the bathing beach operator is to be aware of any changes in the appearance of the water and, if necessary, take appropriate action. The subsection will remain unchanged.

8:26-8.2(a) COMMENT: A comment was received that allowing the health authority latitude regarding frequency of inspection and access to buildings could open charges of harassment and challenges the constitutional ground of unwarranted search.

RESPONSE: The Department's position is that the professional health official needs such latitude in order to appropriately regulate the industry. Secondly, the health authority has the right under law to inspect those public facilities which may affect the public's health and/or the health and safety aspects of the recreational bathing facility.

8:26-8.4 COMMENT: A comment was received regarding the constitutionality of requiring that private records be made available.

RESPONSE: The regulations require certain public records be made available for the health and safety of the public. The Department does not deem this a violation of anyone's constitutional rights.

8:26-8.5 COMMENT: A comment was received regarding the appeal process when a recreational bathing facility is subject to closure.

RESPONSE: The Department has reviewed this comment and the appropriate change has been made.

8:26-8.6(c) COMMENT: A comment was received that all laboratory analyses should be transmitted to the health authority within five days of analyses.

RESPONSE: A written copy to the local health authority within five days of analysis, as opposed to sampling, should be sufficient since the local health authority will be notified verbally of unsatisfactory results.

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8:26-8.7(a) COMMENT: A comment was received that when a hot tub or spa water sample exceeds the bacteriological standards, the health authority should be notified first before the hot tub or spa is closed, drained, disinfected, refilled, and resampled.

RESPONSE: The Department agrees with this comment and has rewritten this requirement.

8:26-8.8 COMMENT: A comment was received that this section is the same as 8:26-7.20 and incorporates an ill-defined sanitary survey.

RESPONSE: This section is not the same as 8:26-7.20 and outlines the necessary steps and actions to be taken by both the operator and health authority to protect the public's health.

8:26-8.8(a)5 COMMENT: A comment was received that the phrase "if necessary" should be deleted.

RESPONSE: The Department reviewed this comment and it is correct as written.

8:26-8.9(a) COMMENT: A comment was received questioning the need to maintain certain records required by the rule.

RESPONSE: The Department considers these records necessary to establish the proper number of lifeguards and provide an overview of the operation of the facility. The owner and/or operator should make use of this data to avert potential hazards.

8:26-8.11 COMMENT: A comment was received that the penalty provision provided in this rule will result in a separate code for each municipality.

RESPONSE: Penalties are presently provided under State Statute for violations of this or any other chapter of the State Sanitary Code. Thus uniformity is present and will continue to be provided.

APPENDIX

COMMENT: A comment was received that pool operators will have difficulty with the new American Red Cross Lifeguard Certification course.

RESPONSE: The Department feels that comments regarding the American Red Cross should be directly addressed to them. The Department recognizes the American Red Cross certification for a lifeguard. As such, the Department will abide by their decision concerning the certification of what they consider acceptable for their lifeguard program.

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

CHAPTER 26

***PUBLIC* 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 ***public*** 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

(a) 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 *****, local sheriff's departments^{*} and other enforcement agencies.

***(b) The operative dates for this chapter are August 4, 1986 for subchapters 7 and 8 only as they apply to tidal waters and November 4, 1986 for the remainder of the chapter.**

Note: The difference in operative dates is necessary, to be consistent with what is presently being accomplished under the cooperative Coastal Monitoring Program, and thus presents no additional hardship while providing a rule to adequately protect the public's health.*

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.

"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.

"Deck" means those areas surrounding a pool which are specifically constructed or installed for use by bathers.

"Department" means the State Department of Health.

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

"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 ***to include state, county and municipal facilities***.

"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 ***county and municipal*** 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]* *bather* 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

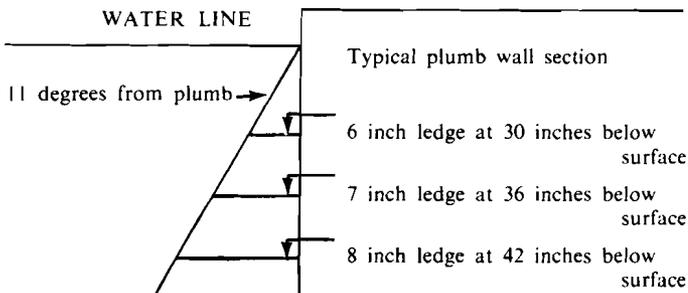
The bottom slope of the pool shall be in accordance with the requirements of New Jersey Uniform Construction Code, N.J.A.C. 5:23.

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.

(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⁾.

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 *pool.*

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 one 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 one 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)(g)* 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 *^(sides)* *^(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)* *except those licensed and inspected by the Department of Labor and Industry under N.J.S.A. 5:3-31 through 54.*

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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 ***pressure-demand,*** 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. ***(See OSHA Standards 1910.134).***

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.]*6. 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:

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 fol-

lowing 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 may be 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 ***accurate to plus or minus 2 degrees Fahrenheit and*** 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 ***[property]* *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)4]* *(f)*.

(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]* *Spa and*** 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 en-

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countered 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 multiport 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)

(c) Within three years of the enactment of this chapter, ***the maintenance and mechanical operation of*** 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 ***[Stated]* *States*** Coastguard and/or ***[Red Cross]* *Underwriter Laboratories*** 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, rowdiness ***[, 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 ***designated adult*** 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 ***in cardiopulmonary resuscitation (CPR)*** 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.]*** ***enters into less than 5 feet of water.***

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]* timer*** 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. ***Each bathing beach shall establish its own policy to allow for a buffer zone based upon the size constraints of its bathing beach for human-powered, slow moving watercraft, such as rowboats and pedal-boats.***

(c) A bathing beach open for use shall establish and post hours of operation and shall be under the ***[direct supervision]* management*** 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 ***of the designated bathing area*** 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 ***such*** items as ***[evacuation]* 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 ***for bathing beaches***

(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 ***[.]***, **which shall be provided at each lifeguard station (a rescue tube, torpedo buoy or similar device with sufficient line attached may also be used);***

2. A 600 foot rope with quick-release mechanisms, which shall be provided at each lifeguard station;

[2.]*3. A reach pole with blunted ends with a minimum length of 12 feet (3.7 meters) ***[.]*** ***which shall be provided when it will serve as a useful tool at those bathing beaches that have docks or similar structures that protrude or are placed into the bathing area;***

4. A paddle rescue board that is a minimum of 12 feet in length and capable of supporting sufficient people for rescue work;

[3.]*5. 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.]*6. ***[At]* *A*** 24 unit first aid kit (see Appendix) ***which*** shall be available at all times during bathing periods and ***which*** shall be fully restocked within 24 hours of use ***[.]***;

[5.]*7. A telephone or other approved means of communication

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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.]**8. 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]* *fixed* platform *or float*** 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^[.] ***and in all cases the minimum depths shall extend 9 feet (2.7 meters) to each side of the board or platform.***

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 ***except those licensed and inspected by the Department of Labor and Industry under N.J.S.A. 5:3-31 through 54.**

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)](b)*** Shower stall floors located adjacent to walkways shall be depressed below the level of the walkways.

[(d)](c)*** 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)](d)*** Wood slats or floor material and slopes conducive to slipping shall not be permitted.

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]* *The*** 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, water-tight 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.]* ***for swimming pools, hot tubs and spas and 6 hours for processing for bathing beaches.*** The sample shall be refrigerated immediately upon collection or kept in an ice chest and *[hold]* ***held*** at ***[at least than 50]* ***45*** degrees Fahrenheit** **(*[10]* ***7.2*** degrees Centigrade)** ***or less*** 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

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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 ***during periods of pool use*** 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]* *1* 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)	*2.0*	*3.0-5.0*	*10.0 *
Combined *[Chloride]* *Chlorine* (ppm)	*[1.0]*	*[1.0-1.5]*	*[2.5]*
Bromine (ppm)	None	None	0.2†
	2.0	*3.0-5.0*	*10.0 *
		[2.0-4.0]	*[4.0]*
[Combined Bromine (ppm)	None	None	0.2†]
pH	7.2	*7.4-7.6*	7.8
		[7.5]	

†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]* ***Microbiological*** water quality standards ***for bathing beaches***

(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**7.20* 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**7.21* 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]* *give*** the alleged violator an opportunity to be heard ***by the health authority,*** 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 operator shall immediately notify the health authority,*** the hot tub or spa shall ***then*** 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 operator shall immediately notify the health authority,*** the hot tub or spa must ***then*** 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 *and/or program* 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

(a)

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

Proposed: December 2, 1985 at 17 N.J.R. 2836(a).
Adopted: July 11, 1986 by J. Richard Goldstein, M.D.,
Commissioner, Department of Health.
Filed: July 14th, 1986 as R.1986 d.332, **without change**.
Authority: N.J.S.A. 26:3A2-10c(2) and 26:1A-15.
Effective Date: August 4, 1986.
Expiration Date: August 4, 1991.

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

Full text of the expired rule adopted as new appears in the New Jersey Administrative Code at N.J.A.C. 8:53.

NARCOTIC AND DRUG ABUSE CONTROL

(b)

**Controlled Dangerous Substance
Temporary Placement of Parafluorofentanyl in
Schedule I**

Adopted Amendment: N.J.A.C. 8:65-10.1

Proposed: April 7, 1986 at 18 N.J.R. 603(a).
Adopted July 10, 1986 by J. Richard Goldstein, M.D.,
Commissioner, Department of Health.
Filed: July 14, 1986 as R.1986 d.326, **without change**.
Authority: N.J.S.A. 24:21-3.
Effective Date: August 4, 1986.
Expiration Date: Exempt 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. (No change.)
 - iii.-iv. (See proposal at 17 N.J.R. 2950(a).)
 - v.-xii. (See proposal at 18 N.J.R. 254(b).)
 - xiii. Parafluorofentanyl (N-(2-1-phenylethyl)-4-piperidyl)-N-(4-fluorophenyl)propanamide.

(a)

**Controlled Dangerous Substances
Removal of Nalmefene from Schedule II
Adopted Amendment: N.J.A.C. 8:65-10.2.**

Proposed: March 17, 1986 at 18 N.J.R. 536(a).
Adopted: July 10, 1986 by J. Richard Goldstein, M.D.,
Commissioner, Department of Health.
Filed: July 14th, 1986 as R.1986 d.327, **without change.**
Authority: N.J.S.A. 24:21-3.
Effective Date: August 4, 1986.
Expiration Date: Exempt 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:

8:65-10.2 Controlled dangerous substances; Schedule II

(a) (No change.)

(b) The following is Schedule II listing the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers.

1. Substances, vegetable origin or chemical synthesis: Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

i. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrophan, nalbuphine, nalmefene, malaxone, and naltrexone, and their respective salts, but including the following (listed by generic or chemical name with CDS code).

(No change in list.)

ii.-v. (No change.)

2.-6. (No change.)

(b)

**Controlled Dangerous Substances
Narcotic Treatment Programs
Adopted New Rules: N.J.A.C. 8:65-11**

Proposed: May 5, 1986 at 18 N.J.R. 924(b).
Adopted: July 10, 1986 by J. Richard Goldstein, M.D.,
Commissioner, Department of Health.
Filed: July 14, 1986 as R.1986 d.330, **without change.**
Authority: N.J.S.A. 24:21-9.
Effective Date: August 4, 1986.
Expiration Date: December 2, 1990.

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. 8:65-11.

Full text of the adopted amendments to the new rule follows.

8:65-11.1 Definitions

“Detoxification treatment” means the administration or dispensing for a period not in excess of 21 days, of a narcotic drug or narcotic drugs in decreasing doses to an individual in order to alleviate adverse physiological or psychological effects incident to withdrawal from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within such period of time.

8:65-11.2 Registration; fees

(a) Every person who engages in a narcotic treatment program, including a compounder, shall obtain a registration within 30 days of the adoption of these regulations, and shall obtain a renewal of the registration each year thereafter.

(b) (No change.)

(c) Each program site located away from the principal location and at which place narcotic drugs or stored or dispensed must be separately registered and obtain narcotic drugs by use of order forms pursuant to N.J.A.C. 8:65-6.

(d) For each registration or reregistration to engage in a narcotic treatment program, including a compounder, the applicant shall pay an annual fee of \$20.00 at the time of application for registration or for renewal of registration.

(e) (No change.)

8:65-11.7 Use of methadone

The only drug authorized to be used under the FDA regulations (21 CFR 291.505) is methadone.

HIGHER EDUCATION

(c)

STUDENT ASSISTANCE BOARD

Student Assistance Programs

Residency

Adopted Amendment: N.J.A.C. 9:7-2.2.

Proposed: April 21, 1986 at 18 N.J.R. 801(a).

Adopted: July 14, 1986 by Student Assistance Board, Joseph
Streit, Chairman.

Filed: July 14, 1986 as R.1986 d.322, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A:71-26.5, 18A:71-26.8, 18A:71-47(a) and 18A:71-48.

Effective Date: August 4, 1986.

Expiration Date: April 13, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

While no public comments were received, the language in the proposal was amended to coincide with regulatory language adopted by the Board of Higher Education covering the same topic in its regulations, particularly N.J.A.C. 9:5-1.2(b).

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

9:7-2.2 Residency

(a) Students must be legal residents of New Jersey for a period of not less than 12 consecutive months immediately prior to receiving a grant. The residence of a student is defined in terms of domicile. Domicile is defined as the place where a person has his or her true, fixed, permanent home and principal establishment, and to which, whenever he is absent, he or she has the intention of returning.

1. A dependent student as defined in N.J.A.C. 9:7-2.6 is presumed to be a legal resident of the State which his or her parent(s) or guardian(s) is a resident. A dependent student whose parent(s) or guardian(s) is not a legal resident of New Jersey is presumed to be in the State for the temporary purpose of obtaining an education. *[However, any dependent student who is eligible for New Jersey resident tuition status, regardless of the residency status of his or her parent(s) or guardian(s), is considered to be a New Jersey resident for State-funded student aid programs.]*
However, any dependent student who is domiciled in this State and enrolled in an institution of higher education in New Jersey shall continue to be eligible for New Jersey financial assistance despite his or her supporting parent(s) or guardian(s) change of domicile to another State, while such student continues to reside in New Jersey during the course of each academic year.

(b) Residence established solely for the purpose of attending a particular college cannot be considered as fulfilling the definition of domicile. When in question, a student must demonstrate proof of residence by presenting the following documents: driver's licence, voter registration form, tax return(s), or other suitable proof. The Office of Student Assistance, Department of Higher Education shall determine the State of residence for any individual whose residency is not certain. Institutions may provide information to substantiate the student's claim of legal New Jersey residence.

(a)

**Student Assistance Programs
Award Combinations**

Adopted Repeal and New Rule: N.J.A.C. 9:7-2.9

Proposed: November 18, 1985 at 17 N.J.R. 2725(a).
Adopted: July 14, 1986 by Student Assistance Board, Joseph Striet, Chairman.
Filed: July 14, 1986 as R.1986 d.323, 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. 18A:71-26.6, 18A:71-26.8, 18A:71-26.11, 18A:71-26.12, 18A:71-47(b), and 18A:71-48.

Effective Date: August 4, 1986.
Expiration Date: April 13, 1988.

Summary of Public Comments and Agency Responses:

The Department received a letter from the President of the New Jersey Association of Student Financial Aid Administrators providing several recommendations regarding the language and content of the proposed new rule. The specific comments and agency responses thereto are set forth below.

COMMENT: It was suggested that N.J.A.C. 9:7-2.9(b) should be changed as to have the needs test determined by an approved methodology as opposed to the uniform methodology because federal regulations permit a deviation from the uniform methodology.

RESPONSE: The Department does not anticipate any adverse impact in specifying uniform methodology. In general, the term "approved methodology" is a generic one that includes the uniform methodology in its definition.

COMENT: It was suggested that the \$100 overaward in N.J.A.C. 9:7-2.9(c) be changed to \$200 as federal regulations for Title IV assistance programs allow for a \$200 tolerance.

RESPONSE: The Department agreed with this recommendation and as a result the regulation was amended to include a \$200 tolerance.

COMMENT: It was suggested that the reduction process in N.J.A.C. 9:7-2.9(c) be left open to the discretion of the institutions rather than specifying student loans as the first area of adjustment.

RESPONSE: The Department does not concur with this suggestion. The Department has been concerned over the default rates of students attending postsecondary institutions and as a result the Department's goal is to reduce student indebtedness whenever possible so that their obligations are manageable upon graduation from college.

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

9:7-2.9 Award combinations

(a) Students receiving New Jersey State student aid funds may receive combinations of a Tuition Aid Grant, a Distinguished Scholarship, veterans grants, a POW/MIA grant, a Public Tuition Benefits grant, and a Garden State Scholarship or an Educational Opportunity Fund grant. Students cannot simultaneously hold an Educational Opportunity Fund grant and a Garden State Scholarship grant in any single semester.

(b) Students applying for financial aid at the institution they are attending may not receive aid in excess of their financial need as determined by the uniform methodology. Aid is defined as scholarships and grants based on need, educational loans *[,]* *[* except Guaranteed Student Loans and PLUS Loans *]* * [college work-study program]* *College Work-Study Program* earnings, tuition reimbursement such as through an employer or military, monies awarded through other legislation such as the Trade Adjustment Act and ROTC scholarships, including the monthly subsistence payment, and vocational rehabilitation assistance. Distinguished Scholarship awards, other scholarships based on merit, other special benefit grants, Guaranteed Student Loans, and PLUS Loans may be used to replace total family contribution. The total assistance received from all sources *listed above* may not exceed the total college educational budget as defined by the institution.

(c) If the total amount of aid exceeds the student's need by more than *[\$100.00]* *\$200.00*, an adjustment to some portion of the aid package is required. The first adjustment should be made to reduce student loans, then to any institutional aid (including federal campus-based programs) and lastly, to State awards.

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

(b)

**Manual for Physician's Services; Independent Clinic Services Manual
HCFA Common Procedure Coding System (HCPCS);
Immunizations**

Adopted Amendments: N.J.A.C. 10:54-4, 10:66-3

Proposed: May 5, 1986 at 18 N.J.R. 927(a).
Adopted: July 11, 1986, by Drew Altman, Ph.D., Commissioner, Department of Human Services.

Filed: July 11, 1986 as R.1986 d.320, with changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 30:4D-6a(5), b(3), 7, a, b, c.

Effective Date: August 4, 1986.

Expiration Date: N.J.A.C. 10:54 March 3, 1991.
N.J.A.C. 10:66 December 15, 1988

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

Summary of Changes between Proposal and Adoption:

There is one change being made in the text of the rule upon adoption. Procedure code 90701, which is the immunization vaccine for diphtheria, pertussis and tetanus (DPT), will now be reimbursed at \$15.11. The proposed rate was \$10.79. The fee was increased because of a very recent and significant increase in the cost of the vaccine which must be purchased by the provider. It is estimated that the increased fee for this procedure code will result in an added annual cost of approximately \$216,000 (federal-state share combined). There is no change in the other procedure codes that were listed in the proposal.

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

HCPCS CODE	DESCRIPTION	MEDICAID DOLLAR VALUE
90701	Immunization—Diphtheria, Pertussis, Tetanus combined vaccine	*[10.79]* * \$15.11*
90702	Immunization—Diphtheria, Tetanus Toxoid combined vaccine	3.98
90703	Immunization—Tetanus Toxoid	3.85
90704	Immunization—Mumps	13.99
90705	Immunization—Measles	12.35
90706	Immunization—Rubella	12.86
90707	Immunization—Measles, Mumps, Rubella combined vaccine	27.24
90708	Immunization—Measles and Rubella combined vaccine	18.73
90709	Immunization—Rubella, Mumps combined vaccine	20.23
90712	Immunization—Oral polio vaccine	13.85
90719	Immunization—Diphtheria Toxoid	4.88
90724	Immunization—Influenza	5.32
90732	Immunization—Pneumococcal vaccine polyvalent	11.32
J2790	RHO (D) Immune Globulin (Human) (Microdose for Abortions and Miscarriages)	42.37
W9090	Immunization—Hemophilus	11.45
W9095	Immunization—Tetanus Antitoxin	5.97

(a)

**Chiropractic Manual
Chiropractic Services; Chiropractor Billing
Procedures**

**Readoption: N.J.A.C. 10:68-1, 10:68-2.1, 2.3, 2.4, 2.8
Readoption with Concurrent Amendments: N.J.A.C.
10:68-2.2, 2.5, 2.6, 2.7**

Proposed: May 19, 1986 at 18 N.J.R. 1053(b).
Adopted: July 7, 1986, by Drew Altman, Ph.D., Commissioner,
Department of Human Services.

Filed: July 7, 1986, as R.1986 d.309, **without change.**

Authority: N.J.S.A. 30:3D-6b(9), 7, 7a, 7b.

Effective Date of Readoption: July 7, 1986.

Effective Date of Concurrent Amendments: August 4, 1986.

Expiration Date: July 7, 1991.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption may be found at N.J.A.C. 10:68.

Full text of the readoption follows.

10:68-2.2 General policy

(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) 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 1500 N.J., and the claims sent directly to the Medicare Carrier, Prudential, Medicare B Division, P.O. Box 2222, Linwood, New Jersey 08221. The provider must record the medical insurance claim number in item 6 and the Health Services Program (HSP) (Medicaid) case and person number in item 8 on the claim form.

10:68-2.6 Directory of Medicaid District Offices (MDO)

(a) The following is a list of Medicaid District Offices, their county of location, and their county(ies) of jurisdiction. 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 1500—N.J.

(a) This form is used for the purpose of billing for covered services of physicians, podiatrists, optometrists, psychologists, and chiropractors.

(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.

(b)

**Pharmaceutical Assistance to the Aged and
Disabled Eligibility Manual Renewal Applications
Adopted Amendments: N.J.A.C. 10:69A-5.3**

Proposed: May 19, 1986 at 18 N.J.R. 1054(a).

Adopted: July 11, 1986, by Drew Altman, Ph.D., Commissioner,
Department of Human Services.

Filed: July 11, 1986 as R.1986 d.321, **without change.**

Authority: N.J.S.A. 30:4D-20, 21, 24.

Effective Date: August 4, 1986.

Expiration Date: April 26, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

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 date to insure that their PAAD benefits 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 submitted more than 90 days after the expiration date, the eligibility effective date will be the date when a valid and completed renewal application is processed by the PAAD Bureau.

DIVISION OF PUBLIC WELFARE

(c)

**Public Assistance Manual
Agreement to Repay Assistance
Adopted Amendment: N.J.A.C. 10:81-3.40 and 3.41**

Proposed: May 19, 1986 at 18 N.J.R. 1055(a).

Adopted: July 10, 1986 by Drew Altman, Ph.D., Commissioner,
Department of Human Services.

Filed: July 11, 1986 as R.1986, d.318 **without change.**

Authority: N.J.S.A. 44:7-5, 44:10-3 and 44:10-4(a).

Effective Date: August 4, 1986.

Expiration Date: October 15, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

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

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assistance to any persons for whom cash assistance in AFDC is being requested or granted, except as indicated in (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.)

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, 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.

(e) (No change.)

10:81-3.41 Action by CWA upon liquidation

(a) Valid agreement to repay exists: Upon liquidation of a claim or interest for which a valid Agreement to Repay exists (see N.J.A.C. 10:81-3.40(c)), 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
Adopted Amendment: N.J.A.C. 10:82-4.2.**

Proposed: May 19, 1986 at 18 N.J.R. 1056(a).
Adopted: July 10, 1986 by Drew Altman, Ph.D., Commissioner,
Department of Human Services.
Filed: July 11, 1986 as R.1986 d.318 **without change.**
Authority: N.J.S.A. 44:7-6 and 44:10-3; CFR 233.31(b)2.
Effective Date: August 4, 1986.
Expiration Date: October 29, 1989.

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

Full text of the adoption follows.

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
Adopted Amendment: N.J.A.C. 10:85-3.3**

Proposed: May 19, 1986 at N.J.R. 1056(b).
Adopted: July 10, 1986 by Drew Altman, Ph.D., Commissioner,
Department of Human Services.
Filed: July 11, 1986 as R.1986 d.319 **without change.**

Authority: N.J.S.A. 44:8-111(d).

Effective Date: August 4, 1986.

Expiration Date: January 3, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

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
Adopted Amendment: N.J.A.C. 10:85-6.4**

Proposed: May 19, 1986 at 18 N.J.R. 1056(c).
Adopted: July 10, 1986 by Drew Altman, Ph.D., Commissioner,
Department of Human Services.
Filed: July 11, 1986 as R.1986 d.316 **without change.**

Authority: N.J.S.A. 44:8-111(d).

Effective Date: August 4, 1986.

Operative Date: September 1, 1986.

Expiration Date: January 3, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

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.)

(a)

**Monthly Reporting Policy Handbook
Definitions; Reporting Requirements; Income and
Deductions; Recovery of Overpayments;
Determining Eligibility and Computing the
Assistance Payment/Food Stamp Benefit; CWA
Action Reports and Other Reported Changes;
Redeterminations/Recertifications; Case Reviews;
Fair Hearings; and Transfers**

**Adopted Amendments: N.J.A.C. 10:90-2.2, 2.3, 2.4,
3.3, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 5.1, 5.2, 5.6, 6.1,
6.2, and 6.3**

Adopted New Rules: 10:90-2.6, 4.8, 4.9, and 4.10

Proposed: August 5, 1985 at 17 N.J.R. 1839(a).

Adopted: June 30, 1986 by Geoffrey S. Perselay, Acting
Commissioner, Department of Human Services.

Filed: July 2, 1986, as R.1986 d.307, with **substantive technical
changes** not requiring additional public notice and comment
(see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 44:7-6, 44:10-3 and 30:4B-2; 7 CFR 273.21,
42 CFR 436.116, 45 CFR 206.10, and 45 CFR 233.20.

Effective Date: August 4, 1986.

Expiration Date: November 15, 1987.

Summary of Public Comments and Agency Responses:

Comments were received from one county welfare agency.

COMMENT: At N.J.A.C. 10:90-2.2(a)6ii, where the client submits
what is purported to be a complete report of earnings, but where the
agency discovers additional unreported earnings before the Extension
Deadline, the client should have the right to amend the Monthly Status
Report (MSR) before a penalty is imposed.

RESPONSE: According to policy conveyed by the United States De-
partment of Health and Human Services (USDHHS), this change is not
permissible.

COMMENT: The commenter asked that an example be included at
N.J.A.C. 10:90-2.6(c) as it relates to AFDC-Medicaid Only cases.

RESPONSE: An example has been included.

COMMENT: The policy at N.J.A.C. 10:90-3.3(a)3i requiring the appli-
cant to complete MSRs for two months prior to the month for which
assistance was previously terminated seemed burdensome and prone to
error, because it lists no retroactive time period limiting its application.

RESPONSE: This policy is part of a comprehensive effort to collect
overpayments, as required of all states by the USDHHS. The USDHHS
in both regulation and policy does not set forth any time limits beyond
which the State may cease efforts at overpayments recovery on an individ-
ual case. The Department is therefore precluded from doing the same.

Summary of Changes Subsequent to Proposal:

Clarification of several of the proposed regulations was received from
the United States Department of Agriculture, Food and Nutrition Ser-
vices. Changes are being made accordingly as follows.

A sentence is being added to N.J.A.C. 10:90-4.9(e) for households
exempt from monthly reporting to clarify that claims of overissued food
stamp benefits shall be established in accordance with policy contained
at N.J.A.C. 10:87-11.

Clarification is being added at N.J.A.C. 10:90-4.10(a)1 that, when a
household changes from retrospective to prospective budgeting, the coun-
ty welfare agency must provide the household with adequate notice and
a Form PA-922, Change Report Form, with which the household can
report subsequent changes in circumstances, in accordance with N.J.A.C.
10:87-9.7.

A revision was made to N.J.A.C. 10:90-4.10(a)2 to clarify that when
an NPA household changes from prospective to retrospective budgeting
due to the start of employment, the change in budgeting methodology
will be made for the payment month corresponding to the first budget
month in which earned income is received. An example was added to
illustrate application of this policy.

A change was made to N.J.A.C. 10:90-5.6(b) to clarify that, where a
household is terminated from the Food Stamp Program for reason other
than failure to file a completed monthly report form, and requests re-
instatement in the payment month of termination, food stamp benefits

will be prorated from the date of the request for reinstatement.

A clarification was added to N.J.A.C. 10:90-6.1(b) that certification
periods for households exempt from monthly reporting shall be assigned
in accordance with N.J.A.C. 10:87-6.23 and may not be greater than 12
months.

In addition to the changes noted above, some editorial revisions are
included. For example, language at N.J.A.C. 10:90-4.4(f)1 is revised to
more appropriately reference the section of N.J.A.C. 10:81 dealing with
extension of Medicaid benefits. N.J.A.C. 10:90-6.1(a)2i has been revised
to reflect the current title of Form PA-1J. Finally, publication errors have
been corrected throughout the text.

Full text of the changes between proposal and adoption follows (ad-
ditions to proposal indicated in boldface with asterisks *thus*; deletions
from proposal indicated in brackets with asterisks *[thus]*).

10:90-2.2 Definitions

(a) The following terms and their definitions apply to MR:

1.-10. (No change.)

11. Two-month retrospective system: New Jersey has adopted a two-
month retrospective budgeting system. In a two-month retrospective sys-
tem, the payment month is the second month following its corresponding
budget month. For food stamp program purposes, there are two begin-
ning months of participation in this system, the first month and the
following month.

12. Retrospective budgeting cycle: The retrospective budgeting cycle
consists of three consecutive months: the budget month, processing
month and payment month. In the retrospective budgeting cycle, income
and circumstances existing in a budget month are reported by the eligible
unit/household and acted upon by the CWA in the processing month
to determine eligibility and compute the assistance payment/food stamp
benefit for the payment month.

i. Example: In a retrospective budgeting cycle consisting of a budget
month of January, a processing month of February, and a payment
month of March, income and circumstances existing in January (Budget
Month) would be reported by the eligible unit/household and acted upon
by the CWA in February (Processing Month) to determine the assistance
payment/food stamp benefit for March (Payment Month).

10:90-2.3 Reporting requirements

(a) Monthly reporting: Each AFDC eligible unit/food stamp house-
hold is required to submit a report form (Monthly Status Report) to the
CWA monthly except for food stamp households in (d) below.

1. Information to be reported: Each AFDC eligible unit/food stamp
household is required to report the following information on the report
form:

i. (No change.)

ii. Any changes in income, deductions, resources, or other relevant
circumstances affecting continued eligibility which the eligible
unit/household expects to occur in the current month or in future months;

iii. Stepparent's income, where appropriate; and

iv. Income and resources of an alien's sponsor and sponsor's spouse,
where appropriate.

2.-5. (No change.)

6. Timely report of earnings: The eligible unit must submit a timely
report of earnings, whether or not the eligible unit is subject to monthly
reporting at the time earnings are received. A report of earnings by the
eligible unit will be considered timely if it is received by the CWA by
the Extension Deadline and, if it is complete, with all verification attached
(see N.J.A.C. 10:90-2.2(a)7 and 2.2(a)8).

i. A report of earnings need not be submitted with a complete MSR
for the earnings to be considered timely and completely reported.

ii. Incomplete report of earnings: If an eligible unit provides a report
of Budget Month earnings before or on the Processing Month's Extension
Deadline, but the CWA discovers additional unreported earnings, the
earnings report will not be considered timely or complete. Earned income
disregards shall not be applied to Budget Month earnings in the ap-
propriate eligibility determination and grant calculation, in accordance
with (a)7 below.

(1) Example: On February 5, an eligible unit with recent work history
submits the January Budget Month MSR showing zero earnings. The
Extension Deadline for receipt of a timely and complete earnings report
is February 17. On February 10, the CWA learns from another source
that the client actually earned \$300.00 in January. The CWA shall not
apply disregards to the January earnings in the eligibility determination
and grant calculation, because the report of earnings was not timely or
complete.

7. Penalty for failure to report earnings timely—AFDC-C and -F segment cases: If, for any Budget Month, an eligible unit does not report earnings timely, and cannot demonstrate good cause as defined in (a)8 below for failing to report earnings timely, its eligibility for that Budget Month and assistance payment for the corresponding Payment Month shall be computed without the application of earned income disregards: \$75.00 work expense deduction, child/adult care expense deduction, and \$30.00 and one-third disregard (see N.J.A.C. 10:90-4.1(e)). The penalty of loss of disregards shall be applied only for failure to report earnings completely and timely. This penalty shall not be applied if the MSR form is incomplete for any other reason.

i. (No change.)

8. (No change.)

9. Recent work history: An eligible unit/household member has recent work history for a period of six budget months following a month in which employment (earned income) terminated. If an applicant has recent work history, that is, worked at any time in the six months prior to the initial month of eligibility for AFDC/food stamps, and the eligible unit/household has no other earned income, the eligible unit/PA household must file MSR forms for the number of budget months remaining in the six-month period that starts with the month after the last month of employment. If a recipient has recent work history, that is, stops working, and the eligible unit/PA household has no other earned income, the eligible unit/household must continue to file MSR forms for six budget months subsequent to the budget month in which employment terminated.

i. Example: A family with no income applies for AFDC on February 5, stating that one member stopped working in December. This eligible unit member has recent work history; the six month period extends from January through June. The eligible unit must file MSRs for a period of five budget months from February (initial month of eligibility for AFDC) through June.

ii. Example: An eligible unit member stops working in January; the family has no other earned income. The eligible unit member has recent work history; the eligible unit must file MSRs for the six budget months of February through July.

(b) (No change.)

(c) Special assistance in monthly reporting: The CWA shall provide special assistance in completing and filing monthly reports to households whose adult members are all either mentally or physically handicapped or are non-English speaking or otherwise lacking in reading and writing skills such that they cannot complete and file the required reports.

(d) Exclusions from monthly reporting: The following food stamp households are excluded from monthly reporting by Public Law 97-253:

1. Migrant farmworker households while they are in the migrant job stream; and

2. Households without earned income whose adult members are all elderly or disabled.

(e) Exemptions from monthly reporting: Categories of AFDC eligible units and food stamp households may be exempted from the monthly reporting requirement by the Division of Public Welfare with written approval of the Secretary, U.S. Department of Health and Human Services and the Secretary, U.S. Department of Agriculture. Eligible units and households who timely report all current income and circumstances, and any changes thereto, and who are not issued MSR forms by the CWA based on this reported information, are considered exempt from the monthly reporting requirement. Eligible units and households who fail to timely report all current income and circumstances, and any expected changes, and who would have been issued MSR forms by the CWA based on this reported information, are considered to be subject to monthly reporting and all MSR requirements and penalties.

(f) Periodic reporting: Households not subject to monthly reporting shall be subject to periodic reporting. Periodic reporting requires a household to report changes in income and circumstances in accordance with N.J.A.C. 10:87-9.7(a)li, as changes occur and periodically, at time of recertification. The interval of the periodic report shall not be greater than 12 months and shall coincide with the recertification.

10:90-2.4 Income, employment and deductions

(a) Gross monthly income: The CWA shall use gross monthly income to determine eligibility prospectively and to compute the assistance payment and food stamp benefit (except for (b) below). Gross monthly income shall be determined according to the methods in this section. The CWA shall not multiply weekly gross income by 4.333 or use any other conversion factor to determine gross monthly income, except for certain NPA households in (a)3 below.

1. Eligibility determination: Gross monthly income used in the prospective eligibility determination shall be the CWA's best estimate of income that will exist in a Payment Month. The CWA shall estimate earnings or other income received more frequently than monthly (e.g., weekly or biweekly) based on a four-week payment month (see the Example in (a)2i(1) below).

i. Child support payments: The best estimate of income from child support payments to be used in the determination of prospective eligibility shall be the monthly support amount provided by the CWA's Child Support and Paternity (CSP) fiscal section. If the child support payment is paid directly to the eligible unit/household, the source and amount of the payment must be verified. For AFDC purposes, the first \$50.00 monthly current child support received on behalf of the eligible unit shall not be counted in the determination of total income.

2. Assistance payment/food stamp benefit computation: Gross monthly income used in the assistance payment/food stamp benefit computation shall be determined according to (a)2i or ii below.

i.-iii. (No change.)

iv. Disregard Child Support (DCS) payment as income: A DCS payment, defined in N.J.A.C. 10:82-5.12, shall be retrospectively budgeted in the food stamp benefit computation. The DCS payment received by the eligible unit/household in a budget month shall be considered as income in computing the household's food stamp benefit for the corresponding payment month.

v. AFDC supplemental payments: Non-federally funded AFDC supplemental payments issued in accordance with N.J.A.C. 10:82-5.11 shall be considered non-recurring lump-sum payments (defined in N.J.A.C. 10:87-5.9(a)10) for food stamp purposes.

3. Weekly and biweekly income of NPA households exempt from monthly reporting and retrospective budgeting: For NPA households exempt from monthly reporting and retrospective budgeting, income received weekly or biweekly shall be converted to a monthly amount by applying a factor of 4.333 to weekly income and 2.167 to biweekly income. The monthly amount so obtained may be used in both the eligibility determination and the food stamp benefit calculation.

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

(e) Contract income: The CWA shall prorate income received by individuals employed on a contractual basis over the period of the contract. The CWA shall use the monthly prorated contract income amount to determine eligibility and the contract income actually received in the budget month to compute the assistance payment/food stamp benefit.

1. Example: A school aide's contract for 10 months is \$3,000 or a \$300.00 monthly prorated contract amount. The contract pays the full \$300.00 only if the aide works a full month. In January, due to snow, the aide works only 14 days and actually receives only \$200.00, and reports this income on the January Budget Month MSR (processed in February). For the corresponding March Payment Month, the CWA shall use \$300.00 in the prospective eligibility determination and \$200.00 in the retrospective assistance payment/food stamp benefit calculation.

(f) (No change.)

(g) Scholarships, educational loans and grants: For food stamp purposes, the CWA shall prorate nonexcluded scholarships, deferred educational loans, and other educational grants over the period they are intended to cover, in accordance with N.J.A.C. 10:87-6.9(a)6. The CWA shall use the monthly prorated amount to compute the food stamp benefit.

1. Example: In August a household member receives a \$1,000 scholarship covering four months, September through December. The monthly prorated scholarship amount of \$250.00 will be used to determine the household's eligibility prospectively for the payment months of September through December. Then, the \$250.00 monthly prorated amount will be treated as income received in the budget months of September through December, and used to retrospectively compute the food stamp benefits issued for corresponding *[payments]**payment* months of November through February.

(h) (No change.)

*[(1)]**(i)* Contributions from legally-responsible relatives: The monthly amount of income from contributions from legally-responsible relatives (LRRs) computed at the semi-annual redetermination or annual case review shall be used to determine gross monthly income. A more frequent evaluation of LRR capacity to support, and a change in gross monthly income, is required only when the MSR or other report of change indicates a significant change in the monthly contribution figure.

10:90-2.6 Eligible units/households subject to retrospective budgeting

(a) AFDC program: For all applicants and recipients, eligibility for

AFDC shall be determined using prospective budgeting, in accordance with N.J.A.C. 10:90-4.1. Assistance payments for all applicants and recipients determined eligible for AFDC shall be computed in accordance with N.J.A.C. 10:90-4.2 in the initial two payment months of eligibility and N.J.A.C. 10:90-4.3 (retrospective budgeting) after the initial two payment months of eligibility.

(b) Food Stamp program: For all households, eligibility for participation in the food stamp program shall be determined using prospective budgeting, in accordance with N.J.A.C. 10:90-4.1. Food stamp benefits for households determined eligible for participation shall be computed in accordance with (b)1 through 3 below.

1. Migrant farmworker households: Food stamp benefits for all migrant farmworker households in the migrant job stream shall be computed using prospective budgeting, in accordance with N.J.A.C. 10:90-4.2. Once such farmworker households cease to migrate, however, their food stamp benefits shall be calculated in accordance with (b)2 or 3 below.

2. All PA households and those NPA households subject to monthly reporting: Food stamp benefits for all PA households and those NPA households subject to monthly reporting, excluding migrant farmworker households in the job stream, shall be computed using prospective budgeting in the initial two payment months of eligibility, in accordance with N.J.A.C. 10:90-4.2, and retrospective budgeting after the initial two payment months of eligibility, in accordance with N.J.A.C. 10:90-4.3.

3. NPA households exempt from monthly reporting and retrospective budgeting: Food stamp benefits of NPA households exempt from monthly reporting and retrospective budgeting shall be computed for all payment months using prospective budgeting, in accordance with N.J.A.C. 10:90-4.1

(c) AFDC-Medicaid Only cases: Entitlement to AFDC-Medicaid Only benefits, including Medicaid Special and Medicaid on behalf of an unborn child, for a payment month shall be determined by both determining eligibility prospectively and performing an assistance payment computation, using income from the corresponding budget month, even though an assistance payment will not be issued.

1. Example: A pregnant woman with \$50.00 in unearned income per month applies for Medicaid Special on behalf of her unborn child in January. Eligibility for the first two payment months of January and February is determined using prospective budgeting. Eligibility for March is determined by prospectively budgeting income and circumstances expected to exist in the March Payment Month, and by computing an assistance payment by retrospectively budgeting the \$50.00 unearned income received in the January Budget Month.

10:90-3.3 Formal application

(a) If the individual elects to file a formal application as defined in N.J.A.C. 10:81-2.1(c), the CWA's additional responsibilities under Monthly Reporting include:

1.-2. (No change.)

3. Previous overpayments: The CWA shall determine if the applicant or eligible unit of which he or she is a member has an outstanding overpayment balance from prior receipt of assistance. If so, the CWA shall move to recover the overpayments.

i. If the applicant or eligible unit of which he or she is a member had been terminated from the AFDC program in a prior month either for failure to file a complete MSR or at the request of the recipient, the CWA shall determine if ineligibility, and therefore overpayment(s), existed before assistance was terminated. The CWA shall issue MSRs covering the two months prior to the month for which assistance was terminated. The applicant must complete these MSRs before assistance may be granted for the month of application and subsequent months (see N.J.A.C. 10:90-4.8(h) and (i)).

ii. Example: A family was terminated from assistance for March for failure to file a complete January Budget Month MSR. In June the family applies for AFDC. The CWA must issue, and the family must complete, MSRs for January and February before assistance can be granted for June and subsequent months.

10:90-4.1 Determining eligibility prospectively in all payment months

(a) (No change.)

(b) Income eligibility: For any payment month, the CWA shall identify the number of individuals in the eligible unit/household and determine income eligibility prospectively according to (b)1 or (b)2 below. Prospective income eligibility is based on the anticipated income from all individuals whose income must be counted in determining eligibility, for example, members of the unit/household, sanctioned members who would otherwise be eligible, and individuals not receiving assistance but whose

income is deemed (stepparents, alien sponsors). For purposes of AFDC, in family groups living together, income and *[sources]**resources* of the spouse are considered available for the other spouse, and income and resources of a parent are considered available for children under 21, regardless of whether the spouse or parent is included in the eligible unit. However, if a spouse or parent is receiving SSI benefits (including a mandatory or optional State supplementary payment), then for the period for which such benefits are received, his or her income and resources shall not be counted as income and resources available to the AFDC eligible unit.

1. AFDC program: Income eligibility is established when the eligible unit meets both the maximum income eligibility test and the needs tests.

i. (No change.)

ii. Needs test: An eligible unit must be in need of assistance for any payment month. The CWA shall determine need prospectively for any payment month by comparing total countable income anticipated in that payment month, less appropriate disregards, to the allowance standard. Appropriate disregards are all of the earned income disregards for which a family will be eligible in a payment month: work expense deduction, child care deduction, and \$30.00 and one-third disregard. If the countable income remaining after disregards is less than the amounts in Schedules I and II of N.J.A.C. 10:82-1.2 for the appropriate eligible unit size and program segment, need for assistance has been established.

(1)-(2) (No change.)

iii. (No change.)

2. (No change.)

(c) (No change.)

(d) Four consecutive months of the \$30.00 and one-third disregard: The \$30.00 and one-third disregard is applied to earnings for the first four consecutive months of receipt, in accordance with N.J.A.C. 10:82-4.4(c). Therefore, for newly-received earnings, the \$30.00 and one-third disregard will be applied first to the eligibility determination (needs test) for the month of receipt, and then to the grant calculated for the payment month corresponding to the budget month of receipt. For ongoing cases, the same four months of earnings will receive the \$30.00 and one-third disregard, although reflected in different months of AFDC eligibility and payment.

1. Example: A newly-employed client reports receipt of earnings starting in January. The \$30.00 and one-third disregard will be applied to the eligibility determination (needs test) for the four consecutive payment months of January, February, March and April. In the grant calculation, the \$30.00 and one-third disregard will be applied to earnings received in these same four budget months, January through April. However, due to retrospective budgeting, the \$30.00 and one-third disregard will be reflected in the AFDC grants issued for March, April, May and June.

2. If an eligible unit receives earned income in an amount that causes ineligibility for AFDC without application of the one-third disregard, assistance shall be terminated effective for the first payment month for which the one-third will not be applied to the needs test. The eligible unit will have received four consecutive months of the \$30.00 and one-third disregard in the eligibility determination, although only two months of this disregard in the grant calculation.

3. Loss of the \$30.00 and one-third disregard due to a penalty situation: Any month for which an individual loses the \$30.00 and one-third disregard for failure to report earnings timely shall be considered as one of the four consecutive months, in accordance with N.J.A.C. 10:82-4.4(c)2. In situations of unreported earnings the \$30.00 and one-third disregard, and penalty of its loss, shall be applied to the four consecutive months to which it would have been applied if earnings had been reported timely and completely.

i. Example: On June 5 the CWA discovers a family's unreported earnings for the months of January through April, and contacts the family. The family submits May Budget Month paystubs before the Extension Deadline in June and continues to report earnings timely. The \$30.00 and one-third disregard should have been applied to earnings received from January through April. The family will be penalized the loss of this disregard when the CWA recomputes both eligibility and the correct amount of assistance based on earnings received in January through April. Earnings received in May through August, the first four months for which the client reported earnings, would not be entitled to the \$30.00 and one-third disregard.

(e) Eight months of the \$30.00 deduction from earnings: A deduction of \$30.00 is applied to earnings for a period not exceeding eight months from the end of the four consecutive months of \$30.00 and one-third disregard, in accordance with the N.J.A.C. 10:82-4.4(d). The \$30.00 deduction will be applied first to the eligibility determination (needs test)

for the month in which earnings are received, and then to the grant calculated for the payment month corresponding to the budget month in which earnings are received. The \$30.00 deduction will be applied to the same eight months of earnings, although reflected in different months of AFDC eligibility and payment.

1. Example: A recipient began working in January. The \$30.00 and one-third disregard would be applied to earnings received in the four consecutive months of January through April, reflected in eligibility determinations for January through April and in assistance payments for March through June. The \$30.00 deduction would be applied to earnings received in the eight months of May through December, reflected in eligibility determinations for May through December and assistance payments for July through February.

2. Expiration of eight-month period: If an eligible unit receives earned income in an amount that causes ineligibility when the eight-month period of the \$30.00 deduction expires, assistance shall be terminated effective for the first payment month for which the \$30.00 deduction will not be applied to the needs test. The eligible unit will have received eight months of the \$30.00 deduction in the eligibility determination, although only six months of this deduction in the grant calculation.

3. Loss of the \$30.00 deduction due to penalty: Any month for which an individual loses the \$30.00 deduction for failure to report earnings timely shall be considered as one of the eight months. In situations of unreported earnings, the \$30.00 deduction, and penalty of its loss, shall be applied to the eight months to which it would have been applied if earnings had been reported timely and completely.

(f) Ineligibility for failure to report earnings timely: The penalty of loss of disregards in N.J.A.C. 10:90-2.3(a)7, when applied to budget month earnings not reported timely, may cause ineligibility in the budget month for failure to meet the needs test. The resulting overpayment of assistance must be recovered by suspending assistance for the corresponding payment month, if all conditions in N.J.A.C. 10:90-4.8(c)4 are met.

1. Example: A member of a four-person eligible unit began working in January but failed to report receipt of \$500.00 earnings until February 25, after the Extension Deadline of February 17. The eligible unit is penalized earnings disregards in both the eligibility determination for January and the grant calculated using January's earnings. Comparing the \$500.00 earnings received with the \$458.00 need standard renders the family ineligible for assistance in January for failure to meet the needs test. An overpayment results from this month of ineligibility, which must be recovered by suspending assistance for March.

(g) Ineligibility due to excess earnings and extension of Medicaid benefits: N.J.A.C. 10:81-8.22(b)1 authorizes a four-month extension of Medicaid benefits for AFDC-C or -F families who lose eligibility due to increased earnings from or increased hours of employment. For earnings received and reported within the retrospective budgeting cycle, extension of Medicaid benefits shall begin with the payment month for which assistance was terminated. For earnings received and reported in time frames that exceed the retrospective budgeting cycle, extension of Medicaid benefits shall begin with the month in which the family is no longer eligible for an AFDC money payment.

1. Example: In February, an eligible unit reports receipt of increased earnings in the January Budget Month which cause ineligibility and are expected to continue. In the February Processing Month, the CWA will terminate assistance effective for the March Payment Month. Extended Medicaid benefits will be authorized for the four months of March through June.

2. Example: In July, the CWA discovers an eligible unit's unreported earnings received from January through the present which caused ineligibility and are expected to continue. The four-month period of extended Medicaid benefits began with January, the first month of ineligibility, and ended with April.

10:90-4.2 Computing the assistance payment/food stamp benefit in the initial two payment months of eligibility

(a) The CWA shall use prospective budgeting to compute the assistance payments/food stamp benefits for the initial two payment months of eligibility, except in situations detailed in (b) below. See N.J.A.C. 10:90-2.4(a)2i for determination of gross monthly income in these two months. The CWS will compute the assistance payment by counting the budget month income of the same individuals whose income was considered in the prospective eligibility decision in N.J.A.C. 10:90-4.1.

1. (No change.)

2. The CWA shall use prospective budgeting to compute the assistance payments (but not the food stamp benefits) for the initial two payment months of eligibility, if the initial month follows a payment month of

suspension (defined in N.J.A.C. 10:90-4.5) and the eligible unit's circumstances for the initial month had changed significantly from those reported for the corresponding budget month. A significant change in circumstances is defined as an unanticipated loss of all earned or unearned income.

i. If a family was ineligible for assistance in the month immediately preceding the payment month of suspension, the CWA shall suspend assistance for a second payment month to recover the overpayment, in accordance with N.J.A.C. 10:90-4.8(c)4. Prospective budgeting shall be used to compute the assistance payments for the initial two payment months following this second payment month of suspension.

ii. (No change in text.)

iii. Example: An eligible unit's AFDC grant for March is suspended for excess income from five pays received in the January Budget Month. The eligible unit's MSR, filed on March 4, shows receipt of overtime pay in the February Budget Month, causing ineligibility in February. The client advises the CWA in mid-March of the loss of employment and that employment is not anticipated in April. Although the circumstances in the initial month of April will be significantly different than circumstances in the corresponding budget month of February, assistance for April must be suspended to recover the overpayment caused by excess income in February. The eligible unit's AFDC grants for May and June will be calculated using prospective budgeting.

(b) (No change.)

(c) The CWA shall use prospective budgeting to compute the assistance payment/food stamp benefit for the initial two payment months of eligibility that follow a period of ineligibility of at least one full payment month.

1. If the period of ineligibility is less than one full payment month, the CWA shall use retrospective budgeting to compute the assistance payment/food stamp benefit. However, the food stamp benefits for the month of application would be prorated from the day of application.

2.-3. (No change.)

4. Example: An eligible unit/household requests that its AFDC and food stamp benefits be terminated effective February 1. On February 16 the family reapplies for AFDC/food stamps and is determined prospectively eligible for February and March. The AFDC and food stamp benefits issued for February and March must be calculated using retrospective budgeting, because the period of ineligibility of February 1 through 15 was less than one full payment month. However, the food stamp benefits for February would be prorated from February 16, the date of application.

10:90-4.3 Computing the assistance payment/food stamp benefit after the initial two payment months of eligibility

(a) (No change.)

(b) First and second months of retrospective budgeting: Except as provided in N.J.A.C. 10:90-4.2(b)1 above, for the first and second payment months for which retrospective budgeting is used, the CWA shall not count income from the Budget Month already considered for any Payment Month determined prospectively which is not of a continuous nature or which is income from a terminated source. However, if such income has not been considered for any payment month determined prospectively, it must be counted retrospectively for the first and second payment months for which retrospective budgeting is used. This section applies to the income of both eligible units/households and individuals added to eligible units/households.

1. Income not of a continuous nature: In computing the assistance payment, nature of income refers to the category of either earned or unearned income. If income from one category (either earned or unearned) is received in either of the initial two payment months of eligibility, but will not be received from the same category after the initial two months, such income is not of a continuous nature.

2. Income from a terminated source: In computing the food stamp benefit, source of income refers to the specific origin of income, such as an employer or type of unearned income benefit (RSDI, SSI, and so forth). If income is received on a monthly or more frequent basis, it shall be considered as coming from a terminated source if it will not be received again from the same source during the balance of the month of application or during the following month. If income is normally received less often than monthly, it shall be considered as coming from a terminated source if it will not be received in the month in which the next payment would normally be received.

3. (No change in text.)

4. (No change in text.)

5. Example: An individual with \$100.00 RSDI income moves into a household and is found eligible for food stamp benefits effective January

1. The household's food stamp benefits for January will be computed by prospectively budgeting this \$100.00 RSDI income. On January 15, the household receives a notice terminating RSDI benefits and immediately advises the CWA. The household's food stamp benefits for the March Payment Month will be computed using retrospective budgeting, but disregarding the \$100.00 RSDI received in the January Budget Month because it was income from a terminated source.

6. Example: Given the situation in (b)3 above, the individual fails to report receipt of the \$100.00 RSDI, but the CWA discovers the income in February. The household's food stamp benefits for the March Payment Month will be calculated by retrospectively budgeting January's \$100.00 RSDI. Although the \$100.00 was income from a terminated source, it had not been considered prospectively in the January food stamp benefits, and therefore must be counted retrospectively.

(c) Determining eligibility and computing benefits of AFDC eligible units and food stamp households: CWAs shall follow (c)1 through 5 below to determine eligibility and compute benefits for the AFDC and Food Stamp programs.

1. Step 1: Determine eligibility of a family for AFDC for the payment month using prospective budgeting.

i. Income eligibility: Determine income eligibility using the best estimate of income that is expected to exist in the payment month and perform the maximum income eligibility and needs tests.

ii. Non-income eligibility: Determine non-income eligibility using all other factors as they are expected to exist on the date payment is made, usually the first day of the payment month.

2. Step 2: Compute the amount of the assistance payment for the payment month using either prospective or retrospective budgeting.

i. Prospective budgeting: Prospectively budget the best estimate of income that is expected to exist in the payment month.

ii. Retrospective budgeting: Retrospectively budget actual income received in the budget month. Determine if any budget month income is from a terminated source and disregard such income in the assistance payment computation for the corresponding payment month.

3. Step 3: Determine eligibility of a household for food stamp benefits for the payment month using prospective budgeting.

i. Income eligibility: Determine income eligibility using the best estimate of income that is expected to exist in the payment month and perform the gross and net income tests. Include as income the AFDC grant determined in (c)2 Step 2 above.

ii. Non-income eligibility: Determine non-income eligibility using all other factors as they are expected to exist on the date food stamps are issued, usually the first day of the payment month.

4. Step 4: Compute the amount of the food stamp benefit for the payment month using either prospective or retrospective budgeting. Include as income the AFDC grant, determined in (c)2 Step 2 above, to be received in the payment month and the DCS payment received in the corresponding budget month.

i. Follow (c)2i and ii above. Determine if any budget month income is from a terminated source and disregard such income in the food stamp benefit computation for the corresponding payment month.

10:90-4.4 Changes in circumstances

(a) Individual added to an eligible unit: In any month for which an individual will be determined eligible prospectively and will be added to an existing AFDC eligible unit, the CWA must meet the individual's needs to the same extent it would if the individual were an applicant for AFDC.

1. (No change.)

2. During a processing month, if an individual is added to an AFDC eligible unit that also receives food stamps as a public assistance (PA) household, and the eligible unit receives an additional AFDC payment in that month for the new member's AFDC eligibility, this additional AFDC payment shall not result in an overissuance or underissuance of food stamp benefits for that processing month. However, when the month that the additional AFDC payment is received becomes the budget month, the additional payment will be counted as income retrospectively in the food stamp benefit calculation for the corresponding payment month.

i. Example: On January 16 an individual with no income is added to an eligible unit of three (with no income) that also receives food stamps as a PA household. On January 20 the unit receives an additional AFDC payment of \$26.00 for the new member's eligibility for January. When computing the household's food stamp allotment for the March Payment Month, the additional AFDC payment of \$26.00 received in the January Budget Month will be counted as income. (The four-member eligible unit's assistance payment for March of \$443.00 shall also be

counted as income in the food stamp benefit computation.)

3. During a processing month, if an individual is added to an AFDC eligible unit that also receives food stamps as a public assistance (PA) household, and the additional payment for the individual's processing month eligibility is included in the eligible unit's regular monthly AFDC payment, this additional payment shall be counted as income prospectively in the food stamp benefit calculation for the corresponding payment month.

i. Example: On January 16 an individual with no income is added to an eligible unit of three (with no income) that also receives food stamps as a PA household. The individual is eligible for an additional assistance payment of \$26.00, which is included in the AFDC payment issued for the February Payment Month. The amount of the payment received on February 1 is \$469.00, consisting of \$443.00 allowance for an eligible unit of four plus the \$26.00 additional payment for January. This \$469.00 is counted as income in the food stamp benefit computation for February.

(b) Individual added to a food stamp household: If a household reports in the processing month between the budget month and payment month that it has gained a new member, the CWA shall determine eligibility using the household's composition during the payment month. The CWA shall compute the household's payment month food stamp benefit by prospectively budgeting the new member's income and circumstances for the first two months. The following shall also apply.

1. The new member must be added to the household for the payment month, the month following the month in which the household reported the change in composition. Food stamp benefits shall not be issued for the new member's processing month eligibility.

2. If the new member is not already certified to receive food stamps in another household participating within the State, the new member's income, deductible expenses, and resources from the payment month shall be considered in determining the household's eligibility and benefit level. When calculating the household's allotment, the CWA shall consider the new member's income and deductible expenses prospectively for two payment months, until the new member's first full month living with the household (as reported to the CWA) becomes the budget month.

3. If the individual has moved out of one household receiving food stamps within the State and into another, with no break in participation, the CWA shall include the individual and the individual's income, deductible expenses, and resources in determining the payment month eligibility and benefit level of the gaining household. When calculating the allotment, the CWA shall use the individual's income, deductible expenses, and resources retrospectively from the budget month, subject to the following.

i. The only deductible expenses for the budget month which the new member may include in the gaining household's deductions shall be medical, dependent care and shelter costs which are not included in the member's prior household's budget. For example, if a medical expense is being deducted for the prior household, it shall not be deducted for the gaining household for the same payment month.

ii. If the prior household is using a utility allowance and its full rent to establish its shelter deduction, then no shelter costs for the new member shall be included in the gaining household's deduction for the same payment month.

(c) Deleting an individual from an eligible unit/food stamp household: If an individual leaves an eligible unit/food stamp household, the CWA must prospectively delete this person from the AFDC grant/food stamp benefit for the next payment month, with proper notice. Refer to N.J.A.C. 10:90-4.1(b) for treatment of income of the departing eligible unit/household member, and, for AFDC purposes, treatment of income and resources of spouses and parents who request deletion from the eligible unit, but continue to live with the remaining eligible unit members.

1. (No change.)

2. If the AFDC payment was to have been suspended for a payment month to recover an overpayment in the corresponding budget month, but the individual whose income caused the overpayment left the eligible unit, the CWA shall suspend assistance of the remaining eligible unit.

3. (No change.)

(d) (No change.)

(e) AFDC eligible unit applies for food stamps: When an AFDC eligible unit applies for food stamps, eligibility will be determined and food stamp benefits computed for the initial two payment months of food stamp eligibility using prospective budgeting, based on the best estimate of income and circumstances that will exist in these two months.

1. For food stamp purposes, the CWA will consider as income the AFDC grant that was/will be issued in the two beginning payment

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months, and will use the most current paystubs or other income verification available to estimate income.

2. If food stamp eligibility is not determined until the second payment month, allowing 30 calendar days to act on the application in accordance with N.J.A.C. 10:87-2.30(a), the CWA shall compute the first month's food stamp benefits based on the income (including the AFDC grant) actually received in the first month.

(f) Change in food stamp household between public assistance and non-public assistance status.

1. When a food stamp household changes from public assistance (PA) to nonpublic assistance (NPA) status, or NPA to PA status, due to a change in AFDC eligibility, food stamp benefits will be determined according to the methods in this section. A PA household is defined by N.J.A.C. 10:87-2.12(a) as a household in which any or all members are applying for AFDC. Households receiving extended Medicaid benefits *[whose AFDC cases have been closed]**under N.J.A.C. 10:81-8.22* are considered PA households for purposes of this section.

2. Food stamp benefit calculation: Food stamp benefits for households changing status will be calculated according to (f)2i through iii below.

i. NPA to PA status: For NPA households changing to PA status because all members apply and are found eligible for AFDC, food stamp benefits issued for the initial two payment months of AFDC eligibility shall be calculated using prospective budgeting and shall coincide with the prospective AFDC grant calculation, subject to the following:

(1) Prospective budgeting must be applied for the same payment months for both AFDC and food stamp benefits. For example, if all members of an NPA household apply for AFDC in January and are determined eligible for AFDC effective February 1, both the AFDC grants and food stamp benefits issued for the months of February and March must be computed using prospective budgeting.

(2) If food stamp benefits have already been issued to the household for the initial month of AFDC eligibility, the CWA shall not recompute that month's food stamp benefit using prospective budgeting. Also, the food stamp benefit need not be recomputed to reflect this initial month's AFDC grant. However, this initial month shall be considered as the first month of prospective budgeting of the food stamp benefit.

(3) If the food stamp benefits have not been already issued for initial month of AFDC eligibility, the allotment must be computed using prospective budgeting. If the initial month's AFDC grant has been determined prior to issuance of this allotment, the allotment must reflect this initial AFDC grant.

(4) Income received by the household in the month prior to application for AFDC that had not been used to calculate any allotment will not cause an overissuance for the month of receipt or the corresponding payment month, if the food stamps for those months were correct at time of issuance.

(5) Example: An NPA household of three received Unemployment Insurance Benefits (UIB) in the amount of \$400.00 per month, or \$200.00 biweekly. The last UIB check of \$200.00 was received on December 10. The household applied for AFDC on January 11, and already received January food stamp benefits. The family is determined eligible for AFDC grants of \$257.00 for January and \$385.00 for February. The allotment to be issued for the February Payment Month is calculated by prospectively budgeting the February AFDC grant and estimated zero income from UIB. The January allotment will not be recalculated to apply prospective budgeting or to reflect the January initial AFDC grant. The December Budget Month UIB income of \$200.00 will not be used to calculate February food stamp benefits. No overissuance will occur for December or February because of this \$200.00 income. Even though January food stamp benefits were budgeted retrospectively, January and February will be considered the two prospectively-budgeted months for food stamp benefits, to coincide with the two prospectively-budgeted months of AFDC benefits of January and February.

(6) Example: An NPA household applies for AFDC on January 15 but is determined ineligible. However, all members of the household will be eligible for AFDC effective February 1. The PA household's AFDC grant and food stamp benefits for February and March will be calculated using prospective budgeting.

ii. NPA to PA status: For NPA households changing to PA status because only some members apply or are found eligible for AFDC, food stamp benefits issued for the initial two payment months of AFDC eligibility shall be computed using retrospective budgeting, subject to the following.

(1) Income received in the budget month(s) from a terminated source shall be disregarded, provided that the household reported the termination of income either in the MSR for the budget month or some other

manner which allows the CWA sufficient time to process the change and affect the allotment for the payment month. For purposes of this section, if income is received on a monthly or more frequent basis, it shall be considered as coming from a terminated source if it will not be received again from the same *[source]**source* during the balance of the month of application or during the following month. If income is normally received less often than monthly, the income shall be considered as coming from a terminated source if it will not be received in the month in which the next payment would normally be received.

(2) If food stamp benefits have already been issued to the household for the initial month of AFDC eligibility, before the AFDC grant amount has been determined, that month's allotment need not be recomputed when the AFDC grant amount is known.

(3) If the food stamp benefits have not been issued for the initial month of AFDC eligibility, and the CWA has determined the initial month's AFDC grant prior to the issuance of the allotment, the allotment must be recomputed to reflect this initial AFDC grant.

(4) Food stamp benefits issued for the second month of AFDC eligibility must reflect that month's AFDC grant.

(5) Example: An NPA household of four received its last RSDI benefit of \$300.00 on December 3. The household applies for AFDC on January 11 and has already received January food stamp benefits. Only two of the four household members are determined eligible for AFDC. AFDC grants of \$195.00 and \$292.00 will be issued to the two-member eligible unit for January and February, respectively. The food stamp allotment issued for the February Payment Month will be calculated by including the \$292.00 February AFDC grant, but disregarding the December Budget Month RSDI income of \$300.00, because this was income from a terminated source.

iii. PA to NPA status: For all PA households changing to NPA status because they are no longer eligible for or receiving AFDC benefits, food stamp benefits will continue to be calculated using retrospective budgeting, except for NPA households exempt from monthly reporting in (f)2iv(1) below.

(1) Example: In January, a PA household of three advises the CWA that a member began working in December earning \$150.00 per week, or \$600.00 per month. December's actual earnings were \$300.00 for two weeks of employment. The family is determined prospectively ineligible for AFDC for February; assistance is terminated effective February 1. The food stamp benefit for the February Payment Month will be calculated by using as income the February grant of zero plus the December Budget Month earnings of \$300.00.

iv. PA to NPA status—NPA households exempt from monthly reporting: For PA households changing to NPA status who are exempt from monthly reporting as NPA households, food stamps will be calculated using retrospective budgeting for one additional month, the payment month for which AFDC benefits are terminated. For subsequent months, food stamp benefits for this NPA household will be calculated using prospective budgeting as long as the household is exempt from monthly reporting.

(1) Example: A PA household was determined ineligible for AFDC for June, but eligible for food stamps as an NPA household exempt from monthly reporting. The AFDC case was closed effective June 1. The household's food stamp allotment for June will be calculated using retrospective budgeting. Food stamp benefits for July and subsequent months will be calculated using prospective budgeting as long as this NPA household is exempt from monthly reporting.

3. Notice requirements: Issuance of timely and adequate notice of a change in food stamp benefits resulting from a change in AFDC eligibility will depend upon the method by which the change in circumstances was reported.

i. Change from NPA to PA status: If a household receiving food stamps applies for AFDC (by completing Form PA-1J), timely notice of any resulting food stamp benefit reduction is required. If the household's food stamp benefits have been terminated for any reason, including failure to file a complete MSR, and the household applies jointly for AFDC and food stamps, only adequate notice of a food stamp benefit reduction is required, in accordance with N.J.A.C. 10:87-2.36(a)4.

ii. Change from PA to NPA status: If the change in AFDC eligibility is reported by the MSR, only adequate notice of any food stamp benefit reduction is required. If the change is reported by means other than the MSR, both timely and adequate notice of any food stamp benefit reduction must be provided.

4. The change between PA and NPA status will be made for a payment month by following the method for calculating food stamp benefits in N.J.A.C. 10:90-4.3(c). The CWA will process any change in eligibility for

and amount of food stamp benefits resulting from an AFDC negative action in accordance with existing food stamp program requirements.

(g) Reduction or loss of income: If the eligible unit/household experiences a reduction or loss of income in or after the budget month, the CWA shall not issue additional assistance payments or food stamp benefits for the corresponding processing month or payment month to supplement this change in income. However, an eligible unit may apply for AFDC supplemental payments, set forth in N.J.A.C. 10:82-5.11, if the family has suffered a substantial loss of income due to unanticipated circumstances and its regular AFDC grant does not reflect that loss because of retrospective budgeting.

(h) Administrative error: The CWA shall issue an additional assistance payment(s) supplementing any assistance payment incorrectly computed or not issued due to administrative error. Such supplemental payment(s) shall be considered as corrections to underpayments, in accordance with N.J.A.C. 10:90-4.8(d)1.

(i) Emergency assistance: The CWA shall supplement an assistance payment with any additional payment(s) authorized under the emergency assistance provisions of N.J.A.C. 10:82-5.10; see N.J.A.C. 10:82-2.20(b)2.

(j) Income from a terminated source—PA households: For ongoing PA households, income from a terminated source received in a budget month shall be disregarded in the computation of food stamp benefits for the corresponding payment month if all of the following conditions exist.

1. The terminated income will not be received from the same source during the corresponding processing month or payment month. Source of income is defined in N.J.A.C. 10:90-4.3(b)2.

2. The terminated income will be used to compute the assistance payment for the corresponding payment month.

3. The PA household will receive an assistance payment for the corresponding payment month.

i. Example: A PA household of three receives its last UIB benefit of \$100.00 in the January Budget Month. The \$100.00 is income from a terminated source that will be used to compute the AFDC grant of \$285.00 for the March Payment Month. The \$100.00 UIB income will be disregarded when computing food stamps for March.

ii. Example: A PA household of three receives its last UIB benefit in the January Budget Month, consisting of three \$130.00 payments, or \$390.00 total income. This income renders the family ineligible for AFDC in January; assistance is suspended for the corresponding March Payment Month. The \$390.00 UIB will be counted when computing food stamps for March, because the family will not receive an AFDC grant for that payment month.

iii. Example: An individual in a five-member PA household receives his last UIB benefit of \$125.00 in the January Budget Month. However, this person is not a member of the three-person AFDC eligible unit. The terminated UIB income of \$125.00 will be counted when computing food stamps for the March Payment Month, because it was not used to compute the AFDC grant for March.

10:90-4.5 Suspension

(a) The CWA shall suspend, rather than terminate, assistance for a payment month when:

1. (No change.)

2. Ineligibility for that one payment month was caused by income or other circumstances in the corresponding budget month; and

3. In the AFDC program, recovery of an overpayment caused by ineligibility for assistance in the budget month is being pursued (see N.J.A.C. 10:90-4.8(c)4).

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

(d) Medicaid coverage: The eligible unit will remain eligible for Medicaid coverage during the payment month of suspension, when the reason for suspension is recovery of an overpayment caused by ineligibility in the budget month (see (a)3 above). The adverse action notice suspending the case must advise the eligible unit of that fact.

1. Example: An employed client in an eligible unit of three (allowance standard of \$385.00) receives regular weekly income of \$100.00 which is paid on Fridays. Gross monthly earned income is \$400.00. Applying the \$75.00 work expense deduction (this case had no child care expenses nor is entitled to the \$30.00 and one-third disregard) yields countable earned income of \$325.00. The monthly grant is \$60.00 (\$385.00 minus \$325.00 equals \$60.00). In the April Budget Month (which contains five Friday pay dates instead of the usual four) the client's gross monthly earned income is \$500.00 instead of the usual \$400.00 (countable earned income if \$500.00 minus \$75.00, or \$425.00). This extra paycheck renders the case ineligible for assistance in the corresponding June Payment Month (\$385.00 minus \$425.00 equals \$40.00 excess income). The CWA shall

suspend assistance for June, continue the family's Medicaid eligibility during June, and issue the MSR to the family.

(e) Subsequent eligibility: The MSR issued to the family/household during the payment month of suspension shall be used to determine if eligibility will be restored for the subsequent payment month.

1. Eligibility restored: If the MSR issued during the suspension month reflects income or circumstances which restore eligibility, the family/household will be reinstated and benefits computed and issued based on the change in income or circumstances.

i. Example: Given the situation in (d)1 above, the eligible unit reports on the May Budget Month MSR issued in June four weeks of earnings at \$100.00 per week (\$400.00 total). The CWA will reinstate the eligible unit and issue assistance for the July Payment Month.

2. Prospective ineligibility: If the MSR issued during the suspension month reflects prospective ineligibility, assistance/food stamps shall be terminated. If ineligibility was caused by excess earned income from increased earnings or hours of employment, entitlement to extended Medicaid benefits shall begin with the payment month of termination.

i. Example: A family's AFDC grant is suspended for the March Payment Month due to receipt of excess income from five pays in the January Budget Month. The February Budget Month MSR, issued during March, shows an increased hourly wage that will cause prospective ineligibility for April and subsequent months. Assistance will be terminated effective April 1 and entitlement to extended Medicaid benefits will begin with April.

3. Ineligibility and suspension for two consecutive payment months: If the MSR issued during the suspension month reflects ineligibility for a second budget month, assistance/food stamps may be suspended for a second payment month, or a total of two consecutive payment months. A second month of suspension is permitted if the reasons for the suspension are different and circumstances of the eligible unit/household for the second budget month will meet both (a)1 and 2 above. A common situation would be the receipt of five pays in a budget month and the receipt of overtime pay in the following budget month.

i. Example: A family/household is determined prospectively eligible for the March Payment Month, but its AFDC/food stamps are suspended due to receipt of five pays in the January Budget Month. The CWA is reasonably sure that the extra paystub is a one-time occurrence. However, the February Budget Month MSR shows receipt of four paystubs at a higher amount due to overtime pay. The overtime pay renders the family/household ineligible in February, but the client reports that she does not expect to receive overtime pay in March. The CWA determines the family/household prospectively eligible for the April Payment Month, but suspends assistance/food stamps for April.

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

(h) Ineligibility for AFDC supplemental payments: Individuals whose assistance is suspended for a payment month are not eligible for AFDC supplemental payments, defined in N.J.A.C. 10:82-5.11, for the month of suspension. Suspension renders the family ineligible for assistance and AFDC supplemental payments can be issued only if a family is otherwise eligible for AFDC (see N.J.A.C. 10:82-5.11(b)1).

10:90-4.6 Reinstatement

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

(c) The CWA may reinstate the family/household if the following conditions are met:

1.-2. (No change.)

3. The CWA determines, based on the MSR for the Budget Month in (c)2 above, that the family/household is eligible for assistance/food stamps in the Payment Month of termination. (The CWA shall calculate the assistance payment for the Payment Month of termination without application of earned income disregards to AFDC-C and -F segment cases if earnings were not reported timely. Earned income disregards shall be applied to earnings reported timely and completely in accordance with N.J.A.C. 10:90-2.3(a)6, even though the eligible unit did not submit a complete MSR by the Extension Deadline.)

i. Example: A client submits the January Budget Month MSR before the Extension Deadline in February. All earnings information is complete and verification is included, but the client failed to sign the MSR. The client signs the MSR after the Extension Deadline in February and requests reinstatement. If the family is determined prospectively eligible for the March Payment Month, the AFDC grant for March will be calculated with earned income disregards, because January Budget Month earnings were reported timely and completely.

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

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10:90-4.7 Other program eligibility requirements

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

(d) CWA action on incomplete verification: If an eligible unit/household does not provide required verification by the Extension Deadline, the CWA shall take the following actions:

1. (No change.)

2. If the household is using its actual utility costs, rather than a utility allowance, to establish its shelter cost deduction in accordance with N.J.A.C. 10:87-2.21(a)3, and the household does not verify its actual utility expenses, the CWA shall not allow a deduction for such costs;

3-5. (No change.)

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

10:90-4.8 Overpayments and underpayments for all AFDC cases

(a) Prospective eligibility determination and changes in circumstances: The Prospective eligibility determination is based on an estimate of a family's circumstances for a payment month. Whenever a change in circumstances occurs, and the actual circumstances existing in a month differ from the estimated circumstances used in the prospective eligibility decision, eligibility must be redetermined both prospectively and retrospectively. Therefore, for all changes, factors of eligibility (including the maximum income eligibility and needs tests) must be applied retrospectively to the month(s) in which the changed circumstance actually existed, to determine if the family was eligible for assistance. Overpayments and underpayments of assistance may result from this redetermination of eligibility.

1. Example: A family was determined prospectively eligible for AFDC for January, using a best estimate of \$200.00 income for January. The family's MSR submitted in February reports actual receipt of \$400.00 in the January Budget Month, and the expectation that this income will continue. The CWA must determine the family's eligibility both prospectively for March (using a best estimate of \$400.00 income for March) and retrospectively for January (using \$400.00 income actually received in January).

2. Example: An eligible unit reported zero income from January through May. In June, the CWA discovers the family had unreported earnings of \$600.00 per month from January through May. After investigating the family's actual income and circumstances, the CWA must determine eligibility prospectively for July, and retrospectively for January through June.

3. Example: A family was determined prospectively ineligible for AFDC for March using a best estimate of \$1000 earned income for March (reported by the family in February). Assistance was terminated effective March 1. On March 5 the family reported and verified loss of employment and income on March 4. The CWA must redetermine the family's eligibility both prospectively for April and retrospectively for February and March based on the actual change in income and circumstances.

(b) Overpayment: An overpayment is defined as a financial assistance payment received by or for an eligible unit which exceeds the amount for which that unit was eligible, according to proper application of prospective/retrospective budgeting policy. It is not material when the CWA is made aware of the change causing the overpayment or whether the eligible unit or the CWA caused the overpayment.

1. Overpayment due to ineligibility: No assistance payment is payable for any month in which a family is not eligible for AFDC. If an assistance payment was issued based on a prospective eligibility determination, but circumstances changed, which when viewed retrospectively, rendered the family ineligible for assistance, the assistance payment issued for that month of ineligibility is an overpayment.

i. Example: A three-member eligible unit's MSR submitted in February reports receipt of \$400.00 earnings in the January Budget Month, and the expectation that these earnings will continue. The CWA determines eligibility for the March Payment Month, using the best estimate of \$400.00 earned income. In April, the CWA receives the March Budget Month MSR showing receipt of \$800.00 earnings, rendering the family ineligible for assistance in March. The AFDC grant issued for March is an overpayment.

ii. Example: On January 25 a client reports by means other than the MSR that the only child in the eligible unit has permanently moved out of the home. The CWA acts on this change by determining the family prospectively ineligible for the February Payment Month, but must issue the grant for February 1 because there is insufficient time to issue timely (10-day) notice terminating assistance. The CWA will terminate assistance effective March 1; however, the AFDC grant issued for February is an overpayment.

2. Overpayment due to grant calculation: If an assistance payment was issued to a family determined both prospectively and retrospectively

eligible, but was computed using incorrect income or circumstances, the difference between the incorrect assistance payment issued and the correct amount of assistance for which the family was eligible is an overpayment due to grant calculation.

i. Example: A four-member eligible unit reported zero earnings for January, and received a full grant for the March Payment Month, computed using zero January Budget Month income. In April the CWA discovers the family's unreported January income of \$200.00, and recomputes the March grant using this income. The difference between the incorrect March grant issued to the family and the correct grant is an overpayment due to grant calculation.

3. Ineligibility in the retrospective budgeting cycle: If a client reports in the processing month receipt of income in the budget month that made and continues to make the family ineligible for AFDC, the CWA will terminate assistance effective for the payment month. However, the grants issued for the two months of ineligibility (budget and processing months) are overpayments.

i. Example: A client in a three-member eligible unit (\$385.00 allowance standard) begins receiving a monthly Unemployment Insurance Benefit (UIB) of \$400.00 in the January Budget Month and reports this \$400.00 timely in the February Processing Month. The \$400.00 monthly UIB is expected to continue. The CWA terminates assistance for the March Payment Month due to prospective ineligibility because the eligible unit did not pass the needs test (\$400.00 estimated March income exceeded the \$385.00 allowance standard). However, the family was also retrospectively ineligible in January and February for failure to pass the needs test. The grants issued for January and February are overpayments.

(c) Recovery of overpayments: CWAs must recover all overpayments of assistance, including overpayments resulting from assistance paid pending hearing decisions, in accordance with N.J.A.C. 10:82-2.19(a). CWAs must take all reasonable steps necessary to promptly correct any overpayment.

1. Any overpayment to a current eligible unit must be recovered through repayment (in part or in full) by the individual responsible for the overpayment or by reducing the amount of any assistance payable to the eligible unit of which he or she is a member, or both.

2. If recovery is made from the assistance payment, such recovery shall be in an amount equal to 10 percent of the appropriate allowance standard for the family size, unless this amount would create undue hardship (see N.J.A.C. 10:82-2.19(a)3i).

3. The CWA shall recover an overpayment from:

i. The eligible unit which was overpaid;

ii. Any eligible unit of which a member of the overpaid eligible unit has subsequently become a member; or

iii. Any individual *[member]**members* of the overpaid eligible unit whether or not currently a recipient.

4. Overpayment recovery by suspending assistance: The CWA shall deny (suspend) assistance for the corresponding payment month rather than terminate assistance to recover an overpayment if all conditions in (c)4i through iv below exist:

i. The family was ineligible for a budget month;

ii. The CWA becomes aware of the ineligibility when the monthly report is submitted;

iii. The client accurately reported the budget month's income and other circumstances; and

iv. The family will be eligible for the following payment month; see N.J.A.C. 10:90-4.5.

(1) Example: A three-member eligible unit's MSR submitted in February reports receipt of \$800.00 earnings in the January Budget Month, and the expectation that earnings will decrease to \$400.00 in February and subsequent months. Although retrospectively ineligible and overpaid for January (actual earnings exceeded the maximum income eligibility and needs tests) the family appears to be eligible for February, the following month. January's overpayment will be recovered by denying assistance for the March Payment Month, because ineligibility lasted for only one budget month. The CWA would suspend assistance for the March Payment Month and issue the family an MSR on March 1.

v. A change in income or circumstances which causes ineligibility for the payment month of suspension does not negate the suspension. Overpayment recovery is not required for the month in which the change occurred.

(1) Example: A client received an extra paycheck in May which caused ineligibility. The CWA suspended assistance for July, the corresponding payment month. On July 5 the client reported an hourly wage increase which caused ineligibility for July and subsequent months. Although the payment for July was not due the recipient and therefore could not have

been suspended, the CWA need not initiate recovery action on the payment received for May.

5. If the CWA recovers from individuals who are no longer recipients, or from recipients who refuse to repay the overpayment from their income and resources, recovery shall be made by appropriate action under State law against the income or resources of those individuals.

6. If through recovery, the amount payable to the eligible unit is reduced to zero, members of the eligible unit are still considered recipients of AFDC.

7. Prompt recovery of an overpayment: The CWA must take one of the following three actions by the end of the quarter following the quarter in which the overpayment is first identified:

- i. Recover the overpayment;
- ii. Initiate action to locate and/or recover the overpayment from a former recipient; or
- iii. Execute a monthly recovery agreement from a current recipient's grant or income/resources.

8. Where a former recipient with an outstanding overpayment reappears and is found to be eligible for assistance, the CWA must recover the overpayment.

9. Waiver of overpayment recovery: The CWA may waive recovery of an overpayment in accordance with N.J.A.C. 10:82-2.19(a)10.

(d) Underpayment: An underpayment is defined as a financial assistance payment received by or for an eligible unit for a payment month which is less than the amount for which the family was eligible, according to proper application of retrospective/prospective budgeting policy, or failure by the CWA to issue an assistance payment for the payment month to an eligible unit if such payment should have been issued.

1. CWAs must promptly correct any underpayments to current AFDC recipients and those who would have continued as AFDC recipients if the error causing the underpayment had not occurred. (However, no underpayments to other former recipients can be federally matched, because such former recipients are no longer in current need of assistance.) For purposes of determining continued eligibility and amount of assistance, such retroactive corrective payments shall not be considered as income, or as a resource in the month paid nor in the month following the month paid.

2. If a prospective ineligibility decision were made, and later, circumstances changed which, when viewed retrospectively, allowed the family to actually be eligible for that same period, the unit is eligible and assistance must be reinstated.

i. Example: An eligible unit of four reports on the January Budget Month MSR earnings of \$100.00 per week or \$400.00 per month, which are expected to increase in February to \$200.00 per week (\$800.00 per month) and continue into subsequent months. In the February Processing Month, the CWA determines the family prospectively ineligible for the March Payment Month, closes the case effective March 1, and grants extended Medicaid benefits. On March 15 the client reports to the CWA that the raise in pay was never received, shows current paystubs indicating earnings of \$100.00 per week, and requests assistance. The CWA determines the family prospectively eligible for March. An underpayment exists for March because the family did not receive assistance for which it was eligible. The CWA must correct the underpayment by reinstating the family and issuing the AFDC grant for March, calculated by retrospectively budgeting January's income and circumstances.

3. The CWA must make corrective payments to a former recipient who has an outstanding underpayment, who reappears and is found to be eligible for assistance.

(e) Underpayment and overpayment for the same eligible unit: For eligible units which have both an underpayment and overpayment, the CWA may offset one against the other in correcting the payment.

(f) Correction of assistance-payments computed using prospective budgeting: If actual income and circumstances existing in either of the initial two payment months of eligibility are different than the best estimate of income and circumstances used in the prospective assistance payment computations for either of the initial two months, the CWA shall correct the assistance payment(s).

1. Overpayment: If the eligible unit was overpaid in these payment months, the CWA shall move to recover the overpayment.

2. Underpayment: If the eligible unit was underpaid in these payment months, the CWA shall promptly correct the underpayments.

i. Example: An individual (family of four) stops working on December 10, and on January 16 applies for both AFDC and UIB. The applicant does not know the amount of the UIB or the date the UIB will be received. Therefore, the CWA's best estimate of income for January will be zero. As of January 21 (the last day timely notice of adverse action

can be issued for February 1), the applicant has no further information about the UIB. The best estimate of income for February remains zero. The grants for January and February are calculated by prospectively budgeting this zero income. On February 5 the CWA receives the January Budget Month MSR showing receipt of one week of UIB (\$50.00 or \$200.00 monthly), which is expected to continue. The CWA uses the \$50.00 to compute the grant to be issued on March 1. However, the family was overpaid in the January and February payment months, because the UIB income actually received in these months had not been used to compute the assistance payments. The CWA must move to recover the overpayments.

ii. Example: An individual (family of four) applies for assistance on January 4. The applicant is employed full-time and receives \$100.00 per week (\$400.00) per month; employment is expected to continue. The CWA computes the January and February AFDC grants by prospectively budgeting this \$400.00 monthly income. On February 5 the CWA receives the January Budget Month MSR, showing receipt of three weeks of earnings (\$300.00), plus a layoff notice from the employer covering the fourth week. The recipient does not expect to return to work. The January earnings are considered income not of a continuous nature (see N.J.A.C. 10:90-4.3(b)) and so are not used to compute the March grant. However, the family was underpaid for January and February, because income never actually received in these months had been used to compute the respective assistance payments. The CWA must correct the underpayments.

(g) Calculation of an overpayment or underpayment: The CWA shall calculate an overpayment or underpayment according to (g)1 and 2 below. In general, the CWA shall apply prospective and retrospective budgeting policy as it would have been applied if the eligible unit had reported the change timely. However, for AFDC-C and -F segment cases, the penalty of loss of disregards (see N.J.A.C. 10:90-2.3(a)7) shall be applied to any budget month earnings not reported timely, by the relevant processing month's Extension Deadline.

1. Eligibility determination: Upon discovery of a change in circumstances, the CWA shall determine if the family was eligible, according to N.J.A.C. 10:90-4.1, for the payment months in which the changed circumstances existed.

i. For any payment month in which the family was ineligible, the entire amount of the assistance payment issued for that month is an overpayment.

ii. If a family was determined prospectively ineligible but was actually eligible for any payment month, the entire amount of the assistance payment that should have been issued for that month is an underpayment.

iii. For the payment months in which the family remained eligible, the CWA will recompute the assistance payment according to (g)2 below.

2. Assistance payment recomputation: After a family has been determined eligible for a payment month, the CWA shall recompute the correct assistance payment according to N.J.A.C. 10:90-4.2 and 4.3, applying the earnings penalty of N.J.A.C. 10:90-2.3(a)7 where required. Assistance payments grants for the two months following a period of ineligibility of at least one full payment month, determined in (g)1 above, shall be recomputed using prospective budgeting, in accordance with N.J.A.C. 10:90-4.2(c). The difference between the assistance payment issued for a month and the recomputed payment is the amount of the overpayment or underpayment.

3. Example: An eligible unit of three reports zero income for a seven-month period, November through May, and receives a monthly AFDC grant of \$385.00. In June the CWA discovers and verifies unreported earnings of \$900.00 in January, \$900.00 in February, and \$300.00 in March. In the eligibility determination, the CWA finds the family ineligible for January and February (\$900.00 exceeded the \$712.00 maximum income test) but eligible for March (\$300.00 was less than maximum income test and needs test). The overpayments for January and February are \$385.00 each. The AFDC grant that should have been issued for the March Payment Month is calculated using prospective budgeting, because March follows a two-month period of ineligibility (January and February). Applying no disregards because earnings were not reported timely, the correct grant for March is \$85.00 (\$385.00 minus \$300.00 earnings). The overpayment for March is \$300.00 (\$385.00 issued minus \$85.00 recomputed payment). The total overpayment to be recovered is \$1070.00 (\$385.00 January, \$385.00 February, \$300.00 March).

4. Example: Given the family in (g)3 above, but applying the income in reverse order, the total overpayment is a different amount. In June the CWA discovers and verifies unreported earnings of \$300.00 in January, and \$900.00 in February and March. The CWA finds the family eligible for January, but ineligible for ~~the~~ February and March Payment

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Months. The overpayments for February and March are \$385.00 each. The CWA recomputes the AFDC grant that should have been issued for the January Payment Month using retrospective budgeting because of prior continuous eligibility. The correct January grant using zero November Budget Month income remains \$385.00; there is no overpayment for January. The \$300.00 January earnings would have been used to calculate the March grant, but cannot be applied because the March grant has already been recovered due to ineligibility. The \$300.00 earnings therefore do not result in an overpayment. This example illustrates the normal two-month lag of retrospective budgeting. The total overpayment is \$770.00 (\$0.00 January, \$385.00 February, \$385.00 March).

5. Example: An eligible unit reported zero earnings from January through May. In May, the CWA discovers unreported earnings that caused ineligibility for these months, and moves to terminate assistance for June. The eligible unit advises that employment ceased in May, provides supporting documentation from the former employer, and requests assistance for June. The grants issued for January through May are overpayments. If the family is determined eligible, the grants issued for June and July shall be computed using prospective budgeting, because they follow a period of ineligibility of at least one full payment month. The overpayment shall be recovered through grant reduction.

(h) Overpayments and irregular or nonrecurring (lump sum) income: Overpayments due to ineligibility caused by receipt of lump sum income, defined in N.J.A.C. 10:82-4.15(a), shall be determined and recovered according to this section. AFDC grants issued in the budget and processing months to families ineligible because of receipt of lump sum in the budget month income are offset by the specific period of ineligibility assigned to this lump sum income. AFDC grants issued in these two months will not be considered overpayments subject to recovery if the lump sum income was reported timely by the eligible unit and acted upon timely by the CWA within the retrospective cycle. Exceptions to this rule are found in (h)3 and 4 below.

1. Lump sum reported in the processing month: If receipt of lump sum income in a budget month is reported in the processing month by the MSR or other means, the period of ineligibility shall begin with the corresponding payment month. The grants issued for the budget and processing months are not overpayments.

i. Example: An eligible unit of three (\$385.00 allowance standard) receives \$1155 lump sum income in the January Budget Month and reports this income timely in the February Processing Month. A three-month period of eligibility covering March through May is assigned. The AFDC grants issued for January and February are not overpayments subject to recovery.

2. Lump sum reported in the budget month of receipt: If lump sum income is reported in the budget month of receipt by the MSR or other means, the period of ineligibility shall begin with the following month, subject to timely notice. In no event shall the period of ineligibility begin later than the corresponding payment month. The grants issued for the budget month (and processing month if there is insufficient time for timely notice) are not overpayments subject to recovery.

i. Example: On January 15 an eligible unit of three (\$385.00 allowance standard) reports receipt of \$1155 lump sum income on January 10. The CWA determines the family ineligible for three months, February through April, and issues timely notice of adverse action. The AFDC grant issued for January is not an overpayment subject to recovery.

ii. Example: On January 25 the eligible unit in (h)2i above reports receipt of lump sum income on January 19. The three-month period of ineligibility will begin on March 1, because there was insufficient time to issue timely (10-day) notice of ineligibility for February. The AFDC grants issued for January and February are not overpayments subject to recovery.

3. Failure to report or act on lump sum income timely: All AFDC grants issued erroneously because the eligible unit failed to timely report receipt of lump sum income or the CWA failed to act timely on a report of lump sum income are overpayments that must be recovered. The period of ineligibility shall be assigned to the same months it would have been if the change had been reported or acted upon timely.

i. Example: On February 25, an eligible unit of three reports receipt of \$1155 lump sum income on January 27. The three-month period of ineligibility will cover March through May. However, the CWA will terminate assistance effective April 1, because there is insufficient time to issue timely notice of termination for March 1. The AFDC grant issued for March is an overpayment that must be recovered.

ii. Example: A three-member eligible unit (\$385.00 allowance standard) files its December Budget Month MSR on January 7, and on January 15 reports receipt of \$1155 lump sum income on January 12. However,

the CWA does not act on this report of change until February for the March Payment Month. Even though the March Payment Month corresponds to the January Budget Month in which the lump sum income was received, the CWA must act on any reported change in income or circumstances by determining eligibility prospectively for the next payment month. Therefore, the CWA should have acted on the January 15 report of change by determining the family ineligible for the three-month period of February through April. There was sufficient time to issue timely notice terminating assistance for February 1. The ineligibility period remains February through April; the AFDC grant issued for February is an overpayment that must be recovered.

4. Period of ineligibility is reduced: If the lump sum period of ineligibility is reduced due to circumstances in N.J.A.C. 10:82-4.15(a)5, the CWA shall determine if the AFDC grants issued in the budget and processing months of ineligibility were fully offset by payment months of ineligibility. If not, any outstanding overpayments must be recovered.

i. Example: In February an eligible unit reports receipt*[s]* of lump sum income in January causing ineligibility for four months, March through June. On March 15 the family reports and verifies theft of the remaining amount of the lump sum; assistance is reinstated for March and subsequent months. However, the AFDC grants issued for January and February when the family was ineligible due to excess (lump sum) income were not offset by corresponding payment months of ineligibility (March and April). These grants are overpayments that must be recovered.

(i) Overpayments and cases closed for failure to file a complete MSR: If assistance is terminated for a payment month because an eligible unit failed to file a complete MSR, the CWA shall determine if the family was eligible for assistance in the corresponding budget and processing months. If the family was ineligible for either of these months, the assistance paid for that month is an overpayment.

1. Request for reinstatement in the payment month of termination: If the family requests reinstatement in the payment month of termination by submitting a complete budget month MSR, CWA action on the MSR will be sufficient to determine eligibility for assistance in the budget month. The eligible unit must also file a complete MSR to determine processing month eligibility.

i. Example: A family's assistance is terminated for the March Payment Month for failure to file a complete January Budget Month MSR. On March 5 the family requests reinstatement by submitting the complete January Budget Month MSR. The CWA uses this MSR to determine eligibility for January. The family must also file an MSR covering February.

2. Reapplication after payment month of termination: If the family reapplies for assistance after the payment month of termination, the family must submit complete MSRs for the two months immediately *[preceding]**preceding* the payment month of termination. The CWA will determine eligibility for these two months, and amount of any overpayments. Assistance shall not be granted until the family submits complete MSRs for both of these months.

i. Example: A family's assistance is terminated for the March Payment Month for failure to file a complete January Budget Month MSR. On April 5 the family reapplies for AFDC. The family must submit complete MSRs covering January and February, the two months preceding March (Payment Month of termination) before assistance can be granted. The CWA will determine eligibility, and any overpayments, for January and February.

(j) Overpayments and cases closed at request of recipient: For every case closed for a payment month at the request of the recipient, the CWA shall determine if the family was eligible for assistance in the two months immediately preceding the payment month of termination. If a family was ineligible and therefore overpaid in either of these two months, the CWA must recover the overpayments.

1. Family reapplies for assistance: If the family who requested case closing subsequently reapplies for assistance, the family must complete MSRs covering the two months immediately preceding the payment month of termination. It is not material whether the family was subject to monthly reporting. Assistance shall not be granted until the family submits complete MSRs for both of these months. The CWA will determine the family's eligibility for these two months using the information reported on the MSRs. Failure of the family to submit completed MSRs for these months without good cause, as defined in N.J.A.C. 10:90-2.3(a)8, will result in denial of assistance. Reapplications for failure to submit complete MSRs shall be referred for investigation due to willful withholding of information for the two months in question.

2. Family does not reapply for assistance: If the family who requested

case closing does not reapply for assistance, the CWA shall initiate action to determine eligibility for the two months immediately preceding the payment month of termination.

10:90-4.9 Overissuances and underissuances of food stamp benefits

(a) Scope: This section sets forth methods that shall be used to determine overissuances and underissuances of food stamp benefits in retrospective budgeting. This section shall be used with N.J.A.C. 10:87-11.

(b) Overissuance: An overissuance of food stamp benefits occurs when a household receives more food stamp benefits than it is entitled to, according to proper application of prospective/retrospective budgeting policy.

1. Overissuances and claim determinations: An overissuance will not occur, and a claim shall not be established, for any payment month if the food stamp allotment issued for that month was correct at the time of issuance. Correct means that for the payment month:

i. The household reported current and changed income and circumstances completely and timely, in accordance with N.J.A.C. 10:90-2.3(a)*[6]* for changes reported by the MSR, N.J.A.C. 10:90-2.3(b)2 for changes reported by means other than the MSR, and N.J.A.C. 10:87-9.7(a)1i for households not subject to monthly reporting; and

ii. The CWA acted upon the reported information timely and correctly in determining eligibility prospectively and computing the food stamp benefit for the payment month, subject to adequate notice for changes reported by the MSR, and timely and adequate notice for changes reported by means other than the MSR or by households not subject to monthly reporting.

2. Overissuances and the prospective eligibility determination: If food stamp benefits were issued based on a prospective eligibility determination, but circumstances changed, which when viewed retrospectively, rendered the household ineligible for participation, the food stamp benefits issued for that month of ineligibility are not an overissuance if the benefits were correct when issued. Correct is defined in (b)1i and ii above. If the food stamp benefits were not correct when issued, an overissuance may have occurred.

i. Example: A four-member household reports on the January Budget Month MSR receipt of \$200.00 income, and the expectation that this income will continue. In February the CWA determines the household prospectively eligible for food stamps for the March Payment Month, using \$200.00 as the best estimate of income. In April, the CWA receives the household's MSR showing receipt of \$1000 income in the March Budget Month, which causes *eligibility**ineligibility* for March. Since the March food stamp benefits were correct when issued, there is no overissuance.

3. Retrospective and prospective ineligibility: If a household reports in the processing month receipt of income in the budget month that made and continues to make the household ineligible for food stamp benefits, the CWA will terminate food stamps effective for the payment month. The food stamp benefits for the two months of ineligibility (budget and processing months) are not overissuances if they were correct when issued.

i. Example: A four-member household reports receipt of \$200.00 monthly income on its January and February Budget Month MSRs, which the CWA uses to compute March and April food stamp benefits. The household's March Budget Month MSR reports receipt of \$1000 monthly income which is expected to continue. In April, the CWA terminates the household's food stamps for the May Payment Month. Food stamps for the two months of ineligibility, March and April, are not overissuances because they were correct when issued.

(c) Claims against households: The CWA shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive, subject to (b) above.

(d) First month subject to claim—PA households and those NPA households subject to monthly reporting: For PA households and those NPA households subject to monthly reporting, for claims involving reportable changes other than increases in household size, the first month subject to a claim shall be the payment month corresponding to the first budget month in which the change occurred. For claims involving increases in household size, the first month subject to a claim shall be the first payment month following the month in which the change in household size was reported. This policy shall apply to intentional program violation claims, inadvertent household error claims, and administrative error claims.

(e) First month subject to a claim—NPA households exempt from monthly reporting: For NPA households exempt from monthly reporting, for claims involving reportable changes, the first month subject to a claim

shall be the first payment month following the month in which the change occurred, subject to timely and adequate notice of any change in benefits.

Claims for such households shall be established in accordance with N.J.A.C. 10:87-11.

(f) Computing the amount of the claim: The amount of a claim shall be computed according to (f)1 through 4 below.

1. Step 1: Determine the months in which the changed circumstance(s) existed.

2. Step 2: Determine the first month subject to a claim, in accordance with (d) and (e) above.

3. ***Step 3:*** Compute the correct food stamp benefits using retrospective budgeting for each payment month subject to a claim. Include all income the household actually received in the budget month and the AFDC grant received for the payment month, whether or not the AFDC grant was issued in the correct amount. When computing the amount of the claim, food stamp benefits for the initial two payment months following a period of suspension (one month or two consecutive months) shall be recomputed using retrospective budgeting.

i. Example: A PA household received food stamp benefits for the March Payment Month computed using the \$385.00 AFDC grant issued for March and zero January Budget Month income. In May the CWA discovers the household had \$200.00 unreported earnings in January, which will change both the AFDC grant and food stamp benefits issued for March. The correct March AFDC grant is \$185.00 recomputed using the \$200.00 January income. When recomputing the correct amount of March food stamp benefits and the overissuance, the CWA will use the \$200.00 January Budget Month earnings plus the \$385.00 March Payment Month AFDC grant actually received by the household. The \$185.00 correct AFDC grant shall not be used in determining the correct food stamp benefit and the overissuance. (Note that the Food Stamp energy disregard of \$25.00 would be applied to all computations).

ii. Example: In September the CWA discovers unreported earnings received by a three-member household in the following amounts: \$300.00 in January, \$1,000 in February and March, \$200.00 in April and May. For this intentional program violation, March is the first month subject to a claim and July is the last month. The correct food stamp benefits for March through July will be recomputed using retrospective budgeting. The income received in February and March will render the household ineligible for food stamps for the two-month period of April and May. The food stamp benefits for June and July will be recomputed by retrospectively budgeting April's and May's income, because these months follow a period of suspension of two consecutive months.

4. Step 4: Compare the actual food stamp benefit issued with the correct food stamp benefit for that payment month. The difference is the amount of the overissuance and claim.

10:90-4.10 Change in employment circumstances of NPA households

(a) As non-public assistance (NPA) households lose or gain employment (earned income), and become exempt from or subject to monthly reporting and retrospective budgeting, the method used to calculate the amount of the food stamp benefit must change from retrospective to prospective budgeting or vice versa. The change in budgeting methodology will be made according to (a)1 or 2 below, subject to adequate notice if the change in employment circumstances was reported on the Monthly Status Report (MSR) form, and timely and adequate notice if the change was reported by means other than the MSR.

1. NPA household loses employment (earned income) and becomes exempt from monthly reporting—change from retrospective to prospective budgeting: If an NPA household loses employment (earned income) and becomes exempt from monthly reporting and retrospective budgeting, the change to prospective budgeting will be made for the payment month corresponding to the first budget month in which earned income is no longer received, as reported and verified on the household's MSR. Food stamp benefits issued for subsequent months will be computed using prospective budgeting. ***[The CWA must inform the household of the change in budgeting methodology and provide adequate notice of any reduction in the allotment caused by retrospective budgeting.]**The CWA must provide adequate notice of any reduction in the allotment. The CWA must also send the household a notice advising of the change in budgeting methodology and a Form FSP-922, Change Report Form. It may be necessary for the CWA to contact the household to ascertain the reason for the loss of earned income or to establish the level of the food stamp benefit during the period of prospective budgeting.***

i. Example: On the January Budget Month MSR an NPA household reports two weeks of earnings and loss of employment. On the February Budget Month MSR the household reports zero earnings. The CWA will

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use prospective budgeting to compute the food stamp benefit issued for April, the payment month corresponding to the first budget month (February) in which earnings were no longer received.

ii. Example: If the household in (a)l above reported anticipated receipt of unearned income, for example, unemployment insurance benefits, in April, and the date(s) of receipt and amount(s) were known, the income would be budgeted prospectively in the April food stamp benefit subject to proper notice to the household of any reduction in the allotment. Proper notice means adequate notice if the change was reported on the MSR, and timely and adequate notice if the change was reported by means other than the MSR.

2. NPA household gains employment (earned income) and becomes subject to monthly reporting—change from prospective ***[and]**to*** retrospective budgeting: When a member of an NPA household starts working (begins receiving earned income) and the household becomes subject to monthly reporting and retrospective budgeting, the change to retrospective budgeting will be made for the ***[first payment month following the month in which the earned income is reported, subject to timely and adequate notice of any reduction in the food stamp benefit caused by retrospective budgeting. In no event will the change to retrospective budgeting be made later than the second month following the month in which earnings were first received.]**payment month corresponding to the first budget month in which the earned income is received.***

i. Example: A member of an NPA household begins working on January 10, reports employment and estimated wages to the CWA on January 15. The household member first receives earnings on January 25. ***[The CWA will first apply retrospective budgeting to the food stamp benefit issued for February, the month following the month in which the household reported the change. The food stamp benefit for the February Payment Month will be computed using income and circumstances existing in the corresponding budget month of December. By January 21 the CWA must issue timely and adequate notice of any reduction in income and circumstances. The food stamp benefit caused by December's income and circumstances. The food stamp benefit issued for the March Payment Month will be computed by retrospectively budgeting the earned income received in the January Budget Month.]**The CWA will first apply retrospective budgeting to the food stamp benefit issued for March, the payment month corresponding to the first budget month, January, in which earnings were received. The food stamp benefit issued for the February Payment Month will be computed using prospective budgeting.***

(1) The household's best estimate of earnings for February would be used to prospectively compute the food stamp benefit for the February Payment Month if the earnings were reported by the household and acted upon by the CWA in January such that timely and adequate notice of the resulting change in the food stamp benefit could be issued.

[ii. Example: A household member begins working on January 20, advises the CWA on January 26, and first receives earnings on January 29. The CWA will first apply retrospective budgeting to the food stamp benefit issued for March, the second month following the month in which earnings were first received, because there was insufficient time to issue timely and adequate notice of any benefit reduction for February caused by retrospective budgeting (income and circumstances existing in the corresponding budget month of December). The food stamp benefit for February will be computed using prospective budgeting. However, the household's best estimate of earnings would not be used to prospectively compute the benefit for February, because there would not be sufficient time to issue timely and adequate notice of the resulting reduction in the benefit.]

ii. Monthly reporting requirements: CWAs must follow existing procedures regarding the issuance of MSR forms and ensure that NPA households reporting employment are issued MSR forms for the first budget month for which earnings are received or are expected to be received. CWAs must also follow existing procedures in notifying such households of the monthly reporting and retrospective budgeting requirements.

10:90-5.1 By the filing deadline

(a) MSR is received: If the MSR is received by the CWA by the Filing Deadline, the CWA must review the report to determine its accuracy and completeness.

1. MSR is complete: If the MSR is complete, as defined in N.J.A.C. 10:90-2.3(a)2, the CWA shall:

i.-ii. (No change.)

iii. Process the assistance payment/food stamp benefits;

iv. Notify the eligible unit/household (using Form PA-15) of any changes from the prior payment and the basis for its determination. The PA-15, "Notification Form", serves to notify the client of his or her case status, benefit amounts, effective dates, intended action (favorable as well

as adverse) by the county welfare agency and the manual citations justifying the authority for such action. This form contains a detailed section on the fair hearing process advising of rights and responsibilities, availability of free legal services and contains the Division's toll-free telephone number. Within this section, the client is also provided with a convenient "tear sheet" form to be used for initiating a fair hearing request if the client so desires. This notice must be:

(1) (No change.)

(2) Mailed to arrive no later than the resulting payment/benefit or in lieu of the payment/benefit. An eligible unit/household has 10 days from the date of this notice to request a hearing in order to receive reinstatement. The PA-15 shall advise the eligible unit/household of this fact; and

v. Provide specific information on how the CWA calculated the food stamp benefit level if it has changed since the preceding month, either with the food stamp benefit or in a separate notification. The CWA may use Form FSP-902, "Food Stamp Computation Sheet", or a printed copy of the F-CAL, "CODES food stamp benefit computation screen", for this purpose. Form FSP-902 is used by a CWA worker to manually calculate a household's food stamp benefit. It provides lines for entering a household's income and expenses, and shows the application of program deductions to a household's gross income to arrive at net food stamp income and the resulting food stamp benefit. The F-CAL is a printed copy of the computer terminal screen that a CWA worker uses to calculate the food stamp benefit by computer. It provides spaces for entering the household's income, deductions and expenses, and shows net food stamp household income used by the computer to calculate the food stamp benefit for a month.

2.-3. (No change.)

(b) (No change.)

10:90-5.2 During the Extension Period

(a) MSR is received: If the MSR (or replacement form) is received by the CWA during the Extension Period, that is, after the Filing Deadline but by the Extension Deadline, the CWA must review the report to determine its accuracy and completeness.

1. MSR is complete: If the MSR (or replacement form) is complete, the CWA shall:

i.-ii. (No change.)

iii. Process the assistance payment/food stamp benefits;

iv. Promptly notify (using Form PA-15) the eligible unit/household of its right to a fair hearing and of its right to have assistance reinstated at the prior month's level, if the eligible unit/household is found ineligible or eligible for an amount less than the prior month's payment. The eligible unit/household has 10 days from the date of this notice to request a hearing in order to receive reinstatement. The PA-15 shall advise the eligible unit/household of that fact; and

v. Provide specific information on how the CWA calculated the food stamp benefit level if it has changed since the preceding month, either with the food stamp benefit or in a separate notification. The CWA may use Form FSP-902 or a printed copy of the F-CAL for this purpose.

2. (No change.)

(b) (No change.)

10:90-5.6 Changes in circumstances during a period of ineligibility for AFDC or food stamps

(a) AFDC family terminated from assistance for a reason other than monthly reporting becomes eligible in payment month of termination: If an eligible unit is terminated from AFDC for a payment month for failure to meet an eligibility factor other than filing a complete MSR, but during the payment month of termination becomes eligible and applies for assistance, the CWA shall proceed according to (a)l through 3 below.

1.-2. (No change.)

3. Effect on food stamp benefits: For PA households determined eligible for AFDC after a prospective determination of ineligibility, if the eligible unit's/household's food stamp benefits have already been issued for the payment month, the allotment need not be recomputed when the payment month's normal AFDC grant is known. If the eligible unit's/household's food stamp benefits have not been issued, however, the allotment must reflect the payment month's normal AFDC grant.

(b) Food stamp household terminated for a reason other than monthly reporting ***[become]**becomes*** eligible in payment month of termination: If a food stamp household is terminated for a payment month for failure to meet an eligibility factor other than filing a complete monthly report, but during the payment month of termination ***reapplies and*** becomes eligible for participation, issuance of food stamp benefits for that month will depend upon the date the household ***[reported the change in eligibility to the CWA]**reapplied. Food stamp benefits will be**

prorated from that date.*

*[1. If the CWA receives the household's report in time to issue benefits in the payment month, the food stamp allotment should be issued.

2. If the household's report is not received in time for the CWA to make the issuance in the payment month, the allotment should not be issued.]*

(c) Eligibility for AFDC while receiving Medicaid: If a family has been receiving Medicaid benefits (including Medicaid Special) and the family applies and is determined eligible for AFDC, the AFDC payments and Medicaid eligibility for the initial two payment months of AFDC eligibility shall be calculated using prospective budgeting. Prospective budgeting will be applied to the AFDC payment calculation even though the family's Medicaid eligibility before application for AFDC was determined using retrospective budgeting. After the initial two payment months retrospective budgeting will be used to determine Medicaid eligibility and AFDC eligibility and payment amount.

1. Example: In January, a pregnant woman applies for Medicaid on behalf of an unborn child. The woman receives \$100.00 income per month. Eligibility for Medicaid is determined using prospective budgeting for January and February, and retrospective budgeting for March and subsequent payment months. The client advises that the child was born May 15 and requests AFDC. The AFDC grants and Medicaid eligibility for May and June will be calculated using prospective budgeting, even though Medicaid eligibility for previous months was based on a retrospective cycle. For July and subsequent months, Medicaid eligibility and AFDC eligibility and payment amount will be determined using retrospective budgeting.

10:90-6.1 Redeterminations, case reviews and recertifications

(a) AFDC redeterminations and case reviews: The CWA shall determine a unit's eligibility and conduct case reviews in accordance with (a) through 5 below.

1. Redeterminations: When an individual has been determined to be eligible for AFDC, eligibility will be reconsidered or redetermined:

- i. When required on the basis of information the agency has obtained previously about anticipated changes in the individual's situation;
- ii. Promptly, after a report is obtained which indicates changes in the individual's circumstances that may affect the amount of assistance to which he or she is entitled or may make him or her ineligible; and
- iii. Periodically, within agency established time standards, but not less frequently than every six months on eligibility factors subject to change. Therefore, the CWA shall redetermine eligibility monthly for eligible units subject to monthly reporting, or every other month for units subject to bimonthly reporting.

2. Redetermination form: For AFDC cases subject to MR, the CWA will conduct a monthly or bimonthly redetermination of eligibility using the MSR form. For AFDC cases not subject to MR, the CWA will conduct a redetermination of eligibility using Form PA-1J.

i. Form PA-1J, "Application and Affidavit for *[AFDC, MA, CPP, RRP, CHEP and Food Stamps]* *Public Assistance**", is the form used to determine a unit's/household's eligibility for public assistance and food stamp benefits. It asks detailed questions concerning family composition, deprivation and marital status, expenses, income, resources (bank accounts, automobiles, and so forth) and work registration. The client must answer the relevant questions with the assistance of a CWA eligibility worker, if necessary, and provide written verification of income and circumstances from third party sources. The form contains statements, which the client(s) must read and sign, concerning the accuracy of the reported information, authorization for the CWA to contact third party sources for verification, assignment of support to the CWA, non-discrimination and fair hearings, and food stamp penalty warnings.

3. Redetermination process: For cases subject to MR, the redetermination will be conducted within the time frames required for MSR processing. For cases not subject to MR, the unit's eligibility will be redetermined using prospective budgeting and assistance payment computed using retrospective budgeting. The payment month shall be the first month of the new redetermination period. Income and circumstances from the corresponding budget month shall be used in the retrospective budgeting calculation.

i. Example: An eligible unit not subject to MR is scheduled for its redetermination to be effective September 1. The CWA will redetermine the unit's eligibility prospectively for September and will compute the assistance payment by retrospectively budgeting the income and circumstances existing in the July Budget Month.

4. Case review: For cases subject to MR, and the CWA shall conduct a case review of the eligible unit's circumstances in addition to the monthly or bimonthly redetermination. The case review shall include an

interview with a member of the eligible unit, and an in-depth verification and evaluation of the family's circumstances.

i. The case review shall be conducted periodically, but not less frequently than every 12 months.

ii. The CWA will use both the MSR and relevant sections of Form PA-1J in the case review.

iii. The determination of eligibility based on the case review shall be effective for a payment month. The MSR from the corresponding budget month shall be used to retrospectively compute the assistance payment for the payment month. All MSR processing time frames and notice requirements shall apply in the case review process.

iv. If the eligible unit also receives food stamp benefits, the CWA will assign the PA household a 12-month certification period to coincide with the case review.

v. Example: A case in MR is scheduled for its case review to be effective September 1. The CWA will use the MSR and verification from the July Budget Month MSR, received in the August Processing Month, to determine eligibility and compute the assistance payment for the September Payment Month. The PA household will be assigned a 12-month certification period from September through August.

5. Overdue redeterminations and case reviews: If the redetermination or case review is overdue, that is, the interview and obtaining required verification*[s]* are completed after the scheduled effective date of redetermination or case review, the CWA shall determine the unit's eligibility for the next payment month. However, the CWA must be alert to any changes in circumstances that occurred in the intervening month(s) and must recover any overpayments of assistance made.

i. Example: A non-MR case is due for redetermination effective March 1. However, the CWA does not conduct the interview until March 5. During the interview, the three-member eligible unit reports one-time receipt of \$200.00 unearned income in January. This income is not expected in future months. The CWA determines eligibility for the April Payment Month, and calculates the grant to be issued on April 1 by retrospective budgeting February's zero income and circumstances. However, the \$200.00 must be examined for overpayment purposes. This \$200.00 did not make the family ineligible in January, but should have been retrospectively budgeted in the March grant. The family received \$385.00 on March 1 but should have received only \$185.00. The CWA must recover the \$200.00 overpayment.

(b) Food stamp recertifications—general: The following general procedures shall apply to all food stamp recertifications.

1. Timeliness: The CWA shall recertify an eligible household which timely reapplies and provide it with an opportunity to participate in the household's normal issuance cycle.

2. Retrospective recertification: The CWA shall recertify all households, except migrant farmworker households while in the job stream and NPA households exempt from monthly reporting, using information from the corresponding budget month to determine the household's benefit level for the first month of the new certification period. Migrant farmworker households, while in the job stream, and NPA households exempt from monthly reporting will be recertified using prospective budgeting, according to N.J.A.C. 10:90-2.2(a)1.

3. Notice of expiration: The CWA shall mail the notice of expiration of the certification period to the household either with the MSR or with the letter scheduling the recertification interview.

4. Recertification interview: The CWA shall conduct a complete interview with a household member or authorized representative. The CWA shall schedule the interview for any time during the last month of the old certification period.

5. Certification periods: The certification periods of households subject to monthly reporting and retrospective budgeting shall not be less than six months nor longer than 12 months. *[The certification periods of households subject to periodic reporting shall not be less than six months.]* *The certification periods of NPA households exempt from monthly reporting and retrospective budgeting shall be assigned in accordance with N.J.A.C. 10:87-6.23 and may not be greater than 12 months.*

i. Changes in the length of certification periods due to a household's change between MR and non-MR status and retrospective and prospective budgeting must be made with proper notice to the household.

6. A household subject to MR shall not be recertified unless the MSR form is properly completed and submitted. No food stamp benefits will be issued for the new certification period without full verification and the recertification action being completed.

(c) Food stamp recertifications-PA households: The following shall apply to recertifications of PA households, in addition to (b) above.

1. Recertification form: PA households shall be recertified using Form

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PA-1J, if exempt from monthly reporting, or the MSR and relevant sections of Form PA-1J, if subject to monthly reporting.

2. If the CWA schedules the recertification interview for a date on or before the MSR's Filing Deadline, the CWA shall permit the household member and/or authorized representative to bring the MSR to the interview.

3. The CWA shall obtain the information necessary to complete Form PA-1J at the recertification interview.

4. The household shall complete Form PA-1J no later than the time of the recertification interview.

5. PA households whose AFDC eligible units are subject to monthly reporting shall be assigned 12-month certification periods to coincide with the AFDC case review.

(d) Food stamp recertifications—NPA households: The following shall apply to recertifications of NPA households, in addition to (b) above.

1. Recertification form: NPA households shall be recertified using Form FSP-901, if exempt from monthly reporting, or the MSR and relevant sections of Form FSP-901, if subject to monthly reporting. Form FSP-901, "Application and Recertification for Participation in the Food Stamp Program", is the form used to completely determine a household's eligibility for participation in the Food Stamp program. It asks detailed questions concerning household composition, expenses, deductions, income, resources (bank accounts, automobiles, and so forth) and work registration. The household member must answer the relevant questions with the assistance of a CWA eligibility worker, if necessary, and provide written verification of income and circumstances from third party sources. The form contains statements, which the household member(s) or authorized representative must sign, concerning the accuracy of the reported information, authorization for the CWA to contact third party sources for verification, non-discrimination and fair hearings, and food stamp penalty warnings.

2. Recertification process: NPA households subject to monthly reporting will be recertified according to either (d)2i or ii below. The CWA will select either recertification option 1 or 2 and apply the procedures to all NPA households in MR. NPA households exempt from monthly reporting will be recertified according to N.J.A.C. 10:87-9.

i. Option 1—Mail-out of MSR: The CWA shall mail the MSR to the household for receipt and completion before or at the time of the recertification interview.

(1) The CWA shall mail the notice of expiration and the MSR to the household, so the household receives the MSR by the first day of the processing month. The processing month is the last month of the old certification period.

(2) If the interview is scheduled for a date on or before the Filing Deadline, the CWA shall permit the household member and/or authorized representative to bring the MSR to the interview.

(3) The CWA shall obtain information necessary to complete relevant portions of Form FSP-901 at the recertification interview.

(4) If a household does not return the MSR by the Filing Deadline, either by mail or at a recertification interview, the CWA shall send an Extension Notice, according to N.J.A.C. 10:90-5.1(b).

ii. Option 2—Provide MSR at interview: The CWA shall provide the MSR to the household at the recertification interview for completion at the interview.

(1) The CWA shall mail the notice of expiration for household receipt by the first day of the processing month. The processing month is the last month of the old certification period.

(2) The CWA shall provide the household with the MSR at the recertification interview.

(3) The household shall complete the MSR and the CWA shall obtain information necessary to complete relevant portions of Form FSP-901 at the recertification interview. If there is insufficient verification provided on the MSR, the CWA shall allow the household 10 days from the date the missing verification was initially requested by the CWA.

(4) If a household that is being recertified under this option does not complete the MSR by the Filing Deadline, the CWA shall not send the household an Extension Notice.

10:90-6.2 Fair hearings

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

(c) Continued assistance: If an eligible unit/household requests a fair hearing in accordance with (b) above, within 10 days of the date of the adverse action notice, and does not waive continued assistance, the CWA shall continue assistance until the resolution of the fair hearing. For hearing requests concerning food stamp-related information report on the MSR, the CWA shall continue food stamp benefits until the end of the certification period or resolution of the fair hearing, whichever is first.

If the CWA did not receive the MSR from the eligible unit/household by the Extension Deadline, and the eligible unit/household admits that it did not file the MSR, the eligible unit/household shall not have its assistance/food stamp benefits continued. If the fair hearing is with regard to termination for non-receipt of the MSR by the CWA, then a new, complete MSR for the month in question shall be submitted by the eligible unit/household before assistance/food stamp benefits are continued. Receipt of continued assistance is also subject to the following provisions:

1.-2. (No change.)

10:90-6.3 Transfers

(a) The following policy for cases transferred between counties supplements CWA transfer responsibilities contained in N.J.A.C. 10:81-3.27:

1. Responsibilities of the county of origin: The CWA shall submit the eligible unit's/household's most recent MSR along with other required documents to the receiving CWA.

2. Responsibilities of the receiving county: The CWA shall continue to calculate the eligible unit's/household's assistance payment/food stamp benefit using retrospective budgeting.

(b) The eligible unit/household must file MSRs for all months while responsibility for case management and payment is being transferred from one county to another. Failure of an eligible unit/household to file the MSR for any budget month shall result in denial of assistance/food stamp benefits for the corresponding payment month.

1. Example: On March 5 an eligible unit moves from county A to county B and applies for assistance in county B. The eligible unit must file the MSR for the February Budget Month before assistance may be granted for the April Payment Month.

Example: An eligible unit's assistance is terminated for the March Payment Month for failure to file an MSR for the January Budget Month. On March 5 the eligible unit moves from county A to county B and applies for assistance in county B. The eligible unit must file an MSR for the January Budget Month before assistance may be granted.

(a)

DIVISION OF YOUTH AND FAMILY SERVICES Manual of Standards for Adoption Agencies Readoption: N.J.A.C. 10:121A

Proposed: May 19, 1986 at 18 N.J.R. 1057(a).

Adopted: July 14, 1986 by Drew Altman, PhD., Commissioner,
Department of Human Services.

Filed: July 14, 1986 as R.1986 d.324, **without change**.

Authority: N.J.S.A. 9:3-37 et seq.

Effective Date: July 14, 1986.

Expiration Date: August 6, 1987.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:121A.

CORRECTIONS**(a)****STATE PAROLE BOARD****Parole Board Rules****Adopted Amendments: N.J.A.C. 10A:71-2.2, 3.3, 3.4, 3.22, 3.27, 3.28, 3.31, 4.2, 4.3**

Adopted: June 27, 1986 by New Jersey State Parole Board
Christopher Dietz, Chairman.

Filed: July 1, 1986 as R.1986 d.306, **without change.**

Authority: N.J.S.A. 30:4-123.48(d), 30:4-123.51(g),
30:4-123.54(d).

Effective Date: August 4, 1986.

Expiration Date: April 15, 1990.

Summary of Public Comments and Agency Responses:

During the comment period, the Board received substantive comments from three County Prosecutors and two County Jail Wardens. The principal comments and the Board responses follow:

1. **Comment to N.J.A.C. 10A:71-3.22:** A Prosecutor believed that permitting the juvenile Board panel or a panel member to reduce a parole release date outside of the schedule without the necessity of a recommendation from a hearing officer will reduce the terms of many inmates and will eliminate the safeguard of a hearing officer first reviewing the inmates' progress and making a recommendation. It is believed that without the safeguard more mistakes will be made which will result in the earlier release of unworthy inmates and the corresponding danger to the public will be increased.

Response: Board members are appointed by the Governor with the advice and consent of the Senate and are vested by statute with the authority to release juvenile inmates on parole status. Inherent in such authority is the establishment of parole eligibility terms and the reduction of same as may be deemed appropriate. The amendment to this section does not eliminate in total appropriate recommendations by hearing officers who conduct quarterly review hearings. However, in such cases where the Board panel or a panel member conducts the quarterly review hearing, there is no need for a recommendation by a hearing officer since the Board panel or a panel member will personally be reviewing the case materials and assessing the juvenile inmate's progress. The Board does not perceive the amendment as an elimination of a safeguard and certainly does not believe that the amendment will lead to the earlier release of unworthy inmates. A juvenile inmate will only be released upon parole when the juvenile Board panel or a panel member determines that the statutory criteria for release has been satisfied.

2. **Comment on N.J.A.C. 10A:71-3.27:** A Prosecutor believed that permitting a juvenile Board panel member who conducts a quarterly review hearing to render a decision to certify parole release without the review of an assigned member of the Board panel estimates an additional safeguard which can result in the earlier release of inmates and increase the corresponding danger to the public.

Response: The members of the juvenile Board panel are by statute vested with authority to certify the parole release of a juvenile inmate upon the conclusion of a personal interview (quarterly review hearing) with the juvenile inmate. The amendments to the rule permit a juvenile Board panel member to exercise the statutory authority vested in all members of the juvenile Board panel. The Board does not concur in the opinion of the Prosecutor that the amendments will result in the earlier release of unworthy inmates. The Board is confident that no juvenile inmate will be released on parole status until the statutory criteria has been satisfied.

3. **Comment to N.J.A.C. 10A:71-3.27(a)4:** A Prosecutor advised that the removal of the authority of a hearing officer to recommend an increase in the parole release date of a juvenile inmate at a quarterly review, yet permitting a hearing officer to recommend a decrease in the parole release date, is an unfair and one-sided approach. The Prosecutor believed that the amendment may lead to the early release on parole of juvenile inmates who have demonstrated, while incarcerated, that they are threats to the community.

Response: An increase in (extension of) the parole release date of a juvenile inmate for institutional misconduct or lack of participation in rehabilitative programs is not precluded as a result of the proper mechanism for the imposition of an increase in (extension of) a parole release

date is the rescission hearing process. Accordingly, if a hearing officer determines that an increase in (extension of) a parole release date may be appropriate, the hearing officer may refer the juvenile inmate's case for a rescission hearing pursuant to section 3.27(a).

4. **Comment to N.J.A.C. 10A:71-3.22, 3.27 AND 3.28:** A County Jail Warden believed that authority to either reduce or increase parole release dates or certify parole release dates in the case of juvenile inmates should not be vested in any individual Board panel member without a hearing officer recommendation.

Response: Please refer to the Board's previous responses under N.J.A.C. 10A:71-3.22 and 3.27.

5. **Comment to N.J.A.C. 10A:71-3.31:** A County Jail Warden believed that county inmates should be required to serve the full one-third of their sentences without credits. The Warden believed that the practice of applying credits results in inordinately short terms in respect to the actual sentence and that credits should only be applied to the remaining two thirds of the sentence.

Response: Eligibility for the parole consideration of county jail inmates is based on statutory provisions. The Board cannot exclude from the computation of parole eligibility those credits which by statute an inmate is entitled to receive. The amendments to the rule merely identify the statutory provisions authorizing the appropriate credits and, in the case of jail credits, clarify that same are awarded by the sentencing court pursuant to the specified court rule.

6. **Comment to N.J.A.C. 10A:71-4.2:** A Prosecutor believed that allowing county inmates to appeal a decision to deny parole will result in the earlier release of unworthy inmates. By permitting an appeal, the Prosecutor believed the following: that the special county panel would have a greater reluctance to deny parole; that there would be an increase in the number of unworthy inmates released on parole; and that reversal of the special county panel to deny parole will increase the number of inmates before they are rehabilitated.

Response: There presently exists an administrative appeal process for adult, young adult and juvenile inmates. The Board cannot perceive a reasonable basis for the exclusion of county jail inmates from the opportunity to appeal administratively a decision denying parole. Additionally, the amendment is necessary in order to require county jail inmates to exhaust administrative remedies prior to pursuing legal action against the Board in the Superior Court—Appellate Division.

The Board members are sworn to uphold the laws of this State and a decision to grant parole will only be rendered upon the determination that the statutory criteria for parole release has been satisfied. The Board does not believe and cannot conceive that any member of the special county panel would certify parole release of a county jail inmate merely to avert the potential reversal of a decision to deny parole.

7. **Comment to N.J.A.C. 10A:71-4.2(i):** A County Jail Warden expressed concern that permitting an inmate to appeal the computation of his parole eligibility may create the following problems: that there would be unnecessary delays in scheduling hearings; that the existing formula for computation of parole eligibility will be discredited; and that the parole eligibility would become a more subjective process.

Response: The Board does not believe that establishing an administrative appeal process will have any effect whatsoever on the timely scheduling and conducting of parole hearings. The existing formula is based on statutory language and in no way may the statutory formula be undermined or discredited by becoming a subjective process. Further, the amendment was suggested by the Department of Law and Public Safety in order to alleviate the number of unnecessary and time consuming appeals to the Superior Court—Appellate Division. The administrative appeal process will require inmates to exhaust their administrative remedies prior to pursuing court action and will permit the Board to review and correct, if necessary, an error in a computation without the necessity of court action.

Full text of the adoption follows.

10A:71-2.2 Records retention

(a) Electronic recordings of parole hearings and revocation hearings shall be retained by the Board for at least one year from the date a decision is rendered in an inmate's case provided, however, that if an appeal is filed within one year from the date of the decision being appealed, such recordings shall be retained until final determination of the appeal.

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

10A:71-3.3 Parole eligibility for young adult inmates

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

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(f) Credit awarded by the sentencing court pursuant to R.3:21-8 for time served in a county jail prior to the date of sentence shall reduce the presumptive primary eligibility date established pursuant to (a), (b), (c) or (e) above.

Redesignate existing (f)-(i) as (g)-(j) (No change in text.)

10A:71-3.4 Institutional infractions: adult inmates

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

(d) Institutional infractions specified and defined by the Department shall be assigned to categories on the following basis:

1.-4. (No change.)

5. Infraction Category E shall consist of .004, Fighting with another person; .005, Threatening another with bodily harm or with any offense against his person or his property; .153, Stealing (Theft); .257, Violating a condition of any community release program; .258, Refusing to submit to urine analysis; .325, Counterfeiting, forging or unauthorized reproduction or unauthorized use of any classification document, court document, psychiatric, psychological or medical report, money or any other official document; .704, Perpetrating frauds, deceptions, confidence games, riots or escape plots through mail; and .708, Refusal to submit to a search.

6.-7. (No change.)

(e)-(o) (No change.)

10A:71-3.22 Alteration of parole release dates: juvenile inmates

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

(c) The juvenile Board panel or a juvenile Board panel member may reduce a parole release date outside of the schedule contained in the provisions of this subsection when deemed appropriate in view of the juvenile inmate's participation in institutional programs or the juvenile inmate's institutional adjustment.

(d) (No change.)

10A:71-3.27 Quarterly review notice of decision: juvenile inmates

(a) At the conclusion of the quarterly review conducted by a hearing officer, the hearing officer shall:

1.-3. (No change.)

4. Recommend a decrease in the parole release date in accordance with N.J.A.C. 10A:71-3.22(a), (b) or (c); or

5.-6. (No change.)

(b) The hearing officer, at the conclusion of the quarterly review, shall immediately advise the juvenile inmate in writing of the determination and submit the written determination to the assigned member(s) of the juvenile Board panel.

(c) If the hearing officer defers a decision, the juvenile inmate and the assigned member(s) of the juvenile Board panel shall be advised in writing of the decision upon being rendered by the hearing officer.

(d) If the hearing officer recommends the juvenile inmate's release on parole, the juvenile inmate shall be advised of any special conditions recommended.

(e) At the conclusion of the quarterly review conducted by a juvenile Board panel member, the juvenile Board panel member shall render a determination(s) as provided in N.J.A.C. 10A:71-3.28(a).

(f) The provisions of N.J.A.C. 10A:71-3.28 (b), (c) and (d) shall apply to those cases in which the quarterly review is conducted by a juvenile Board panel member.

10A:71-3.28 Board member review: juvenile inmates

(a) Upon review of the recommendation of the hearing officer, the assigned member of the juvenile panel shall render the following determination(s);

1.-5. (No change.)

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

10A:71-3.31 Calculation of parole eligibility: county inmates

(a) (No change.)

(b) If the parole eligibility date is based on a judicial or statutory mandatory minimum term or 60 days of the aggregate term, the parole eligibility date shall include credit awarded by the sentencing court pursuant to R.3:21-8 for time served in the county jail prior to the date of sentence.

(c) If the parole eligibility date is based on one-third of the sentence imposed, the parole eligibility date shall include commutation credits pursuant to N.J.S.A. 2A:164-24, credit awarded by the sentencing court pursuant to R.3:21-8 for time served in the county jail prior to the date of sentence, and earned work and earned minimum custody credits pursuant to N.J.S.A. 30:8-28.4.

(d) In no case shall a county inmate be eligible for parole prior to the service of 60 days of his aggregate term, less credit awarded by the sentencing court pursuant to R.3:21-8 for time served in the county jail prior to the date of sentence.

10A:71-4.2 Appeals by inmates

(a) Any denial of parole by the special county, young adult or adult Board panel shall be appealable to the Board provided one of the following criteria is met:

1.-3. (No change.)

(b)-(h) (No change.)

(i) The computation of a parole eligibility date by the Board's staff shall be appealable to the Chairperson provided one of the following criteria is met:

1. The computation of the parole eligibility date is contrary to Board practice or procedure.

2. The computation of the parole eligibility date does not correctly reflect credits awarded by the sentencing court or earned work and/or minimum custody credits awarded by the Department.

3. The computation of the parole eligibility date is based upon inaccurate sentencing information.

10A:71-4.3 Appellate procedure

(a) (No change.)

(b) Appeals filed by inmates shall be considered by the Board panel, Board or Chairperson, as appropriate, within 45 days of the date the appeal was received.

(c) The Chairperson or Board panel member shall notify the inmate in writing of the decision within 14 days of such decision.

(d) The Board panel, Board or Chairperson, as appropriate, may affirm, modify or reverse the decision being appealed, or may remand the case to the Board's staff, hearing officer, Board member or Board panel for further consideration.

LABOR**(a)****THE COMMISSIONER****Appeals to Board of Review
Temporary Appointments****Adopted New Rule: N.J.A.C. 12:20-4.8**

Proposed: March 17, 1986 at 18 N.J.R. 544(b).

Adopted: July 21, 1986 by George M. Krause, Acting
Commissioner, Department of Labor.

Filed: July 8, 1986 as R.1986 d.312, **without change.**

Authority: N.J.S.A. 34:1A-3.

Effective Date: August 4, 1986.

Expiration Date: November 5, 1989.

Summary of Public Comments and Agency Responses:

The Department of Labor held open a comment period until April 16, 1986. The Department of Labor also solicited comments from a list of interested parties.

No negative comments were received from the interested parties. Negative comments were received from John E. Young of Audubon, New Jersey on the Notice in the New Jersey Register.

COMMENT: Mr. Young suggests that the temporary appointment represents improper delegation of administrative authority and that the Executive Secretary does not have the expertise to serve.

RESPONSE: The Department's position is that the Commissioner has this authority under N.J.S.A. 34:1A-3 and that the Executive Secretary has the expertise to serve.

Full text of the adopted new rule follows.

12:20-4.8 Temporary appointment to Board of Review

The Executive Secretary to the Board of Review shall serve in the place of any member of the Board who is temporarily absent or unavailable.

ENERGY

(a)

DIVISION OF ENERGY PLANNING AND CONSERVATION

Energy Subcode

Thermal and Lighting Efficiency Standards

Adopted Amendments: N.J.A.C. 14A:3-4.4 and 4.5

Proposed: May 19, 1986 at 18 N.J.R. 1089(a).

Adopted: July 8, 1986 by New Jersey Department of Energy,

Charles A. Richmond, Acting Commissioner.

Filed: July 9, 1986 as R.1986 d.314, **without change.**

Authority: N.J.S.A. 52:27F-27.

Effective Date: August 4, 1986.

Operative Date: November 3, 1986.

Expiration Date: October 7, 1990.

Summary of Public Comments and Agency Responses:

Proposed amendments to the Energy Subcode were the subject of extensive public participation within the context of public hearings on the New Jersey Energy Master Plan. Proposed changes to the subcode were included as Appendix B in the Draft Energy Master Plan (February 1985). The principal commentators at a July 22, 1985 public hearing on the Draft Master Plan were the New Jersey Builders Association and the National Association of Home Builders. At that hearing the National Association of Home Builders specifically requested that amendments to the Energy Subcode be based on guidelines adopted by the Federal National Mortgage Association and the Farmers Home Administration (FMHA).

Based on the commentary received on the Master Plan, the Department proposed changes to the Energy Subcode based on the FMHA guidelines. The New Jersey Builders Association was the only commentator on the proposed amendments to the Energy Subcode which appeared at 18 N.J.R. 1089(a). The New Jersey Builders Association submitted comments on this proposal. These comments were a restatement of their earlier position at the Master Plan hearings. The comments did not debate the merits of the proposal nor the technical standards. Rather, the comments stated that the builders were already responding to market conditions which demanded energy conservation measures, therefore, the rules were unnecessary. Careful consideration was given to their position. The Department finds no reason to delay the adoption of the proposed amendments based upon the testimony filed by the New Jersey Builders Association. Therefore, the regulations were adopted as proposed without changes. The regulations will become operative on November 3, 1986.

Full text of the adoption follows.

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/1984, including all subsequent revisions and amendments thereto. Copies of the BOCA Basic/National 1984 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. 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 ¹	Annual heating degree days-°F	Maximum "U ₀ "	
		A1	A2
I	5000	0.063	0.29
II	5500	0.063	0.28
III	6000	0.063	0.27

¹See Figure A.

Note 1. A1 indicates detached one and two family dwellings.

Note 2. A2 indicates all other residential buildings not more than three stories in height.

iii. In Section E-301.2.1, delete exceptions 1 and 2 and Figures E-301.2.1b and E-301.2.1c.

iv. 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 ¹	Annual heating degree days-°F	Maximum "U ₀ "
I	5000	0.033
II	5500	0.033
III	6000	0.033

¹See Figure 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 0.052 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 ¹	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

¹See Figure A.

x. In Section E-301.3.1 delete words "Figure E-301.3.1" 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 ¹	Annual heating degree days-°F	Maximum "U ₀ " Mtu/hr-ft ² -°F	
		Over 3 Stories	3 Stories & Under
I	5000	0.355	0.295
II	5500	0.345	0.285
III	6000	0.330	0.275

¹See Figure 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 ¹	Annual heating degree days-°F	Maximum "U ₀ " Btu/hr-ft ² -°F
I	5000	0.084
II	5500	0.080
III	6000	0.076

¹See Figure A.

xiv.-xv. (No change.)

xvi. In Section E-301.3.5 delete the words "those specified in Figure E-301.3.5" and add the words "33.5 Btu/hr-ft²."

xvii. (No change.)

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 47 and add the numbers 13.6 and 43, respectively.

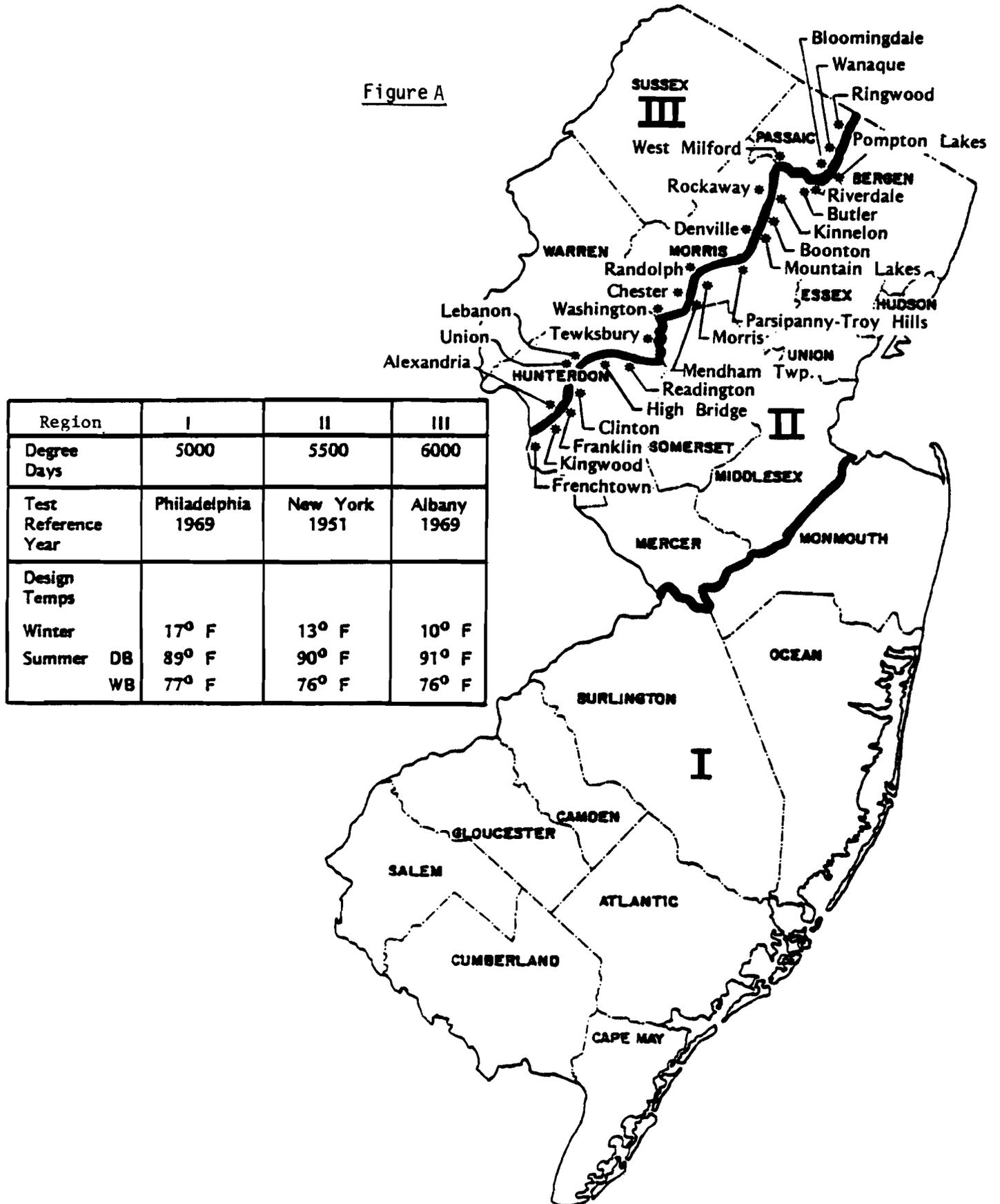
ii. Add Section E-504.0 SWIMMING POOLS as follows:

(1) E-501.1 Pool Heaters.

(A) (No change.)

(B) E-504.1.2 All gas and oil fired pool heaters shall have a thermal efficiency of 75 percent when tested in accordance with ANSI Z21.56-1975.

Figure A



(C) (No change.)

(2) E-504.2. Pool Covers. Heated swimming pools shall be equipped by the builder with a pool cover.

(A) Exception: Outdoor pools deriving over 20 percent of the energy for heating from non-depletable sources (computed over an operating season) shall not be required to be equipped by the builder 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 700.1 is amended to delete the words "this code" on line 6 and add "the energy subcode."

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". Copies of LEM-1 may be obtained from the sponsor at IES, 345 East 47th Street, New York, New York 10017.

(b) (No change.)

OTHER AGENCIES

(a)

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Fees

Adopted Repeal and New Rule: N.J.A.C. 19:30-2.

Proposed: May 19, 1986 ad 18 N.J.R. 1094(b).

Adopted: July 7, 1986 by N.J. Economic Development Authority, Borden R. Putnam, Chairman, James J. Hughes, Jr., Executive Director.

Filed: July 8, 1986 as R.1986 d.311, **without change.**

Authority: N.J.S.A. 34:1B et seq., specifically 34:1B-5(k) and (l).

Effective Date: August 4, 1986.

Expiration Date: October 7, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

SUBCHAPTER 2. FEES

19:30-2.1 Application 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.

CASINO CONTROL COMMISSION

(b)

Rules of the Games

Minibaccarat

Adopted New Rule: N.J.A.C. 19:47-7

Adopted Amendments: N.J.A.C. 19:45-1.11, 1.12; 19:46-1.12, 1.19 and 19:47-8.2

Proposed: May 19, 1986 at 18 N.J.R. 1096(a).

Adopted: July 2, 1986 by the Casino Control Commission, Walter N. Read, Chairman.

Filed: July 3, 1986 as R.1986 d.308, **without change.**

Authority: N.J.S.A. 5:12-63(c), 5:12-69, 5:12-70(g)(1) and 5:12-101.

Effective Date: August 4, 1986.

Expiration Date: N.J.A.C. 19:45 (April 7, 1988); N.J.A.C. 19:46 (May 4, 1988) and N.J.A.C. 19:47 (May 4, 1988).

Summary of Public Comments and Agency Responses:

The Division of Gaming Enforcement recommended that the Commission adopt the minibaccarat regulations as published.

Full text of the adoption follows:

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

SUBCHAPTER 7. 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 Count 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).

(b) Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards shall be spread out face upwards on the table for visual inspection by the first participant or participants to arrive at the table. The cards shall be spread out in horizontal rows by deck according to suit and in sequence. The cards in each suit shall be laid out in sequence within the suit.

(c) After the first participant or participants are afforded an opportunity to visually inspect the cards, the cards shall be turned face downward on the table, mixed thoroughly by a "washing" or "chemmy shuffle" of the cards and stacked.

19:47-7.5 Shuffle and cut of the cards

(a) Immediately prior to the commencement of play and after each shoe of cards is completed, the dealer shall shuffle the cards so that they are randomly intermixed.

(b) After the cards have been shuffled, the dealer shall lace, at a minimum, approximately one deck of cards so that they are evenly dispersed into the remaining stack. After lacing the cards, the dealer shall offer the stack of cards with backs facing away from him, to the participant to be cut. The dealer shall begin with the participant seated in the highest number position at the table and, working clockwise around the table, shall offer the stack to each participant until a participant accepts the cut. If no participant accepts the cut, the dealer shall cut the cards.

(c) The cards shall be cut by placing the cutting card in the stack at least 10 cards in from either end.

(d) Once the cutting card has been inserted into the stack, the dealer shall take all cards in front of the cutting card and place them to the back of the stack. The dealer shall then insert one cutting card in a position at least 14 cards in from the back of the stack, and the second cutting card at the end of the stack. The stack of cards shall then be inserted into the dealing shoe for commencement of play. Prior to commencement of play, the dealer shall remove the first card from the shoe and place it, and an additional amount of cards equal to the amount on the first card drawn, in the discard rack after all cards have been shown to the participants. Face cards and tens count as tens. Aces count as one.

19:47-7.6 Dealing shoe

(a) All cards used to game at minibaccarat shall be of backs of the same color and design and shall be dealt from a dealing shoe specifically designed for such purpose and located on the table to the left of dealer.

19:47-7.7 Hands of player and banker; procedure for dealing initial two cards to each hand

(a) There shall be two hands dealt in the game of minibaccarat one of which shall be denominated the "Player's Hand" and the other denominated the "Banker's Hand".

(b) At the commencement of each round of play, the dealer calling the game shall announce "No More Bets".

(c) The dealer shall deal an initial four cards from the shoe face down. The first and third cards dealt shall be placed face down in the area on the layout designated for the "Player's Hand". The second and fourth cards dealt shall be placed face down in the area on the layout designated for the "Banker's Hand".

19:47-7.8 Procedure for dealing of additional cards

(a) After the cards are dealt to each hand, the dealer shall turn the "Player's Hand" face upwards and announce the Point Count of the "Player's Hand". The dealer shall then turn the "Banker's Hand" face upwards and announce the Point Count of the "Banker's Hand".

(b) Following the announcement of the Point Counts of each hand, the dealer shall determine whether to deal a third card to each hand which instructions shall be in conformity with the requirements of N.J.A.C. 19:47-7.9.

(c) Any third card required to be dealt shall first be dealt face upwards to the "Player's Hand" and then to the "Banker's Hand" by the dealer.

(d) In no event shall more than one additional card be dealt to either hand.

(e) Whenever the cutting card appears during play, the cutting card

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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.)

(a)

**DELAWARE RIVER BASIN COMMISSION
Comprehensive Plan, Water Code of the Delaware
River Basin and Ground Water Protected Area
Regulations of Southeastern Pennsylvania:
Metering**

**Adopted: June 25, 1986 by Delaware River Basin
Commission, Susan M. Weisman, Secretary.**

Filed: July 8, 1986 as R.1986 d.313.

Effective Date: January 1, 1987.

Full text of the adoption follows:

No. 86-12

A RESOLUTION to amend the Comprehensive Plan and Water Code of the Delaware River Basin in relation to source metering of large surface and ground water withdrawals.

WHEREAS, the Special Ground Water Study Basinwide Report and Executive Summary was accepted by the Delaware River Basin Commission on December 15, 1982; and

WHEREAS, the study outlines a recommended program for integrated management of ground-water quantity and quality in the Basin; and

WHEREAS, the study concluded that data regarding ground-water withdrawals and use in the Basin is often inaccurate or incomplete, and that this information is critical for effective management of the Basin's water resources; and

WHEREAS, the Commission's Ground Water Advisory Committee unanimously approved on July 19, 1984 a proposal to require metering of large groundwater withdrawals for the purpose of obtaining an improved water use database for the Basin; and

WHEREAS, following a November 26, 1985 public hearing on a Commission proposal to require metering of large ground-water withdrawals, recommendations were made to expand the proposal to include surface as well as ground water withdrawals; and

WHEREAS, the Commission held public hearings on March 6 and March 26, 1986 regarding this revised proposed amendment and has received and considered testimony from water users and other interested parties; now therefore

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Comprehensive Plan and Article 2 of the Water Code of the Delaware River Basin are hereby amended by the addition of a new subsection 2:50-2, to read as follows:

2:50-2 Source metering, recording and reporting.

(1) Each person, firm, corporation, or other entity whose cumulative daily average withdrawal(s) from the surface and/or ground waters of the Basin from any surface water intake, spring, or well, or any combination of surface water intakes, springs, or wells operated as a system, exceeds 100,000 gallons per day during any 30-day period shall meter or measure and record their withdrawals and report such withdrawals to the designated agency of the state where the withdrawals are located. Withdrawals shall be measured by means of an automatic continuous recording device, flow meter, or other method, and shall be measured to within five percent of actual flow. Exception to the five percent performance standard, but no greater than ten percent, may be granted for surface water withdrawals by the designated state agency if maintenance of the five percent performance standard is not technically feasible or economically practicable. Meters or other methods of measurement shall be subject to approval and inspection by the designated state agency as to type, method, installation, maintenance, calibration, reading, and accuracy. Withdrawals shall at a minimum be recorded on a daily basis for public water supply use and on a biweekly basis for all other water uses, and reported as monthly totals annually. More frequent recording or reporting may be required by the designated state agency or the Commission.

(2) The following water uses and operations are exempt from the metering or measurement requirements of subsection (1): agricultural irrigation; snowmaking; dewatering incidental to mining and quarrying; and dewatering incidental to construction. Persons engaged in such withdrawals in excess of 100,000 gallons per day during any 30-day period shall record the pumping rates and the dates and elapsed hours of operation of any well or pump used to withdraw water, and report such information as required in subsection (1).

(3) The following are the designated state agencies for the purposes of this regulation: Delaware Department of Natural Resources and Environmental Control; New Jersey Department of Environmental Protection; New York State Department of Environmental Conservation; and Pennsylvania Department of Environmental Resources.

(4) Pursuant to Section 11.5 of the Compact, the designated state agencies shall administer and enforce programs for metering, recording, and reporting of water withdrawals, in accordance with this regulation and any applicable state regulations.

(5) This regulation shall be effective January 1, 1987.

No. 86-12

A RESOLUTION to amend the Commission's Ground Water Protected Area Regulations for Southeastern Pennsylvania in relation to ground water withdrawal metering, recording and reporting.

WHEREAS, the Special Ground Water Study Basinwide Report and Executive Summary was accepted by the Delaware River Basin Commission on December 15, 1982; and

WHEREAS, the study outlines a recommended program for integrated management of ground-water quantity and quality in the Basin; and

WHEREAS, the study concluded that data regarding ground-water withdrawals and use in the Basin is often inaccurate or incomplete, and that this information is critical for effective management of the Basin's water resources; and

WHEREAS, the Commission's Ground Water Advisory Committee unanimously approved on July 19, 1984 a proposal to require metering of large groundwater withdrawals for the purpose of obtaining an improved water use database for the Basin; and

WHEREAS, following a November 26, 1985 public hearing on a Commission proposal to require metering of large ground-water withdrawals, recommendations were made to propose a similar amendment to the Ground Water Protected Area Regulations for Southeastern Pennsylvania requiring metering, recording and reporting of ground water withdrawals in excess of 10,000 gpd; and

WHEREAS, the Commission held a public hearing on March 26, 1986 regarding this proposed amendment and has received and considered testimony from water users and other interested parties; now therefore

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Ground Water Protected Area Regulations of Southeastern Pennsylvania are hereby amended by the addition of a new section 9, to read as follows:

9. Ground water withdrawal metering, recording and reporting.

(a) Each person, firm, corporation, or other entity whose cumulative daily average withdrawal of ground water from a well or group of wells operated as a system exceeds 10,000 gallons per day during any 30-day period shall meter or measure and record their withdrawals and report such withdrawals to the Pennsylvania Department of Environmental Resources. Withdrawals shall be measured by means of an automatic continuous recording device, flow meter, or other method, and shall be measured to within five percent of actual flow. Meters or other methods of measurement shall be subject to approval and inspection by the Pennsylvania Department of Environmental Resources as to type, method, installation, maintenance, calibration, reading, and accuracy. Withdrawals shall at a minimum be recorded on a daily basis for public water supply use and on a biweekly basis for all other water uses, and reported as monthly totals annually. More frequent recording or reporting may be required by the Pennsylvania Department of Environmental Resources or the Commission.

(b) The following water uses and operations are exempt from the metering or measurement requirements of subsection (a): agricultural irrigation; snowmaking; dewatering incidental to mining and quarrying; and dewatering incidental to construction; and space heating or cooling uses that are exempt from permit requirements in Section 6. Except for space heating and cooling uses described herein, persons engaged in such withdrawals in excess of 10,000 gallons per day during any 30-day period shall record the pumping rates and the dates and elapsed hours of operation of any well or pump used to withdraw water, and report such information as required in subsection (a). Space heating and cooling uses that are exempt from permit requirements in Section 6 shall also be exempt from the requirement for recording and reporting.

(c) Pursuant to Section 11.5 of the Compact, the Pennsylvania Department of Environmental Resources shall administer and enforce a program for metering, recording, and reporting ground-water withdrawals in accordance with this regulation.

(d) This regulation shall be effective January 1, 1987.

2. Renumber existing sections 9 through 18 of the Ground Water Protected Area Regulations as required to reflect the addition of the foregoing new section 9.

OFFICE OF ADMINISTRATIVE LAW NOTE: These rules are not subject to codification and will not appear in the New Jersey Administrative Code.

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

EMERGENCY ADOPTION

LAW AND PUBLIC SAFETY

(a)

NEW JERSEY RACING COMMISSION

Thoroughbred Rules: Super Six

Harness Rule: Super Six

Adopted Emergency Amendment with Concurrent

Proposal: N.J.A.C. 13:70-29.56

Adopted Emergency New Rule with Concurrent

Proposal: N.J.A.C. 13:71-27.53

Emergency Amendment and New Rule Adopted: July 7, 1986 by
New Jersey Racing Commission, Charles K. Bradley, Deputy
Director.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): July 17, 1986.
Emergency Amendment and New Rule Filed: July 17, 1986 as
R.1986 d.334.

Authority: N.J.S.A. 5:5-30.

Emergency Amendment and New Rule Effective Date: July 17,
1986.

Emergency Amendment and New Rule Expiration Date:
September 15, 1986.

Concurrent Proposal Number: PRN 1986-316.

The following amendment and new rule was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.5). Concurrently, the provisions of this new rule and 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.

Submit comments by September 3, 1986 to:
Charles K. Bradley, Deputy Director
New Jersey Racing Commission
CN 088, Justice Complex
Trenton, New Jersey 08625

The agency emergency adoption and concurrent proposal follows:

Summary

In 1986 the racetracks in New Jersey have experienced a decline in on-track handle and attendance. The decline has produced a negative economic effect which has resulted in layoffs of workers, reductions in purses paid to horsemen, and revenue to the state and track associations have been reduced. There also has been an indirect negative economic effect on all ancillary industries such as suppliers, farms, and business establishments. The Super-Six form of wagering, with a carryover provision, is expected to increase handle and attendance. To the extent that the handle and attendance are increased, there will be an increase in revenue to the state, the tracks, jobs, and purses, as well as an indirect economic benefit to the public of the State of New Jersey.

If Super-Six is allowed to begin immediately, it will allow New Jersey to maintain its competitive position with respect to neighboring states that do have a similar wager, e.g., New York and Delaware. It would also benefit the seasonal tracks which only conduct live race meetings in the summer.

The adopted emergency amendment and adopted emergency new rule with concurrent proposal supersedes the proposed amendment to N.J.A.C. 13:70-29.56 and the proposed new rule, N.J.A.C. 13:71-27.53, published in the July 7, 1986 issue of the New Jersey Register at 18 N.J.R. 1345 and 18 N.J.R. 1346.

Economic Impact

The economic impact of the proposed new rule is positive. The carry-over provision is expected to generate increased handles at the five New Jersey tracks which, in turn, will increase state revenue, purse money to participants, track share and breeder programs, since each of these receive a percentage of the handle by statute. An actual total dollar amount cannot be estimated. There should be no increased costs.

Social Impact

The social impact of the proposed new rule is negligible. The rule does not authorize a new form of betting, it merely allows for a carry-over if no one correctly selects all six winners. There will be no differential impact on any segment of the public.

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

13:70-29.56 **Super-Six** [Pick-Six]

(a) The **Super-Six** [Pick-Six] (or other approved name) is a form of pari-mutuel wagering. Each bettor selects the first horse in each of six consecutive races designated as the **Super-Six** [Pick-Six] races by the **permitholder** [association]. The principle of a **Super-Six** [Pick-Six] is in effect a contract by the purchaser of a **Super-Six** [Pick-Six] ticket to select the winners of each of the six races designated as the **Super-Six** [Pick-Six].

(b) The **Super-Six** [Pick-Six] pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, trifecta or other wagering pool. The **Super-Six** [Pick-Six] pool is a pool wherein the bettor is required to select six consecutive winning horses and is not a parlay.

(c) **Super-Six** [Pick-Six] tickets shall be sold in not less than **\$1.00** [\$2.00] denominations and only from machines capable of issuing six numbers.

(d) Races in which **Super-Six** [Pick-Six] pools shall be conducted shall be approved by the Commission and clearly designated in the program.

(e) The design of **Super-Six** [Pick-Six] tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(f) The **Super-Six** [Pick-Six] pari-mutuel pool shall be calculated as follows:

1. **100** [75] percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the **Super-Six** [Pick-Six]. [The remaining undistributed 25 percent of the net pool shall be distributed among the holders of pari-mutuel tickets which correctly designate the most winning selections less than the six winning selections herein before described.]

2. In the event there is no pari-mutuel ticket held which correctly designates the winner of all races comprising the **Super-Six** [Pick-Six], **25** [75] percent of that racing date's net amount available for distribution shall be distributed among the holders of pari-mutuel tickets correctly designating the most winning selections of the six races comprising the **Super-Six** [Pick-Six], and the remaining undistributed **75** [25] percent of said pool shall be carried over and added to the pool on the next day on which wagering is conducted. [distributed among those ticket holders who have designated the next most winning selections among those races constituting the Pick-Six.]

3. **If, on the last day on which the system of wagering is conducted at a horse race meeting, no bettor selects the winning horses in those races, the total amount of the pool which exists on that day in connection with those races shall be paid to the bettor or bettors who selected the largest number of winning horses in those races. In no event shall any part of the pool be carried over to the next year's race meeting.**

(g) Those horses constituting an entry or a field as defined within the rules and regulations of the Commission shall race in any **Super-Six** [Pick-Six] race as a single wagering interest for the purpose of the **Super-Six** [Pick-Six] pari-mutuel pool calculations and payouts to the public. A scratch after wagering has begun of any part of an entry of field selection in such a race shall be of no effect with respect to the status of such entry and/or field as a viable wagering interest.

(h) In the event a horse is excused in any Pick-Six race, the amount representing the purchase price of that pari-mutuel ticket shall be withdrawn from the gross distributable amount in the pool and that total net value of all such withdrawn tickets shall be distributed as a consolation award among the holders of such withdrawn Pick-Six tickets designating the most winning selections. No ticket holder shall receive such a consolation prize in the event said ticket holder is a recipient of monies pursuant to subsection (f) of this section.]

(h) **At any time after wagering begins on the Super-Six pool should a horse, entire betting entry or field be scratched or declared a non starter**

in any Super-Six race, no further tickets selecting such horse, betting entry or field shall be issued, and wagers upon such horse, betting entry or field, for purposes of the Super-Six pool shall be deemed wagers upon the horse, betting entry or field upon which the most money has been wagered in the win pool at the track at the close of win pool betting for such race. In the event of a money tie, the tied horse, betting entry or field with the most inside post position shall be designated.

(i)-(j) (No change.)

(k) If, for any reason, any race or races of a Super-Six [Pick-Six] program is cancelled and declared "No Race," the Super-Six [Pick-Six] pool shall be distributed to the holders of the most winning selections of the remaining races pursuant to [paragraph (f)2 of this section] (f)1 and 2 above. In the event the Stewards cancel or declare as "No Race" three or more of the Super-Six [Pick-Six] races for any given date, all pari-mutuel tickets for that Super-Six [Pick-Six] pool shall be refunded and the Super-Six [Pick-Six] cancelled for that day.

(l) In the event of a dead heat for win between two or more horses in any Super-Six [Pick-Six] race, all such horses in the dead heat for win shall be considered as the winning horse in the race for the purpose of distributing the Super-Six [Pick-Six] pari-mutuel pool.

(m) No person shall disclose the number of tickets sold in the Super-Six [Pick-Six] pool or the number or amount of tickets selecting winners of Super-Six [Pick-Six] races prior to the time the Judges have declared the last Super-Six [Pick-Six] race on any given date official.

(n) No pari-mutuel ticket for the Super-Six [Pick-Six] pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the six races comprising the Super-Six [Pick-Six], except for refunds as required by this section.

(o) This rule shall be prominently displayed throughout the betting area of each association conducting a Super-Six [Pick-Six] program[,] and in the official racing program.

(p) Should circumstances occur which are not foreseen in this section, questions arising thereby shall be resolved in accordance with general pari-mutuel practice. Decisions regarding distribution of Super-Six pools will be final.

Full text of the adopted emergency new rule and concurrent proposal follows:

3:71-27.53 Super-Six

(a) The Super-Six (or other approved name) is a form of pari-mutuel wagering. Each bettor selects the first horse in each of six consecutive races designated as the Super-Six races by the permitholder. The principle of a Super-Six is in effect a contract by the purchaser of a Super-Six ticket to select the winners of each of the six races designated as the Super-Six.

(b) The Super-Six pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, trifecta or other wagering pool. The Super-Six pool is a pool wherein the bettor is required to select six consecutive winning horses and is not a parlay.

(c) Super-Six tickets shall be sold in not less than \$1.00 denominations and only from machines capable of issuing six numbers.

(d) Races in which Super-Six pools shall be conducted shall be approved by the Commission and clearly designated in the program.

(e) The design of Super-Six tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(f) The Super-Six pari-mutuel pool shall be calculated as follows:

1. 100 percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the Super-Six.

2. In the event there is no pari-mutuel ticket held which correctly designates the winner of all races comprising the Super-Six, 25 percent

of that racing date's net amount available for distribution shall be distributed among the holders of pari-mutuel tickets correctly designating the most winning selections of the six races comprising the Super-Six, and the remaining undistributed 75 percent of said pool shall be carried over and added to the pool on the next day on which wagering is conducted.

3. If, on the last day on which this system of wagering is conducted at a horse race meeting, no bettor selects the winning horses in those races, the total amount of the pool which exists on that day in connection with those races shall be paid to the bettor or bettors who selected the largest number of winning horses in those races. In no event shall any part of the pool be carried over to the next year's race meeting.

(g) Those horses constituting an entry or a field as defined within the rules and regulations of the Commission shall race in any Super-Six race as a single wagering interest for the purpose of the Super-Six pari-mutuel pool calculations and pay-outs to the public. A scratch after wagering has begun of any part of an entry of field selection in such a race shall be of no effect with respect to the status of such entry and/or field as a viable wagering interest.

(h) At any time after wagering begins on the Super-Six pool should a horse, entire betting entry or field be scratched or declared a non starter in any Super-Six race, no further tickets selecting such horse, betting entry or field shall be issued, and wagers upon such horse, betting entry or field, for purposes of the Super-Six pool shall be deemed wagers upon the horse, betting entry or field upon which the most money has been wagered in the win pool at the track at the close of win pool betting for such race. In the event of a money tie, the tied horse, betting entry or field with the most inside post position shall be designated.

(i) After off-time, there shall be no refund in either of the cases, provided for in (h) above.

(j) For the purpose of this section, when horses are prevented from starting by any malfunction of the starting gate itself they shall be considered as having been excused by the judges.

(k) If, for any reason, any race or races of a Super-Six program is cancelled and declared "No Race," the Super-Six pool shall be distributed to the holders of the most winning selections of the remaining races pursuant to (f)1 and 2 above. In the event the Stewards cancel or declare as "No Race" three or more of the Super-Six races for any given date, all pari-mutuel tickets for that Super-Six pool shall be refunded and the Super-Six cancelled for that day.

(l) In the event of a dead heat for win between two or more horses in any Super-Six race, all such horses in the dead heat for win shall be considered as the winning horse in the race for the purpose of distributing the Super-Six pari-mutuel pool.

(m) No person shall disclose the number of tickets sold in the Super-Six pool or the number or amount of tickets selecting winners of Super-Six races prior to the time the Judges have declared the last Super-Six race on any given date official.

(n) No pari-mutuel ticket for the Super-Six pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the six races comprising the Super-Six, except for refunds as required by this section.

(o) This rule shall be prominently displayed throughout the betting area of each association conducting a Super-Six program and in the official racing program.

(p) Should circumstances occur which are not foreseen in this section, questions arising thereby shall be resolved in accordance with general pari-mutuel practice. Decisions regarding distribution of Super-Six pools will be final.

MISCELLANEOUS NOTICES

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code

Enforcement Activities Reserved to the State

Notice of Correction: N.J.A.C. 5:23-3.11

Take notice that an error appears in the New Jersey Administrative Code at N.J.A.C. 5:23-3.11 concerning Enforcement activities reserved to the State. A portion of the rule concerning casino hotels was omitted from the text at N.J.A.C. 5:23-3.11. These rules were previously codified at N.J.A.C. 5:23-3.3(i) and were published in the December 7, 1981 issue of the New Jersey Register at 13 N.J.R. 886(b). N.J.A.C. 5:23-3.11 should appear in the New Jersey Administrative Code as follows:

5:23-3.11 Enforcement activities reserved to the State

(a) The Department of Community Affairs shall be the sole plan review agency for the following structures:

1. Electrical generating stations and substations, including nuclear;
 2. Incineration plants;
 3. Solid waste disposal plants;
 4. Class I and Class II structures were required in accordance with N.J.A.C. 5:23-3.10 and N.J.A.C. 5:23-4.24(a)2ii;
 5. Compliance with the energy subcode for structures submitted under the alternate systems and non-depletable energy source provisions of the energy subcode;
 6. Casino hotels;
 7. A permit shall not be issued until the required plans for the building or structure have been released by the department. The department shall insure that the municipal enforcing agency receives a copy of the approved plans;
 8. All modular construction other than those authorized to be approved by an inplant inspection agency as provided in N.J.A.C. 5:23-4.29(a) and (d);
 9. The department may perform field inspections for any of the above projects when it deems such activity appropriate. However, such action shall not relieve the municipality of the obligation to perform field inspections for any project for which the municipality has granted a permit;
 10. Whenever the department shall determine that there exists a violation of these regulations, it shall take appropriate action and shall provide the municipality with copies of all notices, orders, and other applicable information. The department and any municipality may consolidate or take other steps to expedite any matter of which they jointly complain, but in no event shall the owner of any building subject to the act be sanctioned twice for the same violations;
 11. In any case where the department shall notify a municipality that a violation exists, no certificate of occupancy may issue until the department notifies the municipality that the violation has been abated.
- (b)-(d) (No change in text.)

ENVIRONMENTAL PROTECTION

DIVISION OF WATER RESOURCES

(b)

Amendment to Northeast Water Quality Management Plan

Public Notice

The Township of West Milford has requested an amendment to the Northeast Water Quality Management (WQM) Plan. This amendment will incorporate West Milford's Wastewater Management Plan (1986) into the Northwest WQM Plan. This amendment will specify new wastewater treatment facilities and sewer service areas for West Milford Town-

ship. West Milford will be designated as the Wastement Management Agency for all new wastewater treatment facilities.

This notice is being given to inform the public that a plan amendment has been developed for the Northeast WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(c)

Amendment to Tri-County Water Quality Management Plan

Public Notice

The Burlington County Board of Chosen Freeholders has requested an amendment to the Tri-County Water Quality Management (WQM) Plan. This amendment would allow a new leachate treatment facility to be constructed as part of the Burlington County Solid Waste Management Facilities Complex in Florence and Mansfield Townships. The leachate treatment facility will treat leachate from the Burlington County landfill and the Florence Land Recontouring (FLR), Inc. landfill, if service to the FLR landfill is determined to be necessary for public safety and welfare. The leachate treatment facility will also handle sanitary waste from all buildings associated with the Burlington County landfill, and leachate from the County co-composting facility. The leachate treatment facility will have a capacity of approximately 28,000 gallons per day. The amendment will allow the creation of 2.3 acres of wetlands on approved sites adjacent to existing wetlands, as mitigation for encroachment of 2.3 acres of wetlands due to the proposed construction of this project. This amendment will also designate the Burlington County Board of Chosen Freeholders as the Wastewater Management Agency for this facility.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(a)

Amendment to Tri-County Water Quality Management Plan

Public Notice

Take Notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. The amendment provides for the Mount Laurel Township Municipal Utilities Authority to accept and treat sewage from the proposed Union Mill Farms development in Mount Laurel Township, Burlington County. Mount Laurel Township has passed an ordinance to amend zoning to allow this development, in response to the Mount Laurel II decision by the Superior Court of New Jersey.

This Notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzempa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested persons may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzempa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

HUMAN SERVICES

(b)

DIVISION OF PUBLIC WELFARE

Petition for Rulemaking Assistance Standards Handbook Schedules of Allowance N.J.A.C. 10:82-1.2

General Assistance Manual
State and Local Responsibilities
N.J.A.C. 10:85-4.1

Petitioners: Legal Services of New Jersey
Melville D. Miller, Jr., Esq., President
Riker, Danzig, Scherer, Hyland and Perretti
Douglas S. Eakeley, Esq.
Alfred A. Slocum
Public Advocate of New Jersey

Authority: N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6

Take notice that on December 19, 1985, Melville D. Miller, Jr., Esq., President, Legal Services of New Jersey, filed a class petition for certain individual recipients of assistance from the Aid to Families with Dependent Children (AFDC) and General Assistance (GA) programs on behalf of all recipients of AFDC and GA in the State of New Jersey. The petitioner seeks a rule establishing a standard of need and raising public assistance benefits in the AFDC and GA programs as required, according to the petitioner, by the New Jersey Statutes and Constitution.

Also on December 19, 1985, Douglas S. Eakeley, Esq., of the law firm of Riker, Danzig, Scherer, Hyland and Perretti, filed an amicus petition on behalf of 70 groups and organizations (increased to 97 by correspondence dated July 9, 1986) in support of that class petition, requesting a similar rulemaking proceeding as soon as practicable.

On April 14, 1986, Alfred A. Slocum, Public Advocate of New Jersey, joined the petitions.

Take further notice that the Department of Human Services, in accordance with N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6(c), has responded to the petitioners' request. On February 18, 1986 an initial response advised that the Department would take the matter under consideration, including a review of the entire subject area, with assistance from the Office of the Attorney General. On April 18, 1986, an interim response advised that due to the extensive effort required to evaluate the ramifications of the request, the Department's official position would be determined and the petitioners advised on or before July 15.

Department of Human Services Response:

In consultation with the Office of the Attorney General, the Department of Human Services has determined its official position and responded directly to the petitioners by letter.

For the following reasons the Department's position is to decline rulemaking in this area.

1. The Department's current policy on the AFDC and GA grant standard is consistent with Federal and State law.

A standard of need was established in the AFDC program as of July 1, 1969 pursuant to federal requirements (42 U.S.C. 602(a)(23)). The federal program has not required an update in the standard of need since 1969, reflecting Congressional intent that the states may establish the amounts to be paid to AFDC recipients in accord with state legislative appropriations. This is also consistent with State legislation. In 1971, New Jersey altered its program from a needs based standard to a flat grant standard. This change was upheld in *National Welfare Rights Organization v. Cahill*, wherein the U.S. Court of Appeals held that the New Jersey program satisfied the 1969 federal mandate. Additionally, neither the New Jersey nor the United States Constitution requires payment of public assistance, much less a guaranteed standard of living.

The GA program is a solely State and municipally funded program, having no requirement for a standard of need determination. According to N.J.S.A. 44:8-109, "... the furnishing of such public assistance is primarily the duty of the municipalities and of civic and charitable organizations. ..." In other words, GA is intended to meet only a portion of an individual's needs. Nonfinancial support and individual effort are also intended to supplement the GA payment (N.J.S.A. 44:8-108, N.J.S.A. 44:8-122). Local municipalities may choose, but are not required, to supplement GA.

2. The Commissioner has no authority to expend funds for income maintenance independent of statutory appropriations.

The Commissioner has the authority to set rules and regulations to administer the provisions of the AFDC and GA programs. The power to appropriate funds lies solely and exclusively with the legislative branch of government. The Department's development of a new need standard and promulgation of that need standard through the rulemaking process would therefore serve no useful purpose and could falsely raise expectations.

Furthermore, considering the number of national and other indices by which adequacy of AFDC payment levels may be judged, the Department has determined that it is unnecessary to conduct a study to determine an exact need standard. Since 1971, the Department of Human Services has tracked the AFDC payments against national indicators of income, family expenditures and living costs, and the Department has, in fact, been successful in incrementally increasing the assistance levels which are well above the national average. The Department does not believe that welfare recipients would be materially assisted simply through further study or through the development of a standard independent of the appropriation of funds.

3. The adequacy of public assistance grants in meeting basic living needs of food, health care and shelter, cannot be measured in isolation.

Assistance grants must be measured in conjunction with other public benefits available to recipients to meet those needs, such as assistance for food, medical costs, heating costs and housing. The Department will continue to advocate for the expansion of these services for both public assistance recipients and other persons with low income. A recent example is the expansion of health care and medical services to the low income population.

A particularly significant factor to consider is the lack of available and affordable housing. Skyrocketing housing costs in New Jersey, gentrification of urban areas, condominium conversions, insurance increases in group homes and boarding homes, and loss of Federal housing subsidies contribute to what is an emerging crisis for many families and individuals. The problem is particularly acute for welfare families. Clearly, broader approaches must be developed to solve this housing problem rather than placing sole reliance on public assistance.

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

4. The statutory mission of both the AFDC and GA programs is two-fold: to help families and individuals meet immediate financial need, and to help these families and individuals become self-sufficient and economically independent.

The Department will fulfill this mission through provision of financial support to families and individuals, while providing training and developing employment opportunities directed at enabling recipients to support themselves and attain a decent standard of living. The Department has provided financial assistance toward fulfilling this mission as a result of incrementally increased assistance standards.

The Department plans to improve and expand services which foster independence. A comprehensive approach will be developed over the next 12 months to address this need. This plan will take into account the need for expanding employment and training opportunities, incentives for employment, and support services such as day care and transportation. Education, counselling and other assistance to young mothers on AFDC are being planned to prevent further dependency on welfare. The Department believes that New Jersey's welfare system should be reoriented to afford welfare recipients the opportunity and the ability to achieve their own objective of moving off of welfare and into meaningful jobs.

Over the long term, fostering independence in this way will enable the Department to better address the problems of the unemployed and unemployable, families and individuals who face barriers in attaining self-sufficiency and a decent standard of living.

The Department will also continue to seek legislative appropriations when feasible to increase the AFDC and GA grant levels and advocate at the federal level for increased support in addressing this national issue.

INSURANCE

(a)

THE COMMISSIONER

Notice of Cancellation and Nonrenewal of Fire and Casualty Coverage

Public Notice

Take notice that Kenneth D. Merin, Commissioner of Insurance, pursuant to the provisions of N.J.S.A. 17:29C-3, has recertified the Legislature the need for continuation of the notice of cancellation and nonrenewal requirements applicable to fire and casualty insurance policies, excluding accident and health policies for the fiscal year commencing July 1, 1986. The notice of cancellation and nonrenewal requirement is set forth at N.J.A.C. 11:1-5.2, which rule continues in full force and effect.

This notice is published as a matter of public information.

STATE

(b)

DIVISION OF ARCHIVES AND HISTORY

Archives and Records Management Microfilm Standards

Notice of Correction: N.J.A.C. 15:3-2.15

Take notice that missing text appears in the New Jersey Administrative Code at N.J.A.C. 15:3-2.15 concerning Microfilm standards. These rules were originally published as a proposal in the April 18, 1983 New Jersey Register at 15 N.J.R. 591 and as an adoption in the June 20, 1983 Register at 15 N.J.R. 1019(b), and cited as N.J.A.C. 6:66-2.15. On April 25, 1983, Governor Thomas H. Kean issued a Reorganization Plan which became effective June 24, 1983, transferring the Bureau of Records Management Services and the Archives Section of the Bureau of Law, Archives and Reference Services of the Division of the State Library, Archives and History in the Department of Education to the Department of State. As a result of the reorganization, N.J.A.C. 6:66-2.15 was recodified to N.J.A.C. 15:3-2.15 in the New Jersey Administrative Code.

N.J.A.C. 15:3-2.15 should appear in the New Jersey Administrative Code as follows:

15:3-2.15 Microfilm standards

(a) The following standards must be met before permission to destroy

the originals is granted:

1. (No change.)

2. When converting documents to microfilm, certain measures must be followed to insure quality, legality and access to information contained on the microfilm.

i.-ii. (No change.)

iii. All roll film will have the following targets at the end of each reel: density targets; National Bureau of Standards' resolution target; and operator's certificate. Should any reel(s) lack an operator's certificate, an agency may upon prior notification and approval of the supervisor of microfilm services, splice a certificate on the end of the reel(s). This will be permitted only in those cases where the operator who actually filmed the documents on the reel(s) signs the certificate. Splicing must also be done in accordance with the standards set forth in 3vii below.

iv-v. (No change.)

3.-5. (No change.)

TREASURY-GENERAL

DIVISION OF BUILDING AND CONSTRUCTION

(c)

Architect-Engineer Selection

Notice of Assignments—Month of June

Solicitations of design services for major projects are made by notices published in construction trade publications and newspapers and by direct notification of professional associates/societies and listed, pre-qualified New Jersey consulting firms. For information on DBC's pre-qualification and assignment procedures, call (609) 984-6979.

Last list dated June 3, 1986.

The following assignments have been made:

DBC No.	PROJECT	A/E	CCE
H863	Storage Building William Paterson College Wayne, NJ	Pedro E. Campos, AIA	\$150,000
P505	Pedestrian Bridges Millstone Aqueduct, Bogan's Meadow & Calwalder Park Delaware & Raritan Canal State Park	Maitra Assoc., Inc.	\$150,000
C311	Convert Existing Laundry to Inmate Housing Rahway State Prison	Vaughn Organization	\$7,500 Services
E161	Electrical Cable Replacement Marie H. Katzenbach School for the Deaf West Trenton, NJ	Frank R. Holtaway & Son, Inc.	\$50,000
M682	Water Tank Inspection Ancora Psychiatric Hospital Hammonton, NJ	Robert L. Merithew, Inc.	\$750
C219	Control/Security Systems Newark State Prison Newark, NJ	Syska & Hennessy, Inc.	\$66,000 Services
T189	New A Fame Roof DOT Maintenance Building Lodi, NJ	Paulsen Associates	\$85,500
H871	Air Conditioning—Music Building Montclair State College Upper Montclair, NJ	Jeffrey & Kallaur	\$97,000
H873	Parking Lot & Repaving Kean College Union, NJ	Thomas H. Carr Engineers	\$42,500
C313	Cook House Roof Trenton State Prison Trenton, NJ	Vaughn Organization	\$45,000
H776	Shea Auditorium Renovations William Paterson College Wayne, NJ	Turek Associates	\$272,000

COMPETITIVE PROPOSALS

	Turek Associates	9.50%	
	Barnickel Engineering Corp.	11.60%	
	London, Kantor, Umland Associates	12.15%	
A510	Renovations Labor & Industry Building Trenton, NJ	Haines Lundberg Waehler	\$21,000,000

COMPETITIVE PROPOSALS

	Haines Lundberg Waehler	4.685%	
	James Goldstein and Partners	5.30%	
	Vaughn Organization, P.C.	6.40%	
	The Hillier Group	6.435%	
M907	Boiler Replacement and Powerhouse	Borda Engineers &	\$251,600
Reas-	Improvements	Energy Consultants	
signed	Woodbine Development Center		
Project	Woodbine, NJ		

COMPETITIVE PROPOSALS

	Borda Engineers & Energy Consultants	7.20%	
	D'Ambly, Inc.	5.90%	
	Maitra Associates	9.50%	
	M. Benton & Associates	10.87%	
P500	Water Supply System Study	Stone & Webster	\$12,800
	Whitesbog Village	Engineers	Services
	Labanon State Forest		

COMPETITIVE PROPOSALS

	Stone & Webster Engineers	\$12,800 Lump Sum	
	Richard A. Alaimo	\$18,500 Lump Sum	
	Speital Associates	\$38,000 Lump Su.	
T183	New HVAC System Renovations	Basco Associates	\$450,000
	Children's Home of Burlington County		
	Mount Holly, NJ		

COMPETITIVE PROPOSALS

	Basco Associates	9.12%	
	Joseph N. Wirth & Associates	15.40%	
	Richard M. Horowitz, AIA	18.23%	
M600-01	Critical Path Method Services	Wagner-Hohns-Ingilis,	\$62,750
	Phase 2 (Amended)	Inc.	Services
	Veterans Nursing Facility		
	Paramus, NJ		

COMPETITIVE PROPOSALS

	Wagner-Hohns-Ingilis, Inc.	\$62,750 Lump Sum	
	O'Brien-Kreitzberg	\$77,400 Lump Sum	
	Tri Tech Planning Consultants	\$77,500 Lump Sum	
P503	Kuser Mansion Renovations	Nadasky-Kopelson	\$2,325,000
	High Point State Park	Architects, PA	

COMPETITIVE PROPOSALS

	Nadasky-Kopelson Architects, PA	9.80%
	Vaughn Organization, PC	7.78%
	Haines Lundberg Waehler	10.10%

(a)

DIVISION OF PENSIONS

Consolidated Police and Firemen's Pension Fund Retirement; Applications

Notice of Administrative Change: N.J.A.C. 17:6-3.1

Take notice that the text of N.J.A.C. 17:6-3.1 concerning applications, has been administratively changed as follows:

17:6-3.1 Applications

(a) Applications for retirement must be made on forms prescribed by the fund. Such forms must be completed in all respects and filed with the fund before the requested date of retirement.

(b) In the event a member files an incomplete application, the [deficiencies] deficiency shall be brought to his or her attention and he or she will be required to file a completed application with the system to enable acceptance for processing.

(c) Before an application for retirement may be accepted for processing, it must be supported by a certificate from the employer setting forth the employment termination date and the [salary] salaries reported for contributions in the member's final year of employment.

[(b)](d) In addition to the foregoing requirement, the application for disability retirement must be supported by a report of the member's personal or attending physician and a statement from the employer regarding the member's incapacity for further duty.

EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to N.J.A.C. 1:30-4.4, all expiration dates are now affixed at the chapter level. The following table is a complete listing of all current New Jersey Administrative Code expiration dates by **Title** and **Chapter**. If a chapter is not cited, then it does not have an expiration date. In some instances, however, exceptions occur to the chapter-level assignment. These variations do appear in the listing along with the appropriate chapter citation, and are noted either as an exemption from Executive Order No. 66(1978) or as a subchapter-level date differing from the chapter date.

Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code under the **Title** Table of Contents for each executive department or agency and on the **Subtitle** page for each group of chapters in a Title. Please disregard all expiration dates appearing elsewhere in a Title volume.

This listing is revised monthly and appears in the first issue of each month.

OFFICE OF ADMINISTRATIVE LAW—TITLE 1		N.J.A.C.	Expiration Date
N.J.A.C.	Expiration Date	3:7	9/16/90
1:1	5/15/90	3:11	3/19/89
1:2	5/15/90	(Except for 3:11-2 which expired 6/3/85)	
1:6A	1/1/88	3:17	6/18/91
1:7	8/9/90	3:19	3/17/91
1:10	3/4/90	3:21	11/2/86
1:10A	9/16/90	(Except for 3:21-1 which expired 2/2/84)	
1:11	3/4/90	3:22	5/21/89
1:20	8/1/88	3:23	5/3/87
1:21	7/15/90	3:24	8/20/89
1:30	2/14/91	3:26	12/31/90
1:31	8/12/87	3:27	9/16/90
		3:28	12/17/89
		3:30	10/17/88
		3:38	9/7/87
		3:41	10/16/90
AGRICULTURE—TITLE 2		N.J.A.C.	Expiration Date
N.J.A.C.	Expiration Date	4:1	1/28/90
2:1	9/3/90	4:2	1/28/90
2:2	10/3/88	4:3	6/4/89
(Except for 2:2-9 which expired 6/11/84)		4:4	12/7/86
2:3	6/18/89	4:5	12/7/86
(Except for 2:3-4 which expired 1/8/86)		4:6	5/5/91
2:5	6/18/89		
2:6	9/3/90		
2:7	9/29/88		
2:9	7/7/91		
2:16	5/7/90		
2:22	1/18/87		
2:23	6/6/88		
2:24	2/11/90		
2:32	2/3/91		
2:48	11/27/90		
2:50	7/15/87		
2:52	6/7/90		
2:53	3/3/91		
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)		
2:68	8/1/88		
2:69	10/3/88		
2:70	5/7/90		
2:71	9/1/88		
2:72	9/1/88		
2:73	7/18/88		
2:74	9/1/88		
2:76	8/29/89		
2:90	6/24/90		
BANKING—TITLE 3		N.J.A.C.	Expiration Date
N.J.A.C.	Expiration Date	5:3	9/1/88
3:1	1/6/91	5:10	12/1/88
3:2	4/15/90	5:11	3/1/89
3:6	3/3/91	5:12	1/1/90
(Except for 3:6-8 which expired 4/9/85)		5:13	1/1/88
		5:14	12/1/90
		5:17	6/1/89
		5:18	2/1/90
		5:18A	2/1/90
		5:18B	2/1/90
		5:22	12/1/90
		5:23	4/1/88
		5:24	9/1/90
		5:25	3/1/91
		5:26	3/1/91
		5:27	6/1/90
		5:28	12/20/90
		5:29	6/18/91
		5:30	6/1/88
		5:31	12/1/89
		5:37	11/18/90
		5:38	11/7/88
		5:51	9/1/88
		5:70	8/16/87
		5:71	3/1/90
CIVIL SERVICE—TITLE 4		N.J.A.C.	Expiration Date
N.J.A.C.	Expiration Date	5:3	9/1/88
4:1	1/28/90	5:10	12/1/88
4:2	1/28/90	5:11	3/1/89
4:3	6/4/89	5:12	1/1/90
4:4	12/7/86	5:13	1/1/88
4:5	12/7/86	5:14	12/1/90
4:6	5/5/91	5:17	6/1/89
		5:18	2/1/90
		5:18A	2/1/90
		5:18B	2/1/90
		5:22	12/1/90
		5:23	4/1/88
		5:24	9/1/90
		5:25	3/1/91
		5:26	3/1/91
		5:27	6/1/90
		5:28	12/20/90
		5:29	6/18/91
		5:30	6/1/88
		5:31	12/1/89
		5:37	11/18/90
		5:38	11/7/88
		5:51	9/1/88
		5:70	8/16/87
		5:71	3/1/90
COMMUNITY AFFAIRS—TITLE 5		N.J.A.C.	Expiration Date
N.J.A.C.	Expiration Date	5:3	9/1/88
5:3	9/1/88	5:10	12/1/88
5:10	12/1/88	5:11	3/1/89
5:11	3/1/89	5:12	1/1/90
5:12	1/1/90	5:13	1/1/88
5:13	1/1/88	5:14	12/1/90
5:14	12/1/90	5:17	6/1/89
5:17	6/1/89	5:18	2/1/90
5:18	2/1/90	5:18A	2/1/90
5:18A	2/1/90	5:18B	2/1/90
5:18B	2/1/90	5:22	12/1/90
5:22	12/1/90	5:23	4/1/88
5:23	4/1/88	5:24	9/1/90
5:24	9/1/90	5:25	3/1/91
5:25	3/1/91	5:26	3/1/91
5:26	3/1/91	5:27	6/1/90
5:27	6/1/90	5:28	12/20/90
5:28	12/20/90	5:29	6/18/91
5:29	6/18/91	5:30	6/1/88
5:30	6/1/88	5:31	12/1/89
5:31	12/1/89	5:37	11/18/90
5:37	11/18/90	5:38	11/7/88
5:38	11/7/88	5:51	9/1/88
5:51	9/1/88	5:70	8/16/87
5:70	8/16/87	5:71	3/1/90
5:71	3/1/90		

N.J.A.C.	Expiration Date
5:80	5/20/90
5:91	6/16/91
5:92	6/16/91
5:100	5/7/89

DEPARTMENT OF DEFENSE—TITLE 5A

N.J.A.C.	Expiration Date
5A:2	5/20/90

EDUCATION—TITLE 6

N.J.A.C.	Expiration Date
6:2	3/1/89
6:3	8/18/88
6:8	1/1/87
6:11	12/12/90
6:12	4/2/91
6:20	8/9/90
6:21	8/9/90
6:22	9/3/90
6:24	4/2/91
6:26	1/24/90
6:27	1/24/90
6:28	6/1/89
6:29	3/25/90
6:30	7/7/91
6:31	1/24/90
6:39	10/18/89
6:43	4/7/91
6:46	12/1/86
6:53	9/1/87
6:64	5/1/88
6:68	4/12/90
6:70	1/25/90
6:79	2/1/88

ENVIRONMENTAL PROTECTION—TITLE 7

N.J.A.C.	Expiration Date
7:1 (Except for 7:1-3 which expired 3/5/87)	9/16/90
7:1A	6/7/87
7:1C	6/17/90
7:1D	12/1/88
7:1E	7/15/90
7:1F	3/27/87 (Governor's Waiver)
7:1G	10/1/89
7:1H	7/24/90
7:1I	11/18/88
7:2	7/19/88
7:4	Expired 8/16/84
7:6	12/19/88
7:7	5/7/89
7:7E	7/24/90
7:7F	12/6/87
7:8	2/7/88
7:9	1/21/91
(Except for 7:9-1 which expired 4/25/85)	
7:10	9/4/89
7:11	6/6/88
(Except for 7:11-5 which expired 12/31/83)	
7:12	6/6/88
7:13	5/4/89
7:14	4/27/89
(Except for 7:14-5 which expired 6/23/85)	
7:14A	6/4/89
7:15	4/2/89

N.J.A.C.	Expiration Date
7:17	4/7/91
7:18	8/6/86
7:19	4/15/90
7:19A	2/19/90
7:19B	2/19/90
7:20	5/6/90
7:20A	12/19/88
7:21-4	Expired 4/10/84
7:22	12/7/86
7:23	6/18/89
7:24	5/19/91
7:25	2/18/91

(Except for 7:25-1 which expired 9/17/85)

7:25A	5/6/90
7:26	11/4/90

(Except for 7:26-5 which expired 10/7/85)

7:27	Exempt
7:27A	Expired 10/7/85
7:28	10/7/90
7:29	3/18/90
7:29B	4/5/87
7:30	12/6/87
7:36-1	8/5/90
7:36-2	Expired 1/9/86
7:36-3	Expired 1/9/86
7:36-4	8/5/90
7:36-5	Expired 1/9/86
7:36-6	Expired 1/9/86
7:36-7	8/5/90
7:37	Expired 3/30/84
7:38	9/18/90
7:45	Expired 1/11/85

HEALTH—TITLE 8

N.J.A.C.	Expiration Date
8:7	9/16/90
8:8	5/21/89
8:9	2/18/91
8:13	8/2/87
8:19	6/28/90
8:20	3/4/90
8:21	11/18/90
(Except for 8:21-1 which expired 5/15/85; 8:21-4 which expired 7/21/83; 8:21-6 which expired 9/18/85)	
8:21A	4/1/90
8:22	8/4/91
8:23	12/17/89
8:24	4/4/88
8:25	5/20/88
8:26	8/4/91
8:31	11/5/89
8:31A	3/18/90
8:31B	10/15/90
(Except for 8:31B-1 which expired 7/19/84)	
8:32	Expired 3/12/85
8:33	10/7/90
8:33A	4/15/90
8:33B	10/7/90
8:33C	8/20/89
8:33D	2/1/87
8:33E	2/4/90
8:33F	1/14/90
8:33G	7/20/89
8:33H	7/19/90
8:33I	11/2/86
8:33J	5/17/89
8:33K	4/16/89

N.J.A.C.	Expiration Date
8:34	11/18/88
8:39	6/20/88
8:40	4/15/90
8:42	3/18/90
8:42A	6/12/91
8:42B	8/1/88
8:43	1/21/91
8:43A	9/3/90
8:43B	1/21/91
8:43E	1/17/88
8:43F	3/18/90
8:44	11/7/88
8:45	5/20/90
8:48	8/20/89
8:51	9/16/90
8:53	8/4/91
8:57	6/18/90
8:58	Expired 5/1/84
8:59	10/1/89
8:60	5/3/90
8:65	12/2/90
8:70	9/17/88
8:71	4/2/89

N.J.A.C.	Expiration Date
10:62	3/3/91
10:63	11/29/89
10:64	3/3/91
10:65	11/5/89
10:66	12/15/88
10:67	3/3/91
10:68	7/7/91
10:69A	4/26/88
10:69B	11/21/88
10:70	6/16/91
10:80	8/23/89
10:81	10/15/89
10:82	10/29/89
10:85	1/3/90
10:87	3/1/89
10:89	9/11/90
10:90	11/15/87
10:94	1/6/91
10:95	8/23/89
10:97	4/16/89
10:98	7/12/87
10:99	2/19/90
10:100	2/6/89
10:109	3/17/91
10:112	2/17/89
10:120	9/26/88
10:121	3/13/89
10:121A	8/6/87
10:122	8/6/89
10:122A	Exempt
10:122B	9/10/89
10:123	7/20/90
10:124	7/19/87
10:125	7/16/89
10:127	9/19/88
10:129	10/11/89
10:130	9/19/88
10:131	9/20/87
10:132	11/16/86
10:140	12/31/86
10:141	2/21/89

HIGHER EDUCATION—TITLE 9

N.J.A.C.	Expiration Date
9:1	1/17/89
9:2	6/17/90
9:3	10/17/88
9:4	11/2/86
9:5	1/21/91
9:6	5/20/90
9:7	4/13/88
9:8	11/4/90
9:9	10/3/88
9:11	1/17/89
9:12	1/17/89
9:14	5/20/90
9:15	10/25/88
9:16	Expired 7/9/85

N.J.A.C.	Expiration Date
10:121A	8/6/87
10:122	8/6/89
10:122A	Exempt
10:122B	9/10/89
10:123	7/20/90
10:124	7/19/87
10:125	7/16/89
10:127	9/19/88
10:129	10/11/89
10:130	9/19/88
10:131	9/20/87
10:132	11/16/86
10:140	12/31/86
10:141	2/21/89

HUMAN SERVICES—TITLE 10

N.J.A.C.	Expiration Date
10:1	5/6/88
10:3	9/19/88
10:4	1/3/88
10:5	12/19/88
10:6	2/21/89
10:37	11/4/90
10:38	5/28/91
10:40	3/15/89
10:43	9/1/88
10:44	10/3/88
10:44A	2/7/88
10:44B	4/15/90
10:45	9/19/88
10:47	11/4/90
10:48	1/21/91
10:49	8/12/90
10:50	3/3/91
10:51	10/28/90
10:52	2/19/90
10:53	4/29/90
10:54	3/3/91
10:55	3/11/90
10:56	9/10/86
10:57	3/3/91
10:58	3/3/91
10:59	3/3/91
10:60	8/27/90
10:61	3/3/91

N.J.A.C.	Expiration Date
10A:4	7/21/91
10A:31	2/4/90
10A:32	3/4/90
10A:33	7/16/89
10A:70	Exempt
10A:71	4/15/90

INSURANCE—TITLE 11

N.J.A.C.	Expiration Date
11:1	2/3/91
11:1-20	7/7/88
11:1-22	7/7/88
11:2	12/2/90
11:3	1/6/91
11:4	12/2/90
11:5	11/7/88
11:10	7/15/90
11:12	11/2/86
11:13	12/6/87
11:14	7/2/89
11:15	12/3/89
11:16	2/3/91

LABOR—TITLE 12

N.J.A.C.	Expiration Date
12:15	8/19/90
12:16	4/1/90
12:17	1/6/91
12:20	11/5/89
12:35	8/5/90
12:45	5/2/88
12:46	5/2/88
12:47	5/2/88
12:48	5/2/88
12:49	5/2/88
12:51	6/30/91
12:56	9/26/90
12:57	9/26/90
12:58	9/26/90
12:90	12/17/89
12:100	11/5/89
12:105	1/21/91
12:120	5/3/90
12:175	12/9/88
12:190	9/5/87
12:195	9/6/88
12:200	8/5/90
12:235	5/5/91

LAW AND PUBLIC SAFETY—TITLE 13

N.J.A.C.	Expiration Date
13:1	7/19/88
13:1C	Expired 12/1/83
13:2	8/5/90
13:3	8/1/88
13:4	1/21/91
13:10	5/27/89
13:13	6/17/90
13:18	4/1/90
13:19	8/23/89
13:20	12/18/90
13:21	12/16/90
13:22	1/7/90
13:23	6/4/89
13:24	11/5/89
13:25	3/18/90
13:26	10/17/88
13:27	4/1/90
13:27A	11/1/87
13:28	9/3/90
13:29	6/3/90
13:30	4/15/90
13:31	12/21/86
13:32	11/1/87
13:33	3/18/90
13:34	11/21/88
13:35	11/19/89
13:36	11/19/89
13:37	2/11/90
13:38	10/7/90
13:39	1/6/91
13:39A	7/7/91
13:40	9/3/90
13:41	9/3/90
13:42	11/3/88
13:43	9/8/88
13:44	8/20/89
13:44A	Expired 5/17/84
13:44B	5/3/87
13:44C	6/2/91
13:45A	12/16/90
13:46	6/3/90
13:47A	8/16/87
(Except for 13:47A-25 which expired 8/14/83)	
13:47B	1/4/89

N.J.A.C.	Expiration Date
13:47C	8/20/89
13:48	1/21/91
13:49	12/19/88
13:51	6/21/87
13:58	9/7/89
13:59	9/16/90
13:70	2/25/90
13:71	2/25/90
13:75	8/20/89
13:76	9/6/88

PUBLIC UTILITIES—TITLE 14

N.J.A.C.	Expiration Date
14:1	12/16/90
14:3	5/6/90
14:5	12/16/90
14:6	3/3/91
14:9	4/15/90
14:11	2/1/87
14:17	5/7/89
14:18	7/29/90

ENERGY—TITLE 14A

N.J.A.C.	Expiration Date
14A:2	4/17/89
14A:3	10/7/90
(Except for 14A:3-10 which expired 9/1/85)	
14A:4	10/19/88
14A:5	10/19/88
14A:6	8/6/89
14A:7	9/16/90
14A:8	9/20/89
14A:9	Expired 4/27/84
14A:11	9/20/89
14A:12	2/7/88
14A:13	11/2/86
14A:14	2/6/89
14A:20	2/3/91
14A:21	11/21/90
14A:22	6/4/89

STATE—TITLE 15

N.J.A.C.	Expiration Date
15:2	3/7/88
15:3	7/7/91
15:10	2/18/91

TRANSPORTATION—TITLE 16

N.J.A.C.	Expiration Date
16:1	8/5/90
16:2	10/3/88
16:6	9/3/90
16:13	5/7/89
16:16	11/7/88
16:17	11/7/88
16:20A	12/17/89
16:20B	12/17/89
16:21	9/3/90
16:21A	8/20/89
16:22	2/3/91
16:25-12	Expired 2/5/84
16:25-13	Expired 2/5/84
16:26	8/6/89
16:27	6/4/86
16:28	11/7/88
16:28A	11/7/88
16:29	11/7/88

N.J.A.C.	Expiration Date
16:30	11/7/88
16:31	11/7/88
16:31A	10/20/88
16:32	4/15/90
16:33	9/3/90
16:41	11/15/87
16:41A	2/19/90
16:41B	3/4/90
16:43	9/3/90
16:44	10/3/88
16:49	3/18/90
16:53	3/19/89
16:53A	4/15/90
16:53B	Expired 8/21/84
16:53C	9/19/88
16:53D	5/7/89
16:54	4/7/91
16:55	11/7/88
16:56	6/4/89
16:60	11/7/88
16:61	11/7/88
16:62	4/15/90
16:72	3/31/91
16:73	2/16/87
16:75	6/6/88
16:76	12/19/88
16:77	1/21/90
16:78	10/7/90

TREASURY-GENERAL—TITLE 17

N.J.A.C.	Expiration Date
17:1	6/6/88
17:2	12/17/89
17:3	6/6/88
17:4	7/1/90
17:5	12/2/90
17:6	2/19/89
17:7	6/6/88
17:8	6/27/90
17:9	6/6/88
17:10	6/6/88
17:12	8/15/89
17:16	12/2/90
17:19	3/18/90
(Except for 17:19-10 which expired 3/3/85)	
17:19A	Expired 2/1/84
17:20	11/7/88
17:25	6/18/89
17:27	11/7/88
17:28	9/13/90
17:29	10/18/90

TREASURY-TAXATION—TITLE 18

N.J.A.C.	Expiration Date
18:3	4/23/89
18:5	4/16/89
18:6	4/2/89
18:7	4/2/89
18:8	4/2/89
18:9	8/12/88
18:12	8/12/88
18:12A	8/12/88
18:14	8/12/88
18:15	8/12/88
18:16	8/12/88
18:17	8/12/88
18:18	4/2/89
18:19	4/6/89
18:22	4/2/89
18:23	4/2/89
18:23A	8/5/90
18:24	8/12/88
18:25	1/6/91
18:26	8/12/88
18:30	4/2/89
18:35	8/12/88
18:36	2/4/90
18:37	8/5/90

OTHER AGENCIES—TITLE 19

N.J.A.C.	Expiration Date
19:3	6/19/88
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	11/7/88
19:4A	5/2/88
19:8	6/1/88
19:9	7/13/88
19:12	8/21/86
19:16	8/21/86
19:17	7/15/88
19:25	1/9/91
19:30	10/7/90
19:40	9/26/89
19:41	5/17/88
19:42	5/17/88
19:43	4/27/89
19:44	10/13/88
19:45	4/7/88
19:46	5/4/88
19:47	5/4/88
19:48	10/13/88
19:49	3/29/88
19:50	5/23/88
19:51	11/2/86
19:52	10/8/86
19:53	5/4/88
19:54	4/15/88
19:61	7/7/91
19:65	7/7/91
19:75	1/17/89

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 June 2, 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 1986.

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: MAY 19, 1986.

NEXT UPDATE WILL BE DATED JUNE 16, 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. 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	18 N.J.R. 1123 and 1222	June 2, 1986
17 N.J.R. 2815 and 2934	December 2, 1985	18 N.J.R. 1223 and 1326	June 16, 1986
17 N.J.R. 2935 and 3032	December 16, 1985	18 N.J.R. 1327 and 1432	July 7, 1986
18 N.J.R. 1 and 128	January 6, 1986	18 N.J.R. 1433 and 1504	July 21, 1986
18 N.J.R. 129 and 234	January 21, 1986	18 N.J.R. 1505 and 1640	August 4, 1986
18 N.J.R. 235 and 376	February 3, 1986		

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)		
1:1-15.10	Prior transcribed testimony	18 N.J.R. 1020(a)		
1:6	Education budget hearings	18 N.J.R. 1020(b)		
1:6A-5.4	Special education hearings: stay of decision implementation	18 N.J.R. 584(a)	R.1986 d.195	18 N.J.R. 1192(a)

(TRANSMITTAL 21, dated May 19, 1986)

AGRICULTURE—TITLE 2				
2:9-1.1, 1.2	Avian influenza and infected poultry flocks	18 N.J.R. 870(a)	R.1986 d.250	18 N.J.R. 1370(a)
2:22-3.1	Africanized honeybee control	18 N.J.R. 585(a)	R.1986 d.200	18 N.J.R. 1192(b)
2:24-1	Shipment of bees into State	18 N.J.R. 586(a)	R.1986 d.199	18 N.J.R. 1192(c)
2:69-1.11	Commercial values of fertilizers	18 N.J.R. 588(a)	R.1986 d.198	18 N.J.R. 1193(a)
2:71-2.2-2.7	“Jersey Fresh” Quality Grading Program	18 N.J.R. 588(b)	R.1986 d.201	18 N.J.R. 1196(a)
2:76-3.12	Farmland preservation programs: deed restrictions	18 N.J.R. 508(a)	R.1986 d.196	18 N.J.R. 1192(b)
2:76-4.11	Municipally-approved preservation programs: deed restrictions	18 N.J.R. 511(a)	R.1986 d.197	18 N.J.R. 1195(a)
2:76-6.2, 6.15	Sale of development easements: deed restrictions	18 N.J.R. 1328(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)		

(TRANSMITTAL 40, dated May 19, 1986)

BANKING—TITLE 3				
3:1-2.24	Modification of Commissioner’s Order restricting stock transfers	17 N.J.R. 2487(a)	R.1986 d.293	18 N.J.R. 1453(a)
3:11-11	Leeway investments	18 N.J.R. 132(a)	R.1986 d.245	18 N.J.R. 1370(b)
3:11-11.13	Leeway investments: confidentiality of approval process	18 N.J.R. 1224(a)		
3:13-1	Registration of bank holding companies	18 N.J.R. 1434(a)		
3:17	Small loan rules	18 N.J.R. 1021(a)	R.1986 d.277	18 N.J.R. 1453(b)
3:38-5.2	Return of borrower’s commitment fee	17 N.J.R. 2488(b)		

(TRANSMITTAL 33, dated April 21, 1986)

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)		
4:1-16, 24	Separations, layoffs, demotions	18 N.J.R. 450(a)	R.1986 d.206	18 N.J.R. 1260(a)
4:1-8.4	Promotional examinations	18 N.J.R. 591(a)		
4:1-15	Assignments and transfers	18 N.J.R. 592(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)		
4:2-16	Separations, layoffs, demotions	18 N.J.R. 450(a)	R.1986 d.206	18 N.J.R. 1260(a)
4:3-16	Separations and demotions	18 N.J.R. 450(a)		
4:3-16	Separations, layoffs, demotions	18 N.J.R. 450(a)	R.1986 d.206	18 N.J.R. 1260(a)

(TRANSMITTAL 30, dated May 19, 1986)

(CITE 18 N.J.R. 1632)

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
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)	R.1936 d.296	18 N.J.R. 1453(c)
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)	R.1936 d.214	18 N.J.R. 1260(b)
5:18-2.5, 2.7, 2.11, 2.14, 3.2, 4.1, 4.7, 4.9-4.13, 4.17, 4.18	Uniform Fire Code: Fire Safety Code	18 N.J.R. 1225(a)		
5:18A-2.3, 4.3, 4.4	Fire Code Enforcement	18 N.J.R. 1225(a)		
5:23-2.14, 4.18, 4.20	UCC: annual construction permits	17 N.J.R. 2490(a)	R.1986 d.213	18 N.J.R. 1266(a)
5:23-3.2	Subcode exceptions	18 N.J.R. 757(a)		
5:23-3.4, 3.14, 3.17, 3.20	Building, Fire Protection, and Mechanical Subcodes	18 N.J.R. 1235(a)		
5:23-3.11	Uniform Construction Code: correction to Administrative Code	_____	_____	18 N.J.R. 1621(a)
5:23-5.5, 5.7	Construction subcode licensure: transferability of experience	18 N.J.R. 594(a)	R.1986 d.255	18 N.J.R. 1373(a)
5:23-7	Barrier Free Subcode: access for physically handicapped and aged	18 N.J.R. 757(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)		
5:29	Housing and Development: petitions for rules	18 N.J.R. 871(a)	R.1986 d.274	18 N.J.R. 1454(a)
5:30-17	Local public contracts: cooperative pricing and joint purchasing systems	18 N.J.R. 1022(a)	R.1986 d.315	18 N.J.R. 1524(a)
5:80-8	Housing and Mortgage Finance Agency: housing project occupancy requirements	17 N.J.R. 1620(a)	R.1986 d.258	18 N.J.R. 1373(b)
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)	R.1986 d.303	18 N.J.R. 1454(b)
5:91	Council on Affordable Housing: procedural rules	18 N.J.R. 821(a)	R.1986 d.221	18 N.J.R. 1267(a)
5:92	Council on Affordable Housing: substantive rules	18 N.J.R. 1124(b)	R.1986 d.333	18 N.J.R. 1527(a)

(TRANSMITTAL 41, dated May 19, 1986)

DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

EDUCATION—TITLE 6

6:11-2.2	Duties of State Board of Examiners	18 N.J.R. 595(a)	R.1986 d.279	18 N.J.R. 1457(a)
6:20-4.4	Tuition for private schools for handicapped	18 N.J.R. 1237(a)		
6:20-5.5	State aid for asbestos removal and encapsulation	18 N.J.R. 392(b)	R.1986 d.204	18 N.J.R. 1198(a)
6:20-5.6	Minimum salaries and State aid	18 N.J.R. 393(a)	R.1986 d.205	18 N.J.R. 1199(a)
6:22-1.6, 1.7, 2.4, 3.1	School facility planning; substandard facilities	18 N.J.R. 526(a)	R.1986 d.281	18 N.J.R. 1457(b)
6:29-9	Policies and procedures concerning pupil use of drugs and alcohol	18 N.J.R. 1237(b)		
6:30	Adult and community education	18 N.J.R. 871(b)	R.1986 d.310	18 N.J.R. 1561(a)
6:68-5	Audio-visual public library services	18 N.J.R. 595(b)	R.1986 d.278	18 N.J.R. 1459(a)
6:68-6	Institutional library services	18 N.J.R. 597(a)	R.1986 d.280	18 N.J.R. 1460(a)
6:69-2	Library services to the disadvantaged	18 N.J.R. 599(a)	R.1986 d.282	18 N.J.R. 1461(a)

(TRANSMITTAL 40, dated May 19, 1986)

ENVIRONMENTAL PROTECTION—TITLE 7

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)	R.1986 d.229	18 N.J.R. 1272(a)
7:2-11.22	Bear Swamp East natural area	18 N.J.R. 139(a)	R.1986 d.202	18 N.J.R. 1200(a)
7:2-11.22	Bear Swamp East natural area: public hearing	18 N.J.R. 532(a)		
7:6-1.4, 1.12, 1.14, 1.15, 1.42	Boating rules	18 N.J.R. 876(a)	R.1936 d.304	18 N.J.R. 1461(b)
7:6-1.37	Waiver of maximum tow line length for parasailing operation	_____	_____	18 N.J.R. 1412(c)
7:7-2.2	Wetlands maps in Ocean County	17 N.J.R. 1710(a)	R.1986 d.262	18 N.J.R. 1374(a)
7:7-2.2	Wetlands management in Atlantic County	18 N.J.R. 1026(a)		
7:11-3	Use of water from Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir Complex	18 N.J.R. 1330(a)		
7:12-1.2-1.6, 1.8, 2.1, 2.15	Shellfish-growing water classification	18 N.J.R. 784(a)	R.1986 d.234	18 N.J.R. 1275(a)
7:13-7.1	Floodway delineations along East Branch of Stony Brook, South Branch of Rockaway Creek, and Whale Pond Brook	18 N.J.R. 1239(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
7:13-7.1	Floodway delineations in Montgomery Township and Rocky Hill	18 N.J.R. 1334(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)		
7:14A-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)		
7:18	Laboratory certification and standards of performance	18 N.J.R. 1239(b)		
7:19-3	Water allocation permit fees	18 N.J.R. 789(a)	R.1986 d.263	18 N.J.R. 1376(a)
7:19-4.14	Water quality criteria for Mainstem Delaware River Zones	18 N.J.R. 1435(a)		
7:22	Wastewater treatment facilities: construction grants and loans	18 N.J.R. 243(a)		
7:25-4.17	Status of indigenous nongame wildlife	18 N.J.R. 601(a)	R.1986 d.230	18 N.J.R. 1279(a)
7:25-5	1986-1987 Game Code	18 N.J.R. 1026(b)	R.1986 d.325	18 N.J.R. 1566(a)
7:25-8.1	Repeal clam dredging rule	18 N.J.R. 396(a)	R.1986 d.232	18 N.J.R. 1279(b)
7:25-9	Minimum legal size for hard clams	18 N.J.R. 146(a)	R.1986 d.231	18 N.J.R. 1280(a)
7:25-10	Possession of captive game animals and birds	18 N.J.R. 533(a)	R.1986 d.233	18 N.J.R. 1280(b)
7:25-19	Atlantic Coast harvest season	17 N.J.R. 2494(a)	R.1986 d.273	18 N.J.R. 1378(a)
7:25A-1.9	Closure of oyster seed beds in Delaware Bay			18 N.J.R. 1411(b)
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)		
7:26-2.6, 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)		
7:26-2.9	Closure and post-closure of sanitary landfills	18 N.J.R. 924(a)		
7:26-2.9	Closure and post-closure care of sanitary landfills: escrow agreements	18 N.J.R. 1036(a)	R.1986 d.305	18 N.J.R. 1462(a)
7:26-7.4, 8.3, 8.15, 9.2, 10.6, 10.8	Land disposal of hazardous waste: correction			18 N.J.R. 1379(a)
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management	17 N.J.R. 2941(a)		
7:26-8.1, 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)		
7:26-8.14, 8.15, 8.16	Hazardous waste criteria, identification and listing	18 N.J.R. 1037(a)		
7:26-8.16	Waste code numbers for hazardous constituents	18 N.J.R. 792(a)		
7:26-8.17	Hazardous waste delisting procedure	18 N.J.R. 1335(a)		
7:26-17	Scales at solid waste facilities	18 N.J.R. 1154(a)		
7:27-16	Air pollution by volatile organic substances	17 N.J.R. 1969(a)		
7:27B-3	Determination of volatile organic substances from source operations	17 N.J.R. 2194(a)		
7:28-14	Therapeutic radiation installations	18 N.J.R. 1157(a)		
7:28-42.1	Workplace exposure to radio frequency radiation	18 N.J.R. 1166(a)		
7:45	Delaware and Raritan Canal State Park: Review Zone rules	17 N.J.R. 1711(a)	Expired	
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 42, dated May 19, 1986)

HEALTH—TITLE 8

8:21-5	Foods, drugs, cosmetics, devices: order to remove from sale and recall	18 N.J.R. 1361(b)		
8:22-1	Campgrounds sanitation	18 N.J.R. 1038(a)	R.1986 d.329	18 N.J.R. 1576(a)
8:26	Recreational bathing	18 N.J.R. 1040(a)	R.1986 d.328	18 N.J.R. 1576(b)
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)		
8:31B-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)	R.1986 d.260	18 N.J.R. 1379(c)
8:31B-3.76-3.82	Hospital reimbursement: URO performance evaluation; post-billing denial of payments	18 N.J.R. 150(b)		
8:33-1.5	Home health care services: batching cycle change			18 N.J.R. 1414(a)
8:33B-1.3, 1.12	Extracorporeal shock wave lithotripsy services	18 N.J.R. 798(a)	R.1986 d.259	18 N.J.R. 1379(b)
8:33F-1.2	Continuous ambulatory peritoneal dialysis	18 N.J.R. 1241(a)		
8:33I	Megavoltage radiation oncology services	18 N.J.R. 1436(a)		
8:34-1.31	Licensing of nursing home administrators	17 N.J.R. 2212(a)		

(CITE 18 N.J.R. 1634)

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
8:39-3.11	Availability of information at long-term care facilities	18 N.J.R. 1241(b)		
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)	R.1986 d.257	18 N.J.R. 1380(a)
8:43E-1	Hospital Policy Manual	18 N.J.R. 825(a)		
8:43G	Hospital capital policy	18 N.J.R. 1242(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)	R.1986 d.332	18 N.J.R. 1591(a)
8:57-1.14	Reporting of AIDS and AID Related Complex	18 N.J.R. 1245(a)		
8:57-1.19, 1.20, -6	Cancer registry	17 N.J.R. 2836(b)	R.1986 d.227	18 N.J.R. 1283(a)
8:59-1.3, 1.5, 2.1, 3.13, 5.1, 5.5, 6.2, 7.1, 7.2, 8.1, 8.2, 8.5-8.12, 10.3	Worker and Community Right to Know Act	18 N.J.R. 1363(a)		
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: Parafluorofentanyl	18 N.J.R. 603(a)	R.1986 d.326	18 N.J.R. 1591(b)
8:65-10.2	Removal of Nalmefene from Schedule II of controlled substances	18 N.J.R. 536(a)	R.1986 d.327	18 N.J.R. 1592(a)
8:65-10.4	Controlled substances: Quazepam and Midazolam	18 N.J.R. 1166(b)		
8:65-11	Narcotic treatment programs	18 N.J.R. 924(b)	R.1986 d.330	18 N.J.R. 1592(b)
8:71	Generic drug list additions (see 17 N.J.R. 2557(a), 2769(b), 18 N.J.R. 183(a), 418(a), 985(a))	17 N.J.R. 1733(a)	R.1986 d.251	18 N.J.R. 1380(b)
8:71	Generic drug list additions (see 18 N.J.R. 417(a), 984(b), 1102(b), 1382(a))	17 N.J.R. 2842(a)	R.1986 d.275	18 N.J.R. 1463(a)
8:71	Generic drug list additions: public hearing (see 18 N.J.R. 1381(a))	18 N.J.R. 537(a)	R.1986 d.276	18 N.J.R. 1463(b)
8:71	Generic drug list additions	18 N.J.R. 1167(a)		

(TRANSMITTAL 39, dated May 19, 1986)

HIGHER EDUCATION—TITLE 9

9:2-5	Management of computerized information	18 N.J.R. 799(a)		
9:4	Policies and procedures for community colleges	18 N.J.R. 1439(a)		
9:7-2.2	Residency and student assistance	18 N.J.R. 801(a)	R.1986 d.322	18 N.J.R. 1592(c)
9:7-2.3	Status of foreign nationals	18 N.J.R. 19(a)	R.1986 d.254	18 N.J.R. 1382(b)
9:7-2.9	Student assistance programs: award combinations	17 N.J.R. 2725(a)	R.1986 d.323	18 N.J.R. 1593(a)
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)		
9:12-1.5, 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 31, dated April 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)	R.1986 d.239	18 N.J.R. 1383(a)
10:42	Developmental Disabilities: Emergency Mechanical Restraint	17 N.J.R. 1832(a)		
10:45-1.3	Guardianship services: correction to Administrative Code	_____	_____	18 N.J.R. 1493(e)
10:49-1.1, 1.2, 1.4	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:49-1.27	Correction to Administrative Code	_____	_____	18 N.J.R. 1205(c)
10:50-1.5, 2.3	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:51-1.2, 1.14, 3.1	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:51-1.14, 5.16	Pharmaceutical services: ineligible prescription drugs	17 N.J.R. 2730(a)		
10:52-1.2, 1.3, 1.6, 1.8, 1.19	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:52-1.5, 1.17	Out-of-state inpatient hospital services	18 N.J.R. 538(a)		
10:53-1.2, 1.3, 1.5, 1.7, 1.15	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:54-1.2, 1.4, 1.7, 1.9, 1.10	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:54-4	Physician's Services: common procedure coding (HCPCS)	18 N.J.R. 927(a)	R.1986 d.320	18 N.J.R. 1593(b)
10:55-2.2	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:56	Dental Services manual	18 N.J.R. 1337(a)		
10:56-1.12, 2.1	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:57-1.3, 1.7, 1.13, 2.3	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:59-2.3	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:61-1, 2	Independent laboratory services	18 N.J.R. 540(a)		
10:61-2.1, 2.5	Independent laboratory services	18 N.J.R. 540(a)	R.1986 d.219	18 N.J.R. 1293(a)
10:61-2.2	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:62-1, 2, 3	Vision Care Manual	18 N.J.R. 1246(a)		
10:62-1.4, 3.3	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:63-1.16, 2.1	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:63-1.22	Correction to Administrative Code			18 N.J.R. 1205(c)
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)	R.1986 d.236	18 N.J.R. 1287(a)
10:66-1.6	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:66-2, 3	Independent clinic services	18 N.J.R. 541(a)		
10:66-2.2, 2.3	Independent clinic services	18 N.J.R. 541(a)	R.1986 d.220	18 N.J.R. 1294(a)
10:66-3	Independent Clinic Services: common procedure coding (HCPCS)	18 N.J.R. 927(a)	R.1986 d.320	18 N.J.R. 1593(b)
10:66-3	Independent clinic transportation services: HCPCS codes	18 N.J.R. 1053(a)		
10:66-3	Independent clinic transportation services: HCPCS codes	18 N.J.R. 1252(a)		
10:67-2.3	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:68	Chiropractic services and billing procedures	18 N.J.R. 1053(b)	R.1986 d.309	18 N.J.R. 1594(a)
10:68-1.2	Medically Needy program	18 N.J.R. 803(a)	R.1986 d.236	18 N.J.R. 1287(a)
10:68-2	Chiropractor billing procedures	18 N.J.R. 810(a)		
10:69A-5.3	Renewal applications for PAAD beneficiaries	18 N.J.R. 1054(a)	R.1986 d.321	18 N.J.R. 1594(b)
10:70	Medically Needy supplement	18 N.J.R. 831(a)	R.1986 d.237	18 N.J.R. 1294(b)
10:81-3.38	PAM: transfer of resources	18 N.J.R. 1168(a)		
10:81-3.40, 3.41	PAM: repayment agreements and child injury awards	18 N.J.R. 1055(a)	R.1986 d.317	18 N.J.R. 1594(c)
10:81-6.3	PAM: transportation of client to fair hearing	18 N.J.R. 927(b)	R.1986 d.300	18 N.J.R. 1463(c)
10:81-7.21—7.29	PAM: funeral and burial payments	18 N.J.R. 1168(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)	R.1986 d.243	18 N.J.R. 1383(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)		
10:82-4.2	ASH: income from tips	18 N.J.R. 1056(a)	R.1986 d.318	18 N.J.R. 1595(a)
10:82-5.10	ASH: emergency assistance	17 N.J.R. 2336(a)	R.1986 d.203	18 N.J.R. 1200(b)
10:82-5.10	ASH: emergency assistance	17 N.J.R. 2337(a)		
10:85-3.3	GAM: assistance allowance standards	18 N.J.R. 928(b)	R.1986 d.299	18 N.J.R. 1464(a)
10:85-3.3	GAM: income from tips	18 N.J.R. 1056(b)	R.1986 d.319	18 N.J.R. 1595(b)
10:85-4.6	GAM: emergency assistance	18 N.J.R. 1343(a)		
10:85-4.8	GAM: funeral and burial payments	18 N.J.R. 1170(a)		
10:85-6.4	GAM: fiscal and statistical reporting	18 N.J.R. 1056(c)	R.1986 d.316	18 N.J.R. 1595(c)
10:85-8.4	GAM: information concerning PAAD	18 N.J.R. 1343(b)		
10:85-9.6	Reevaluation of LRRs: correction			18 N.J.R. 1414(b)
10:86	Repeal obsolete AFDC Work Incentive Program rules	17 N.J.R. 1838(b)		
10:87-4.13, 5.10, 12.1	Food Stamp Program: income deductions and resource limits	18 N.J.R. 1108(a)	R.1986 d.301	18 N.J.R. 1464(b)
10:87-5.4	Earned income: correction			18 N.J.R. 1414(b)
10:87-5.4, 5.5, 12.3, 12.4, 12.7	Food Stamp Program: maximum income limits	Emergency	R.1986 d.297	18 N.J.R. 1490(a)
10:90-2.2, 2.3, 2.4, 2.6, 3.3, 4.1—4.10, 5.1, 5.2, 5.6, 6.1, 6.2, 6.3	Monthly Reporting Policy Handbook	17 N.J.R. 1839(a)	R.1986 d.307	18 N.J.R. 1596(a)
10:94-4.2, 4.3	Medicaid eligibility and nonliquid resources	18 N.J.R. 542(a)		
10:100-3.6, 3.7	Special Payments Handbook: funeral and burial payments	18 N.J.R. 1171(a)		
10:121-2	Adoption subsidy	18 N.J.R. 24(a)		
10:121A	Adoption agency standards	18 N.J.R. 1057(a)	R.1986 d.324	18 N.J.R. 1609(a)

(TRANSMITTAL 40, dated May 19, 1986)**CORRECTIONS—TITLE 10A**

10A:3	Security and control	18 N.J.R. 1057(b)		
10A:4	Inmate discipline	18 N.J.R. 27(a)	R.1986 d.283	18 N.J.R. 1465(a)
10A:5	Close custody units	18 N.J.R. 1067(a)		
10A:31-3.12, 3.15	Adult county facilities: medical screening of new inmates	17 N.J.R. 2343(a)	R.1986 d.241	18 N.J.R. 1384(a)

(CITE 18 N.J.R. 1636)

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
10A:31-3.12, 3.15	Medical screening of new inmates in county facilities: public hearing	17 N.J.R. 2955(b)		
10A:31-6	Work Release Program	18 N.J.R. 604(a)	R.1986 d.261	18 N.J.R. 1386(a)
10A:71-2.2, 3.3, 3.4, 3.22, 3.27, 3.28, 3.31, 4.2, 4.3	Parole Board process and procedure	18 N.J.R. 929(a)	R.1986 d.306	18 N.J.R. 1610(a)

(TRANSMITTAL 11, dated May 19, 1986)**INSURANCE—TITLE 11**

11:1-20, 22	Cancellation and nonrenewal of property and casualty/liability policies	17 N.J.R. 2956(a)		
11:1-20, 22	Commercial policies: cancellation and nonrenewal	18 N.J.R. 457(b)	R.1986 d.272	18 N.J.R. 1388(a)
11:1-20.1, 20.2, 20.3, 22.1	Cancellation and nonrenewal of commercial policies	18 N.J.R. 1445(a)		
11:2-19.2	Continuing education	18 N.J.R. 44(a)		
11:2-20	License renewal: continuing education requirement	17 N.J.R. 2962(a)		
11:3-8	Nonrenewal of automobile policies	18 N.J.R. 1079(a)		
11:3-16	Pre-proposal: Private passenger automobile rate filings	18 N.J.R. 1083(a)		
11:3-17	Rating organizations: private passenger automobile filings	18 N.J.R. 1171(b)		
11:3-22	Automobile coverage option survey	18 N.J.R. 1344(b)		
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 2344(a)		
11:4-15	Health insurance: benefits concerning treatment of alcoholism	18 N.J.R. 607(a)	R.1986 d.228	18 N.J.R. 1302(a)
11:4-16.6	Daily hospital room and board coverage	18 N.J.R. 608(a)		
11:4-20	Coverage of the handicapped	18 N.J.R. 44(b)		
11:4-21	Limited death benefit policies	18 N.J.R. 1085(a)		
11:5-1.3	Licensing of real estate brokers and salespeople	17 N.J.R. 2350(a)		
11:5-1.3	Licensing of real estate broker and broker-salesperson	18 N.J.R. 1088(a)		
11:5-1.15	Real estate advertising	17 N.J.R. 2351(a)		
11:17-1	Surplus lines insurance guaranty fund surcharge	18 N.J.R. 1173(a)		

(TRANSMITTAL 38, dated May 19, 1986)**LABOR—TITLE 12**

12:17-2.1	Reporting requirement for unemployment benefits claimant	18 N.J.R. 811(a)	R.1986 d.286	18 N.J.R. 1478(a)
12:17-7.1, 7.2	Unemployment compensation and temporary disability: disclosure of information	18 N.J.R. 1447(a)		
12:20-4.8	Temporary appointment to Unemployment Compensation Board of Review	18 N.J.R. 544(b)	R.1986 d.312	18 N.J.R. 1611(a)
12:51	Vocational rehabilitation services	18 N.J.R. 1088(b)	R.1986 d.298	18 N.J.R. 1479(a)
12:70	Field sanitation for seasonal farm workers	17 N.J.R. 1860(a)		
12:100-2.1, 4.2, 7, 12	Public employee exposure to asbestos	18 N.J.R. 811(b)	R.1986 d.285	18 N.J.R. 1479(b)
12:120-1.1, 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)	R.1986 d.149	18 N.J.R. 986(a)
12:195-1.3, 1.4, 1.7, 1.9, 1.12, 1.13, 1.14, 2.1, 3.1, 3.3, 3.9, 3.10, 3.14, 4.2, 4.6, 5.11, 6	Carnival-amusement rides	18 N.J.R. 609(a)	R.1986 d.222	18 N.J.R. 1303(a)
12:235-7.2	Correction	17 N.J.R. 2081(a)	R.1986 d.144	18 N.J.R. 1201(a)

(TRANSMITTAL 29, dated May 19, 1986)**COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A**

12A	Departmental rules; small business set-aside contracts	16 N.J.R. 1955(a)	R.1985 d.421	17 N.J.R. 2683(a)
12A:100-1	Commission on Science and Technology: Innovation Partnership Grant Program	18 N.J.R. 1175(a)		

LAW AND PUBLIC SAFETY—TITLE 13

13:1-4.6	Police training: certification of firearms instructors	18 N.J.R. 397(a)	R.1986 d.235	18 N.J.R. 1305(a)
13:3-3.4, 3.8, 3.17, 7.9	Amusement games control	18 N.J.R. 613(a)	R.1986 d.218	18 N.J.R. 1306(a)
13:27	Rules of Board of Architects	17 N.J.R. 2851(b)		
13:30-8.4, 8.8	Announcement of specialty in dentistry; patient records	18 N.J.R. 816(a)	R.1986 d.269	18 N.J.R. 1394(a)
13:31-1.11	Fees for electrical contractor's license	18 N.J.R. 462(a)	R.1986 d.193	18 N.J.R. 1201(b)
13:35-4.2	Termination of pregnancy	18 N.J.R. 614(a)	R.1986 d.217	18 N.J.R. 1306(b)
13:37-6.2	Delegation of nursing tasks by RPNs	17 N.J.R. 2354(a)		
13:37-6.2	Delegation of selected nursing tools	18 N.J.R. 1448(a)		
13:37-6.2	Delegation of selected nursing tasks	18 N.J.R. 1176(a)		
13:37-6.3	Nursing procedures: administration of renal dialysis treatment	18 N.J.R. 398(b)		
13:39A-1	Board of Physical Therapy: organization and administration	17 N.J.R. 2355(a)	R.1986 d.265	18 N.J.R. 1394(b)

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

(CITE 18 N.J.R. 1637)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
13:39A-1.4	Licensure of physical therapists: fees and charges	18 N.J.R. 1177(a)		
13:39A-2	Authorized practice by physical therapists	17 N.J.R. 2356(a)	R.1986 d.266	18 N.J.R. 1395(a)
13:39A-2.2	Authorized practice by physical therapist	18 N.J.R. 1177(b)		
13:39A-3	Unlawful practices by physical therapists	17 N.J.R. 2358(a)	R.1986 d.267	18 N.J.R. 1397(a)
13:39A-3.2	Pre-proposal: fee splitting and kickbacks by physical therapists	17 N.J.R. 2360(a)		
13:39A-3.3	Physical therapy: unlawful practices	18 N.J.R. 1178(a)		
13:39A-4	Unlicensed practice of physical therapy	17 N.J.R. 2361(a)	R.1986 d.268	18 N.J.R. 1399(a)
13:39A-5	Physical therapy applicants: required credentials	17 N.J.R. 2362(a)	R.1986 d.270	18 N.J.R. 1399(b)
13:39A-5.2—5.4, 5.6—5.9	Physical therapy educational credentials and examination standards	18 N.J.R. 1179(a)		
13:39A-6	Temporary licensure of physical therapists	18 N.J.R. 1179(b)		
13:42-6	Reimbursement for psychological services: disclosure of patient information	18 N.J.R. 817(a)		
13:44-2.3, 2.11	Advertising by licensed veterinarians	18 N.J.R. 399(a)	R.1986 d.264	18 N.J.R. 1400(a)
13:44C-1.1	Audiology and Speech Language Pathology Advisory Committee: fees and charges	17 N.J.R. 1062(a)	R.1986 d.192	18 N.J.R. 1201(c)
13:45A-2	Motor vehicle advertising practices	17 N.J.R. 2861(a)		
13:45A-24	Sale of grey market merchandise	17 N.J.R. 2866(a)		
13:46-8.25, 11.10	Compensation of boxing officials, and boxing and wrestling timekeepers	18 N.J.R. 930(a)		
13:46-12.1, 12.6	Medical examination of boxers	18 N.J.R. 617(a)	R.1986 d.302	18 N.J.R. 1484(a)
13:47-6.19	Prohibited prizes in games of chance	18 N.J.R. 1180(a)		
13:47-14.3	Rental of premises for bingo	18 N.J.R. 1180(b)		
13:54	Regulation of firearms businesses	18 N.J.R. 51(a)		
13:70-1.17	Thoroughbred racing: policing requirements	18 N.J.R. 819(a)		
13:70-3.47	Thoroughbred racing: Coggins test	18 N.J.R. 401(a)		
13:70-3.47	Thoroughbred racing: Coggins test for track entrance	18 N.J.R. 1448(b)		
13:70-12.1, 12.2	Thoroughbred racing: claiming privileges	18 N.J.R. 546(a)	R.1986 d.215	18 N.J.R. 1308(a)
13:70-29.56	Thoroughbred racing: Super Six	Emergency	R.1986 d.334	18 N.J.R. 1619(a)
13:71-5.1	Harness racing: policy requirements	18 N.J.R. 820(a)		
13:71-6.24	Harness racing: Coggins test	18 N.J.R. 402(b)		
13:71-6.24	Harness racing: Coggins test for track entrance	18 N.J.R. 1448(c)		
13:71-27.53	Harness racing: Super Six	Emergency	R.1986 d.334	18 N.J.R. 1619(a)

(TRANSMITTAL 42, dated May 19, 1986)

PUBLIC UTILITIES—TITLE 14

14:3-4.7	Adjustment of utility bills	17 N.J.R. 2236(a)		
14:3-7.15	Discontinuance of residential service: notice to local fire officials	18 N.J.R. 463(a)	R.1986 d.242	18 N.J.R. 1401(a)
14:10-5	Inter LATA telecommunications carriers	17 N.J.R. 2012(a)		
14:18-1.2, 3.9	Cable TV: service outages	18 N.J.R. 619(a)		
14:18-1.2, 11.21, 3	CATV: franchise renewals	18 N.J.R. 1181(a)		
14:18-7.11	Cable TV: senior citizens' rates	18 N.J.R. 931(a)	R.1986 d.294	18 N.J.R. 1485(a)

(TRANSMITTAL 27, dated March 17, 1986)

ENERGY—TITLE 14A

14A:3-4.4, 4.5	Thermal and lighting efficiency	18 N.J.R. 1089(a)	R.1986 d.314	18 N.J.R. 1612(a)
14A:6-2	Business Energy Improvement Subsidy Program	18 N.J.R. 1347(a)		
14A:20-1.9	Utility energy conservation plans: administrative review	18 N.J.R. 1092(a)	R.1986 d.295	18 N.J.R. 1485(b)

(TRANSMITTAL 18, dated February 18, 1986)

STATE—TITLE 15

15:3	State and local records retention	18 N.J.R. 820(b)	R.1986 d.238	18 N.J.R. 1401(b)
15:3-2.15	Microfilm standards: correction to Administrative Code			18 N.J.R. 1623(b)

(TRANSMITTAL 16, dated February 18, 1986)

PUBLIC ADVOCATE—TITLE 15A

(TRANSMITTAL 1, dated March 20, 1978)

TRANSPORTATION—TITLE 16

6:27	Bureau of Traffic Engineering	18 N.J.R. 1184(a)		
6:28-1.2, 1.3, 1.79	Speed rates along I-80, I-287, and Route 94	18 N.J.R. 621(a)	R.1986 d.210	18 N.J.R. 1308(b)
6:28-1.25	Speed rate on Route 23 in Wantage	18 N.J.R. 1092(b)	R.1986 d.289	18 N.J.R. 1485(c)
6:28-1.107	School zone along Route 48 in Carney's Point	18 N.J.R. 932(a)	R.1986 d.248	18 N.J.R. 1401(c)
6:28A-1.7, 1.18, 1.25, 1.33	Parking along U.S. 9, Routes 27, 35, and 47	18 N.J.R. 622(a)	R.1986 d.208	18 N.J.R. 1309(a)
6:28A-1.7, 1.85, 1.105	Parking and bus stops along U.S. 9, Routes 54 and 161	18 N.J.R. 1092(c)	R.1986 d.290	18 N.J.R. 1486(a)
6:28A-1.8, 1.15, 1.22, 1.37	No parking zones along Routes 10, 23, 31, and 70	18 N.J.R. 1252(b)		
6:28A-1.23, 1.27, 1.51, 1.71, 1.106	No parking zones along Routes 33, 38, 168, 67 and Truck Route U.S. 1 and 9	18 N.J.R. 1350(a)		

(CITE 18 N.J.R. 1638)

NEW JERSEY REGISTER, MONDAY, AUGUST 4, 1986

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
16:28A-1.25, 1.38, 1.75	No parking along Routes 35, 71 and 35-71 in Belmar	18 N.J.R. 1093(a)	R.1986 d.291	18 N.J.R. 1486(b)
16:28A-1.33	Parking along Route 47 in Cape May County	Emergency	R.1986 d.292	18 N.J.R. 1491(a)
16:28A-1.46	Bus stop on U.S. 130 in Pennsauken	18 N.J.R. 1094(a)	R.1986 d.288	18 N.J.R. 1486(c)
16:28A-1.61	Bus stop zones on U.S. 9W in Englewood Cliffs	18 N.J.R. 1351(a)		
16:28A-1.71	Bus stop zones along Route 67 in Fort Lee	18 N.J.R. 1253(a)		
16:29-1.6, 1.7, 1.52-1.56	No passing zones along Routes 34, 36, 181, 70, U.S. 30, 57 and 77	18 N.J.R. 550(a)	R.1986 d.194	18 N.J.R. 1202(a)
16:29-1.21, 1.57	No passing zones along Routes 27 and 28	18 N.J.R. 1254(a)		
16:29-1.51, 1.57	No passing zones along Routes 35 and 28	18 N.J.R. 623(a)	R.1986 d.207	18 N.J.R. 1309(b)
16:29-1.56, 1.58, 1.59	No passing zones along U.S. 9W, U.S. 202, and Route 77	18 N.J.R. 1449(a)		
16:29-1.60	No passing zones along Route 54 in Atlantic County	18 N.J.R. 1449(b)		
16:29-1.61-1.64	No passing zones along Routes 17, 24, 45 and 48	18 N.J.R. 1450(a)		
16:30-2.9	Yield intersection along U.S. 130 in Westville	18 N.J.R. 1254(b)		
16:30-3.5	Bus and carpool lane on I-95 approach to GWB	18 N.J.R. 624(a)		
16:30-11.1	Route I-295 rest areas	18 N.J.R. 932(b)	R.1986 d.249	18 N.J.R. 1401(d)
16:31-1.3, 1.18	Left turns on U.S. 46 and Route 31	18 N.J.R. 625(a)	R.1986 d.209	18 N.J.R. 1310(a)
16:31-1.4	No left turn on Route 35 in Sayreville	18 N.J.R. 1352(a)		
16:32-1.2, 1.3, 3	Designated routes for double trailers and wide trucks	18 N.J.R. 1184(b)		
16:41-8.9	Outdoor advertising permit fees for vegetation control	18 N.J.R. 625(b)		
16:49-1.3	Transportation of hazardous materials	18 N.J.R. 933(a)		
16:51	Pre-proposal: Practice before Office of Regulatory Affairs	17 N.J.R. 2867(a)		
16:53-9.1	Autobuses: public liability insurance	18 N.J.R. 626(a)	R.1986 d.216	18 N.J.R. 1310(b)
16:56-4.1	Airport safety improvement grants: annual ceiling	18 N.J.R. 933(b)	R.1986 d.246	18 N.J.R. 1402(a)
16:74	NJ TRANSIT: claims of destructive competition	18 N.J.R. 1255(a)		

(TRANSMITTAL 40, dated May 19, 1986)

TREASURY-GENERAL—TITLE 17

17:1-2.3	Alternate Benefit Program: salary reduction and deduction	17 N.J.R. 2350(b)		
17:1-2.37	Alternate Benefit Program: transmittal of employee contributions	18 N.J.R. 1256(a)		
17:1-4.35	PERC: purchase of temporary service credit	18 N.J.R. 1450(b)		
17:1-12.7	Enrollment in Police and Firemen's Retirement System	18 N.J.R. 626(b)	R.1986 d.211	18 N.J.R. 1310(c)
17:2-6.1	PERC: application for retirement	18 N.J.R. 1451(a)		
17:5-5.12	State Police disability retiree rule	17 N.J.R. 2746(b)		
17:6-3.1	Consolidated Police and Firemen's Pension Fund: administrative change	_____	_____	18 N.J.R. 1624(a)
17:7-1.4	Prison Officers' Pension Fund: election of commission members	18 N.J.R. 1352(b)		
17:9-6.1	State Health Benefits Program: "retired employee" status	18 N.J.R. 1451(b)		
17:9-6.6	State Health Benefits Program: coverage for surviving dependent	18 N.J.R. 1452(a)		
17:12-8.1	Standard third party contract	18 N.J.R. 1353(c)		
17:16-17.1, 17.3	State Investment Council: limitations on common and preferred stock and convertible issues	18 N.J.R. 1353(a)		
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