

NEW JERSEY REGISTER



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THE JOURNAL OF STATE AGENCY RULEMAKING

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(Includes adopted rules filed through September 25, 1987)

MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: AUGUST 17, 1987.

See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE WILL BE DATED SEPTEMBER 21, 1987.

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INTERESTED PERSONS

Interested persons may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **November 18, 1987**. 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. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

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December 21 issue:

Proposals	November 19
Adoptions	November 30

January 4, 1988 issue:

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NEW JERSEY REGISTER

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

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RULE PROPOSALS

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Limited Dividend and Nonprofit Housing Corporations and Associations

Proposed Readoption with Amendments: N.J.A.C. 5:13

Authorized By: Leonard S. Coleman, Jr., Commissioner,
Department of Community Affairs.

Authority: N.J.S.A. 55:16-11 and 52:27D-22.

Proposal Number: PRN 1987-419.

Submit comments by November 18, 1987 to:
Michael L. Ticktin, Esq.,
Administrative Practice Officer
Division of Housing and Development
CN 804
Trenton, NJ 08625

The agency proposal follows:

Summary

The Department of Community Affairs proposes to readopt N.J.A.C. 5:13, which implements the Limited Dividend Nonprofit Housing Corporations or Associations Law, P.L. 1949, c.184, as amended (N.J.S.A. 55:16-1 et seq.). These rules will expire on January 1, 1988 pursuant to Executive Order No. 66(1978). The Department has reviewed these rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. Once readopted these rules will continue to provide standards to be followed by nonprofit and limited dividend (not more than eight percent annual return) corporations and associations established for the purpose of providing decent, safe and sanitary housing. A housing project built and operated under the law and these rules may qualify for property tax abatement upon a municipal finding that the project is an improvement made for the purpose of clearing, replanning, developing or redeveloping a blighted area.

N.J.A.C. 5:13-1 sets forth standards for all limited dividend nonprofit housing sponsors. A summary of each section in subchapter 1 follows:

5:13-1.1 Provides definitions of the words and terms used throughout this subchapter.

5:13-1.2 Defines those housing sponsors that must comply with the provisions of the code.

5:13-1.4 States the procedures for application for approval of the formation or incorporation of a housing sponsor and approval of a project.

5:13-1.5 Specifies procedures for the operation of the housing sponsor corporation.

5:13-1.6 Sets forth requirements for meetings of stockholders and directors.

5:13-1.7 States priorities for tenant selection and occupancy.

5:13-1.8 States priorities for tenant applications.

5:13-1.9 Provides procedures for priority application.

5:13-1.10 Requires public notice to applicants of their rights.

5:13-1.11 Specifies requirements for applications for leases.

5:13-1.12 Requires list of those who have indicated interest but are nonapplicants.

5:13-1.13 Specifies requirements for leases.

5:13-1.14 Indicates expenses to be covered by rent schedule.

5:13-1.15 Lists reports housing sponsor must submit to Authority.

5:13-1.16 Prohibits discrimination.

5:13-1.17 Provides administrative remedy.

5:13-1.18 Sets forth procedures for administrative orders on complaints.

5:13-1.19 Refers to right to a fair hearing.

5:13-1.20 States procedures for request for a hearing.

5:13-1.25 States procedures for a stay of action.

5:13-1.27 States procedures for declaratory rulings.

5:13-1.28 States that informal disposition is not precluded.

N.J.A.C. 5:13-2 Applies to housing sponsors as cooperatives financed under a FHA insured mortgage.

5:13-2.1 Defines those housing sponsors that must comply with the provisions of Subchapter 2.

5:13-2.2 Sets forth requirements for the management, operation, and maintenance of cooperative projects.

5:13-2.3 Requires purchase of shares from stockholder desiring to leave project.

Amendments are being made to correct erroneous or incomplete statutory references and to reflect the fact that the Housing Finance Agency (HFA) has been succeeded by the Housing and Mortgage Finance Agency (HMFA).

Social Impact

Since no substantive changes are made, the amendments to the readoption are not expected to have any social impact. The standards set forth in N.J.A.C. 5:13, since originally adopted, have ensured that tenants whose housing need is greatest have received priority for occupancy. The readoption will address the continuing need for decent, safe and sanitary housing in the State and ensure that both tenants and sponsors of housing projects built under the act have the benefit of standards and procedures for the formation and operation of housing sponsors and the selection of tenants.

Economic Impact

Since no substantive amendment is proposed, the proposed amendments to readoption will have no economic impact. The standards established in N.J.A.C. 5:13 have, since originally adopted, encouraged production of new dwellings at rents which are affordable to those whose housing needs are greatest and has in the redevelopment of blighted areas. Housing projects built and operated pursuant to N.J.A.C. 5:13 have qualified for property tax abatement.

Readoption of the standards in N.J.A.C. 5:13 will ensure continued economic benefit to those areas in need of redevelopment and to help alleviate the shortage of low and moderate income housing.

Regulatory Flexibility Statement

Limited dividend sponsors, some of which are small businesses, are subject to the costs of compliance with the readopted rules regarding information, operation, tenant application and other procedural requirements. There is no differential impact upon limited dividend sponsors which are small businesses. The objective of providing decent, safe, and sanitary housing can only be met by imposing the compliance requirements upon all housing sponsors.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:13.

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

5:13-1.1 Definitions

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

...
["HFA"] "HMFA" means the New Jersey Housing and Mortgage Finance Agency, in, but not of, the Department of Community Affairs.
...

5:13-1.2 Scope

(a) (No change.)

(b) For the purpose of encouraging development of housing projects under these regulations and to enable housing sponsors to obtain the necessary financing through FHA or [HFA] HMFA, the State Administrator may waive any regulations herein where such waiver is in the public interest and there is a conflict between these regulations and either FHA or [HFA] HMFA requirements.

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

5:13-1.5 Operation of corporation or association

(a) (No change.)

(b) If the mortgage on the project is insured by the FHA or financed by the [HFA] HMFA, the housing sponsor shall comply with the requirements of such agency in connection with reserves. On termination of the jurisdiction of the FHA or [HFA] HMFA, the reserves of the corporation shall be established and maintained in an account approved by the Authority.

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

5:13-1.7 Tenant application, selection and priorities

It is the purpose and intent of the Act and this Chapter that tenants whose housing need is greatest receive priority for occupancy in any project under the Act; provided that the applicant's family size must be suitable to the apartment to be occupied and the tenant's income must be sufficient to be able to afford the rent charged; and provided that any regulations of the [HFA] HMFA implementing priority categories specified by the New Jersey Housing and Mortgage Finance Agency law (N.J.S.A. [55:14J-1] 55:14K-1 et seq.), as amended, shall prevail in those projects financed by said agency.

5:13-1.8 Tenant priorities

(a) Applications for eligible persons and families for occupancy shall receive priority over all others in the following order:

1.-2. (No change.)

[3.](b) [Provided, however, persons] Persons who have moved to standard housing under an approved Workable Relocation Assistance Program pursuant to the Relocation Assistance Law of 1967 (N.J.S.A. [55:13A-1 et seq.] 52:31B-1 et seq.) and the Relocation Assistance Act (N.J.S.A. 20:4-1 et seq.) and regulations promulgated thereunder (N.J.A.C. 5:11), as a permanent move outside of a priority area, shall not have priority status under this Section.

5:13-1.10 Public notice to applicants on rights

(a) There shall be posted, in a prominent place, in each office where prospective applicants come to make application for tenancy, a sign notifying the applicants of their rights with reference to nondiscrimination: priority preferences in accordance with these or [HFA] HMFA regulations if applicable; eligibility to file where income is derived from welfare and public assistance funds; rights of any person to request and file application for tenancy; and the right to file complaints with the State Administrator.

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

(d) All informational bulletins, advertising brochures, and application forms shall, in bold type, be printed with a statement indicating to applicants or prospective applicants their rights [to] with reference to nondiscrimination, priority preferences as provided for in these or [HFA] HMFA regulations, and eligibility to file where income is derived from welfare or public assistance funds.

5:13-1.11 Applications for dwelling leases and rentals

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

(f) Each application shall be dated and numbered serially as received; excepting, however, those applications disclosing priority shall be numbered serially separately and bear the prefix "P"[,] or, if [HFA] HMFA priorities, the prefix ["HFA-P"] "HMFA-P" to so indicate and shall be separately maintained and transmitted to the Authority for approval.

(g)-(n) (No change.)

(a)

**DIVISION OF HOUSING AND DEVELOPMENT
Commercial Farm Building Subcode
Public Hearings on Proposed Amendments to
N.J.A.C. 5:23**

Take notice that the Departments of Community Affairs and Agriculture will hold three joint hearings for the purpose of taking testimony on the proposed Commercial Farm Building Subcode. The purpose of these meetings is to solicit comments and take testimony on the proposed amendments. The Commercial Farm Building Subcode was published in the New Jersey Register on October 5, 1987 at 19 N.J.R. 1778(a).

The hearings will take place at the times, dates and locations listed below. The comment period has been extended to December 18, 1987.

Hunterdon County Extension Service
Tuesday, November 17, 1987
3:30 P.M.-7:30 P.M.
4 Gauntt Place (off Rte. 31)
Flemington, N.J.

Camden County Extension Service
Tuesday, November 24, 1987
3:30 P.M.-7:30 P.M.
152 Ohio Avenue
Clementon, New Jersey

Monmouth County Extension Service
Tuesday, December 1, 1987
3:30 P.M.-7:30 P.M.
20 Court Street
Freehold, New Jersey

(b)

**DIVISION OF HOUSING AND DEVELOPMENT
Uniform Construction Code
Energy Subcode; Individual Electric Metering in
Residential Buildings; Lighting Efficiency
Standards for Existing Buildings
Proposed Amendment: N.J.A.C. 5:23-3.18
Proposed Repeal: N.J.A.C. 14A:3-7.1 through 7.5
and 14A:3-9.1 through 9.3**

Authorized By: Leonard S. Coleman, Jr., Commissioner,
Department of Community Affairs.
Authority: N.J.S.A. 52:27D-124; Reorganization Plan No.
001-1986.

Proposal Number: PRN 1987-420.

Submit comments by November 18, 1987 to:
Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing and Development
CN 804
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposal amends the Energy Subcode of the State Construction Code to expressly allow electrical use in dwelling units in condominium and cooperative apartments, but in no other multifamily buildings, to be measured by means of "checkmetering." This is a procedure whereby, in addition to the main meter from which electrical use is measured by the utility company, there are individual dwelling unit meters which allow determination of use in each unit. Some condominium associations or cooperative corporations may find it desirable to use this appropriate procedure, since checkmetering will allow them to control or penalize excessive use by individuals even if they pay the bill for the entire building based on overall use. At present, an order issued by the Board of Public Utilities limits checkmetering to condominiums and cooperatives but limits applicability to those areas in which utility tariffs allowing checkmetering are in effect. The proposal repeals the Department of Energy rules on this subject at N.J.A.C. 14A:3-7, which are to be enforced by the Department of Community Affairs under the State Uniform Construction Code Act. The metering rules, as amended, are more appropriately included in the Energy Subcode codified at N.J.A.C. 5:23-3.18 and are substantively identical to the repealed provision of N.J.A.C. 14A:3-7. The repealed lighting rules at N.J.A.C. 14A:3-9 deal with existing buildings and cannot appropriately be enforced as part of the State Uniform Construction Code, which, with the exception of a provision concerning hazardous building, applies only to new construction and alteration; lighting efficiency standards for new construction and alteration are set forth in the Energy Subcode at N.J.A.C. 5:23-3.18.

Social Impact

This proposal continues the process of combining all construction-related energy rules within N.J.A.C. 5:23 and thereby reducing the level of confusion as to what rules apply to construction. Limitation of checkmetering in multifamily buildings to condominiums and cooperatives, where two occupants are most likely to have an incentive to conserve electricity since they will have to pay for any excess, and removing the limitation based on individual utility tariffs, will help insure that checkmetering is used where it is most appropriate.

Economic Impact

Cost savings of approximately \$1,000 per dwelling unit may be realized from the use of checkmetering in condominium and cooperative multifamily buildings.

Regulatory Flexibility Statement

Since this proposal simply amends the Energy Subcode, there are no compliance requirements imposed on small businesses, therefore, a regulatory flexibility analysis is not required.

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

23-3.18 Energy Subcode

- (a) (No change.)
- (b) The following chapters or articles of the [energy subcode] Energy subcode are amended as follows:

1.-5. (No change.)
6. The following amendment is made to article 6 of the Energy Subcode entitled "Electrical Systems":

i. In Section E-601.2, add the words "In buildings of Use Group R-2 which are under a condominium or cooperative form of ownership only, electrical energy use by the occupants of each dwelling unit may be determined by means of checkmetering rather than by use of a separate meter owned by the electric utility for each dwelling unit."

[6.]7. The following amendments are made to article 7 of the Energy subcode entitled "Alternative Systems":

i. (No change.)

[7.]8. The following amendments are made to section 2 of standard EM-1 of the Energy Subcode, entitled "Scope":

i. (No change.)

Full text of the proposed repeal of N.J.A.C. 14A:3-7, Individual Electric Metering in Residential Buildings, and N.J.A.C. 14A:3-9, Lighting Efficiency Standards for Existing Buildings, may be found in the New Jersey Administrative Code in Title 14A.

(a)

NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

Substantive Rules: Definition of Rehabilitation Component and Credits

Proposed Amendments: N.J.A.C. 5:92-1.3 and 5:92-6.1

Authorized By: Arthur R. Kondrup, Chairman, Council on Affordable Housing.
Authority: N.J.S.A. 52:27D-301 et seq., specifically 52:27D-307.
Proposal Number: PRN 1987-426.

Submit comments by November 18, 1987 to:
Douglas V. Opalski, Executive Director
New Jersey Council on Affordable Housing
707 Alexander Road
CN 813
Trenton, New Jersey 08625-0813

The agency proposal follows:

Summary

The Fair Housing Act, N.J.S.A. 52:27D-301 et seq., requires the Council on Affordable Housing to adopt criteria for crediting past housing activity that resulted in a current unit of low and moderate income housing of adequate standard. In adopting N.J.A.C. 5:92-6.1 the Council chose to recognize good faith efforts at rehabilitating low and moderate income housing when the rehabilitation effort corrected a structural deficiency. A decision was made not to recognize cosmetic rehabilitation. In examining the crediting documentation provided by municipalities with their housing elements, the Council found that it needed to develop a standard that would recognize good faith efforts at non-cosmetic rehabilitation.

The Council analyzed rehabilitation programs throughout the State and determined the maximum rehabilitation grants and/or loans awarded by the various programs. After performing this analysis and the crediting documentation submitted by municipalities the Council determined that \$4,500 was a reasonable figure to apply to requests for rehabilitation credit. Therefore, the Council has decided to amend N.J.A.C. 5:92-6.1 to include this standard for credits.

The Council also decided to propose a definition for rehabilitation component at N.J.A.C. 5:92-1.3. The definition clarifies the segment of municipality's precredited need that may be satisfied via a rehabilitation

program. It also establishes a minimum dollar figure for future rehabilitation activity that reflects the Council's belief that rehabilitation of substandard units should be substantial.

Social Impact

The proposed amendments will clarify the Council on Affordable Housing's policy of allowing communities to rehabilitate their deficient housing stock. This policy decision has a positive social impact in that it allows communities to provide standard housing for low and moderate income residents without building new housing developments that could place a strain on municipal services.

Economic Impact

The amendment to N.J.A.C. 5:92-6.1(a) should have no economic impact since it deals with past activity. The amendment to N.J.A.C. 5:92-1.3 should benefit the contracting industry in that it will encourage municipalities to support substantial rehabilitation activities.

Regulatory Flexibility Statement

Since the proposed amendments impose no additional compliance requirements on small businesses, in that it applies to the fair share requirements of some municipalities, a regulatory flexibility analysis is not required.

The proposed standard for future rehabilitation of \$8,000 should have a positive impact on small contractors throughout the State because it requires substantial rehabilitation.

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

5:92-1.3 Definitions

...
"Rehabilitation component" means the number of units that are to be rehabilitated as part of a municipality's fair share obligation at a minimum of \$8,000 per unit in actual capital costs. The rehabilitation component is the difference between indigenous need and spontaneous rehabilitation.

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 for rehabilitation shall not exceed indigenous need and shall only be credited against indigenous need. The Council establishes \$4,500 as the minimum actual capital costs expended for a rehabilitated unit to be eligible for crediting. 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, subject to the following exceptions:

- 1. (No change.)
- 2. For rehabilitation, a unit shall be eligible for crediting if:
 - i.-ii. (No change.)
 - iii. At least \$4,500 in actual capital costs was expended for rehabilitation costs.

ENVIRONMENTAL PROTECTION

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

(b)

**DIVISION OF WATER RESOURCES
Hazardous Waste Sampling and Analysis of
Discharge to Ground Water**

Proposed Amendment: N.J.A.C. 7:14A-6.4.

Authority: N.J.S.A. 58:10A-1 et seq.

DEP Docket Number: 044-87-09.

Proposal Number: PRN 1987-429.

Submit comments by November 18, 1987 to:

Ann Zeloof, Esq.
N.J. Department of Environmental Protection
Office of Regulatory Services
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection ("Department") is proposing to amend N.J.A.C. 7:14A-6.4(b) to add concentration limits to the existing table of groundwater monitoring parameters for hazardous waste facilities. This amendment is proposed in order to bring the State hazardous waste program into equivalency with the Federal program. (See the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.) The equivalent Federal table of parameters and concentrations appears at 40 CFR Part 265, Appendix III.

The State list of parameters is somewhat more extensive than the Federal table. The State already includes the following additional parameters: iron, manganese, sodium, sulfate, chloride, ammonia, and phenols. Concentration limits are being added to all the parameters. The limits for parameters listed only by the Department were derived from the Federal secondary drinking water standards. For those parameters listed in the Federal regulations, concentrations are specified.

These standards are applied to groundwater monitoring wells at hazardous waste treatment, storage, or disposal (TSD) facilities. Such facilities are required to perform groundwater monitoring at the intervals specified in N.J.A.C. 7:14A-6.4(c) and (d), or in a New Jersey Pollutant Elimination System ("NJPDES") permit, if such a permit has been issued to the facility. If the concentration of any of these constituents in the groundwater exceeds the limits set forth in Table 1, the Department would require the facility owner or operator to undertake additional groundwater investigation, and, possibly, remediation.

Social Impact

The proposed amendments will have a positive social impact by clarifying the limits applicable to groundwater monitoring.

Economic Impact

No significant economic impact upon the regulated community is anticipated because the adoption of concentration limits will not increase the expense to groundwater analyses. No increased administrative costs to the State are anticipated.

Environmental Impact

No direct environmental impact is anticipated.

Regulatory Flexibility Statement

The proposed amendment will have a minimal impact on small businesses, since it is a clarification of rules already in effect. The State is required to adopt rules which are equivalent to the Federal rules in order to retain authorization of its hazardous waste regulatory program. Therefore, additional expenditures for recordkeeping, compliance or consultant's fees will not be incurred by small businesses.

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

7:14A-6.4 Sampling and analysis concerning DGW of hazardous waste

(a) (No change.)

(b) The owner or operator [must] **shall** determine the concentrations or values of the following parameters in groundwater samples:

1. Parameters establishing groundwater quality and characterizing suitability of the ground water as a drinking water supply as specified but not limited to those in Table 1 (Monitoring parameters for hazardous waste facilities).

[Table 1. Monitoring parameters for hazardous waste facilities.]

[As	[Lindane
Ba	Methoxychlor
Cd	Toxaphene
Cr	2,4 D
F	2,4,5-TP Silvex
Pb	Endrin
Hg	Radium
NO ₃ -N	Gross Alpha
NH ₄ -N	Gross Beta
Se	Turbidity
Ag	Coliform bacteria]
Iron	
Manganese	
Sodium	
Sulfate	
Chloride	
Phenols]	

Table 1. Monitoring parameters for Hazardous Waste Facilities.

Parameter	Maximum Level (mg/l) unless otherwise noted
As	0.05
Ba	1.0
Cd	0.01
Cr	0.05
F	1.4-2.4
Pb	0.05
Hg	0.002
NO ₃ -N	10
NH ₄ -N	0.5
Se	0.01
Ag	0.05
Iron	0.3
Manganese	0.05
Sodium	50
Sulfate	250
Chloride	250
Phenols	0.3
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005
2,4-D	0.005
2,4,5-TP Silvex	0.01
Endrin	0.0002
Radium	5 picocuries per liter
Gross Alpha	15 picocuries per liter
Gross Beta	4 millirem/yr
Turbidity	1 Turbidity Units
Coliform Bacteria	1/100 ml

2.-4. (No change.)

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

(a)

DIVISION OF WATER RESOURCES

**New Jersey Pollutant Discharge Elimination System
Proposed Amendments: N.J.A.C. 7:14A-8**

Authority: N.J.S.A. 58:10A-1 et seq., 58:11A-1 et seq., 58:10-23.11 et seq., 58:11-64 et seq., 13:1D-1 et seq., specifically 13:1D-9, 13:1E-1 et seq., specifically 13:1E-6, 58:4A-5, 58:4A-4.1, and 58:12A-1 et seq.

DEP Docket Number: 045-87-09.

Proposal Number: PRN 1987-430.

Submit comments by November 18, 1987 to:

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The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection (Department) regulates the discharge of pollutants into the surface and ground waters of the State via a permitting program established pursuant to the Water Pollution Control Act (State Act), N.J.S.A. 58:10A-1 et seq. On March 6, 1981, the Department promulgated rules implementing this permitting program. These rules are known as the New Jersey Pollutant Discharge Elimination System (NJPDES) rules and are set forth in N.J.A.C. 7:14A-1 et seq. The rules apply to various types of discharge that include, for example, the following: discharges from underground injection wells; sanitary landfills; surface water discharges; industrial waste management facilities; surface impoundments; land application of sludge and septage; infiltration-percolation lagoons; indirect discharge to public and private wastewater treatment plants; land application of effluents by overland flow; and land application of effluents by spray irrigation. The rules also govern the Department's approval of the construction and operation of treatment works, sewage collection system and treatment plants.

The proposed amendments were prepared as a result of the Department's continuous review of the rules. The proposed amendments, in an effort to promote greater administrative efficiency, modify certain sections of N.J.A.C. 7:14A-8. Subchapter 8 sets forth the permit actions for which the Department will provide public notice and the methods by which notice will be provided; the basis for and the procedures governing the holding of a public hearing; the affirmative obligation of the applicant/permittee to raise all relevant legal and/or factual issues and provide information during the public comment period (see Bell Harbor, Inc. v. New Jersey Department of Environmental Protection, No. A-3419-85-T8 (App. Div. December 10, 1986); the content of the Department's response to comments and documents; the procedure by which a permittee may request an adjudicatory hearing; the grounds upon which the Department may grant a stay of any contested permit condition; and general conditions governing notice and conduct of adjudicatory hearings.

Social Impact

As a set of procedural rules providing substantive legal rights and responsibilities, N.J.A.C. 7:14A-8 affects all persons whose activities require a NJPDES permit. Subchapter 8 of the NJPDES rules ensures that the public is afforded adequate notice of the Department's action and that the public receives a fair opportunity to comment and participate in the Department's permitting activities. The proposed amendments are expected to clarify some regulatory provisions which have been misinterpreted in the past as well as to codify developing administrative policy into the regulatory framework. The Department is proposing these amendments as a part of its efforts to protect the waters of the State.

Economic Impact

The proposed changes will neither increase nor decrease the cost of the NJPDES program to the regulated community. The amendments are proposed to clarify rather than expand the legal obligations imposed by the Department upon applicants/permittees to promote the effective administration of the NJPDES program. Application of the NJPDES program, however, has a positive economic impact. The NJPDES rules have significantly improved the environmental quality of New Jersey's ground and surface waters by abating the negative impact of water pollution on property values, business interests, and the tourist industry.

Environmental Impact

The NJPDES program has been established to prevent, control and abate water pollution and to protect public health and safety. The proposed amendments will assist the Department in administering the NJPDES program. The NJPDES rules allow the Department to effectively mitigate and prevent adverse impacts from pollutant discharges to the waters of the State.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986 c.169, the Department has determined that this proposal will not impose reporting, recordkeeping, or other compliance requirements on small businesses because the amendments to Subchapter 8 of the NJPDES rules serve to clarify rather than expand the legal obligations imposed by the Department upon applicants/permittees for the effective administration of the NJPDES program. The Department's proposed amendment of the existing rules allows all applicants/permittees to fully comply with these rules without imposing additional compliance requirements and without the administrative burden or financial expense of retaining any additional professional services.

The Department, in developing these amendments, considered the effect of the proposed changes on the regulated community in general, and small business in particular. The Department, in proposing these amendments to the NJPDES program, anticipates that these amendments will provide an improved understanding of, and greater compliance with, the NJPDES regulations.

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

7:14A-8.1 Public notice of permit actions and public comment period

(a) [Scope:] The Department shall [give] **provide** public notice [that] of the following actions [have occurred]:

1. [The Department proposes] **Proposed** suspension, revocation and reissuance, renewal, [or substantial] **major** modification of a permit under N.J.A.C. 7:14A-2.12 and/or 7.5 or **minor** modification of a permit under N.J.A.C. 7:14A-2.14;

2. [A permit application or DAC application has been tentatively denied] **Intent to deny a permit or DAC application** under N.J.A.C. 7:14A-7.6(c);

3. **Issuance** of [A] a draft permit or draft DAC [has been prepared] under N.J.A.C. 7:14A-7.6(e);

4. [A hearing has been scheduled] **Scheduled hearing** under N.J.A.C. 7:14A-8.3; and

[5. Modifications to a discharge permit.]

5. Reopening of the public comment period under N.J.A.C. 7:14A-8.5.

(b) **The Department shall not be required to provide** [No] public notice [is required] when a request for permit modification, revocation[s] and reissuance, or termination is denied under N.J.A.C. 7:14A-7.5(b). Written notice of [that] the denial shall be [given] **provided** to the requestor and to the permittee.

[(c) Public notices may describe more than one type of discharge, or permit action.

(d) Timing of public notices:

1. Public notice of the preparation of a draft permit or draft DAC (including a notice of intent to deny a permit application) required under (a) above shall allow at least 30 days for public comment.

2. Public notice of a public hearing shall be given at least 30 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.)

(c) **The Department shall provide public notice according to the following schedule:**

1. **Public notice of an action set forth in (a)1, 2, 3 or 5 above, except for minor modification of a permit under N.J.A.C. 7:14A-2.14, shall be provided at least 30 days prior to the end of the public comment period unless otherwise required pursuant to N.J.A.C. 7:26-12.12(c). In addition, public notice of all major and minor modifications to permits shall be provided annually in the New Jersey Register.**

2. **Public notice of a public hearing as set forth in (a)4 above shall be provided 30 days prior to the public hearing.**

(d) **The Department may describe more than one type of discharge or permit action in a public notice. The Department may provide public notice of the public hearing at the same time as public notice of the draft permit and the two notices may be combined.**

[(e) Methods. Public notice of activities described in (a) above shall given by the following methods:]

(e) **To provide public notice of activities described in (a) above, the Department shall:**

1. [By mailing] **Mail** a copy of [a] the public notice to the following: [persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes or categories of permits):]

i. (No change.)

ii. [Any other agency which the Department knows has] **Federal and State agencies that have issued or [is] are** required to issue [a] RCRA, PSD, or 404 permits for the same facility or activity [(including EPA)];

iii. Federal and State agencies [with] **that have** jurisdiction over fish, shellfish, [and] wildlife resources, [and over] coastal zone management plans, the Advisory Council on Historic Preservation, State Historic Preservation Officers, and other appropriate government authorities, including any affected states;

iv.-v. (No change.)

vi. The [affected] mayor, municipal clerk, planning board, [sewerage] sewage authority, health officer, and environmental commission of the **applicable municipality(ies)**;

vii. Persons on a mailing list developed by:

(1) Including those who request in writing to be on the **mailing list**;

(2) Soliciting persons for "area lists" from participants [in] of past permit proceedings in that area; and

(3) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as State funded newsletters, environmental bulletins, or State law journals. [(The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Department may delete from the list the name of any person who fails to respond to such a request.)]

[2. For major permits and general permits, publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity;

3. Such notice shall be published in the New Jersey Register for all modifications and in any manner constituting legal notice to the public under State law for all other actions described in (a) above;

4. Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.]

2. Publish notice of an action under (a) above, except for minor modification of a permit under N.J.A.C. 7:14A-2.14, in a daily or weekly newspaper within the area affected by the facility or activity.

3. Publish annual notice of all major and minor modifications to permits in the New Jersey Register.

[(f) Contents of public notices:

1. All public notices issued under this subchapter shall contain the following minimum information:

i. Name and address of the office processing the permit action for which notice is being given;

ii. Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit, except in the case of draft general permits under N.J.A.C. 7:14A-3.9;

iii. A brief description of the business conducted at the facility or activity described in the permit, application, draft permit or draft DAC;

iv. Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, statement of basis or fact sheet, and the application;

v. A brief description of the comment procedures required by N.J.A.C. 7:14A-8.2 and 8.3 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;

vi. The location of the administrative record required by N.J.A.C. 7:14A-7.9, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record;

vii. A general description of the location of each existing or proposed discharge point and the name of the receiving water. For draft general permits, this requirement will be satisfied by a map or description of the permit area; and this requirement will be satisfied by a map or description of the permit area; and

viii. Any additional information considered necessary or proper.

2. Public notices for hearings. In addition to the general public notice described in (f)1 above, of this section, the public notice of a hearing under N.J.A.C. 7:14A-8.3 shall contain the following information:

i. Reference to the date of previous public notice relating to the permit;

ii. Date, time, and place of the hearing; and

iii. A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.]

(f) The Department shall include the following information in all public notices provided pursuant to this subchapter:

1. Name and address of the person that is processing the permit action and to whom interested persons can make a written request for appropriate copies;

2. Name and address of the applicant/permittee and, if different, of the facility and/or activity regulated by the permit, except for draft general permits issued pursuant to N.J.A.C. 7:14A-3.9;

3. A brief description of the business conducted at the facility or activity described in the permit, permit or DAC application, draft permit or draft DAC;

4. A general description of the location of each existing or proposed discharge point and the name of the receiving water. For draft general permits, this requirement will be satisfied by a map or description of the permit area;

5. Name and address of the Bureau within the Water Quality Management Element to which interested persons can make a written request for a copy of the administrative record and the times and place at which the record will be open for public inspection;

6. A brief description of the comment procedures required by N.J.A.C. 7:14A-8.2 and 8.3 and the time and place of any hearing that will be held, including a statement of the procedures by which to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision; and

7. Any additional information considered by the Department to be necessary or proper.

(g) In addition to the public notice described in (f) above, the Department shall include the following information in the public notice of a hearing under N.J.A.C. 7:14A-8.3:

1. The date of any previous public notice relating to the permit;

2. The date, time and place of the hearing; and

3. A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

[(g)](h) In addition to the [general] public notice described in (f)[1] above, all persons identified in (e)li, ii, iii, iv[,] and v above shall be mailed a copy of the fact sheet or statement of basis, and upon written request to the Department, the permit application [(if any),] and the draft permit [(if any)].

7:14A-8.2 Public comments and requests for public hearing

[During the public comment period provided under N.J.A.C. 7:14A-8.1, any interested person may submit written comments on the draft permit or draft DAC and may request a non-adversarial public hearing, if no hearing has already been scheduled. A request for a non-adversarial public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in N.J.A.C. 7:14A-8.8]

(a) During the public comment period provided under N.J.A.C. 7:14A-8.1, all interested persons may submit written comments and data on the proposed suspension, revocation and reissuance, renewal or major modification of a permit, intent to deny a permit or DAC application, or preparation of a draft permit or draft DAC.

(b) If the Department has not already scheduled a public hearing, an interested person may request a public hearing. A request for a public hearing shall be in writing and shall state the nature of the legal and/or factual issues proposed to be raised in the hearing.

(c) The Department shall consider all comments in making its final decision and shall respond to comments pursuant to N.J.A.C. 7:14A-8.7.

7:24A-8.3 Public hearings

[(a) Whenever the Department finds on the basis of requests, a significant degree of public interest in a draft permit or draft DAC, the Department shall hold a non-adversarial public hearing. The Department also may hold a non-adversarial public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit or DAC decision. Public notice of the hearing shall be given as specified in N.J.A.C. 7:14A-8.1.

(b) Whenever a public hearing will be held the Department shall designate a hearing officer for the hearing who shall be responsible for its scheduling and orderly conduct.

(c) Any person may submit oral or written statements and data concerning the draft permit or draft DAC. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under N.J.A.C. 7:14A-8.1 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.]

(a) The Department shall hold a public hearing following its determination that there is or may be a significant degree of public interest in, or that a hearing can clarify one or more legal and/or factual issues on, a proposed suspension, revocation and reissuance, renewal or major modification of a permit, intent to deny a permit or DAC application, or preparation of a draft permit or draft DAC.

(b) The Department may set reasonable limits upon the time allowed for oral comments at the public hearing and may also require the submission of written comments. The Department shall automatically extend the public comment period pursuant to N.J.A.C. 7:14A-8.1 to the close of any public hearing under this section. The Department may also extend the comment period by so stating at the hearing.

[(d)](c) **The Department shall include a [A tape recording or] written transcript of the hearing [shall be made available to the public] in the Administrative Record.**

7:14A-8.4 Obligation to raise issues and provide information during the public comment period

(a) [All persons, including applicants,] Applicants/permittees who believe that any action under N.J.A.C. 7:14A-8.1(a)1, 2, or 3 is inappropriate, [condition of a draft permit or draft DAC is inappropriate or that the Department's tentative decision to deny an application, terminate a permit, or prepare a draft permit or draft DAC is inappropriate, must] shall raise all reasonably ascertainable issues and submit in writing to the Department by certified mail (return receipt requested) all reasonably [available] ascertainable arguments and factual grounds supporting their position, including all supporting materials, by the close of the public comment period [(including any public hearing) under N.J.A.C. 7:14A-8.1]. **If the applicant/permittee fails to raise any reasonably ascertainable issues at this time, the applicant/permittee shall be deemed to have waived the right to raise or contest any such issues in any subsequent**

adjudicatory hearing or appeal. All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials. Commentors shall make supporting material not already included in the administrative record available at the request of the Department. [(A comment period longer than 30 days will often be necessary in complicated proceedings to give commentors a reasonable opportunity to comply with the requirements of this section. Commentors may request longer comment periods and these should be freely established under N.J.A.C. 7:14A-8.1 to the extent they appear necessary.)]

[(b) This section shall not preclude the application of any procedures available pursuant to N.J.S.A. 52:14F-1 et seq.]

7:14A-8.5 [Reopening the public comment period] Action subsequent to public comment

[(a) If any data, information or arguments submitted during the public comment period, including information or arguments required under N.J.A.C. 7:14A-8.4, appear to raise substantial new questions concerning a permit or DAC, the Department may take one or more of the following actions:]

(a) **The Department may, upon a determination that any data, information or argument submitted during the comment period raises significant legal and/or factual issues concerning a permit or DAC, take one or more of the following actions:**

1. Prepare a new draft permit or a new draft DAC, appropriately modified, [under] pursuant to N.J.A.C. 7:14A-7.6;

2. Prepare a revised statement of basis under N.J.A.C. 14A-7.7, or a fact sheet or revised fact sheet [under] pursuant to N.J.A.C. 14A-7.8, and reopen the comment period under [N.J.A.C. 7:14A-8.5] (a)3 below;

3. (No change.)

(b) Comments filed during the reopened comment period shall be limited to the [substantial new questions] **significant legal and/or factual issues** that caused its reopening. The public notice under N.J.A.C. 7:14A-8.1 shall define the scope of the reopening.

(c) (No change.)

7:14A-8.6 Issuance and effective date of permit

(a) [After the close of the public comment period under N.J.A.C. 7:14-8.1 on a draft permit or draft DAC, the Department shall issue a final permit or DAC decision.] **The Department shall issue a final permit or DAC decision after the close of the public comment period.** The Department shall notify the applicant/permittee and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures **provided to the applicant/permittee for contesting [a] the Department's decision on a permit.** For the purposes of this section, a final permit decision means a final decision to issue, deny, **suspend**, modify, revoke and reissue, **renew** or terminate a permit or DAC.

(b) A final permit or DAC decision shall become effective 30 days after the service of notice of the decision under (a) above, unless [:] **a later effective date is specified in the permit or decision.**

[1. A later effective date is specified in the decision, or

2. An adjudicatory hearing is requested under N.J.A.C. 7:14A-8.9.]

7:14A-8.7 Response to comments

(a) [At the time that any final permit is issued, pursuant to N.J.A.C. 7:14A-8.6, the] **The Department shall issue a response to comments at the time that a final permit or DAC decision is issued.** [This] **The response to comments shall:**

1. State what action the Department has taken on the final permit or DAC decision;

[1.-2.]2.-3. (No change in text.)

(b) **The Department shall make [T]the response to comments [shall be] available to the public.**

7:14A-8.8 Administrative record for final permit and final DAC

(a) The Department shall base [final draft permit,] final DAC[, and] or final permit decisions [under] **made pursuant to N.J.A.C. 7:14A-8.6** on the administrative record defined in this section.

(b) The administrative record for any [final draft permit,] final DAC[, and] or final permit decision shall consist of: [the administrative record for the draft permit or draft DAC and:]

1. The administrative record for the draft DAC or draft permit required by N.J.A.C. 7:14A-7.9;

[1.-2.]3.-4. (No change in text.)

[3.]4. Any written materials submitted at [such a] any public hearing held under N.J.A.C. 7:14A-8.3;

[4.]5. The response to comments required [by] under N.J.A.C. 7:14A-8.7 and any new material placed in the record under that section;

[5.]6. [For DSW new source permits only, the] The environmental assessment and any supplement required for DSW new source permits;

[6.]7. (No change in text.)

[7.]8. The final permit or DAC decision.

(c) **The Department shall add to the administrative record the additional documents required under (b) above [should be added to the record] as soon as possible after [their] its receipt or publication by the Department. The administrative record shall be complete [on] no later than the date that the [final draft permit,] DAC or final permit is issued.**

(d) Material readily available [at the issuing] to the Department [office], or published materials which are generally available and which are included in the administrative record under the standards of this section or [of] under N.J.A.C. 7:14A-8.7 [“(Response to comments”)], need not be physically included in the [same file as the rest of the] record [as long as] if it is specifically referred to in the statement of basis, [or] fact sheet or in the response to comments.

[(e) This section shall not preclude the application of any procedures available pursuant to N.J.S.A. 52:14F-1 et seq.]

7:14A-8.9 [Requests for an a]Adjudicatory hearings

[(a) Within 30 calendar days following the service of notice of the Department's issuance of a final draft permit, DAC, or final permit (where a final draft permit or DAC do not proceed the final permit) under N.J.A.C. 7:14A-8.6, the permittee may submit a request to the Department under (b) below for an adjudicatory hearing to reconsider or contest the conditions of that permit.

(b) Such requests shall state each legal or factual question alleged to be at issue, and their relevance to the permit decision, together with a designation of the specific factual areas to be adjudged and the hearing time estimated to be necessary for that adjudication. Information supporting the request or other written documents relied upon to support the request shall be submitted unless it is already in the administrative record.

(c) Such requests shall also contain:

1. The name, mailing address and telephone number of the person making such requests;

2. A clear and concise factual statement of the nature and scope of the interest of the requester;

3. The names and addresses of the persons whom the requester represents; and

4. A statement by the requester that, upon motion of any party, or upon order of the Administrative Law Judge or the Judge's own motion and without cost or expense to any party, the requester shall make available to appear and testify, the following:

i. The requester;

ii. All persons represented by the requester; and

iii. All officers, directors, employees, consultants and agents of the requester and the persons represented by the requester.

5. Specific reference to the contested permit conditions, as well as suggested revised or alternative permit conditions (including permit denial) which, in the judgement of the requester, would be required to implement the purposes and policies of the State and Federal Acts.

6. In the case of challenges to the application of control or treatment technologies identified in the statement of basis or fact sheet, identification of the basis for the objection, and the alternative technologies or combination of technologies which the requester believes are necessary to meet the requirements of the State and Federal Acts.

7. Identification of the permit obligations that are contested or are inseparable from contested conditions and should be stayed if the request is granted by reference to the particular contested conditions warranting the stay.

(d) The Department may extend the time allowed for submitting hearing requests under this section for good cause.]

(a) **The permittee, within 30 days following the service of notice of the Department's issuance of a final permit or DAC decision under N.J.A.C. 7:14A-8.6, may submit a written request to the Department under (b) below for an adjudicatory hearing to contest the conditions of that permit.**

(b) **The permittee shall include the following information in a request for an adjudicatory hearing:**

1. The location of the permitted facility (Municipality, Lot and Block Number and County);

2. The type of NJPDES permit or DAC;

3. The NJPDES permit number;

4. The NJPDES permit issuance date;

5. The date that the final permit or DAC decision was received by the permittee;

6. A list of the specific contested permit condition(s);
7. The legal or factual question(s) at issue in each contested permit or DAC condition;
8. A statement as to whether the permittee raised the legal and/or factual issues during the public comment period in accordance with the provisions of N.J.A.C. 7:14A-8.4;
9. The relevance of the legal and/or factual issues to the permit or DAC decision;
10. Suggested revised or alternative permit or DAC conditions;
11. An estimate of the amount of hearing time necessary to adjudicate each legal and/or factual issue;
12. The name, mailing address and telephone number of the person making the request(s);
13. The name(s) and address(es) of the person(s) whom the permittee represents;
14. (Reserved)
15. Information supporting the request or other written documents relied upon to support the request, unless this information is already in the administrative record (in which case, such information shall be specifically referenced in the request); and

16. Identification of the basis for any objection to the application of control or treatment technologies identified in the statement of basis or fact sheets and the alternative technologies or combination of technologies which, in the judgement of the permittee, are necessary to implement the requirements of the State and Federal Acts.

17. A certification stating that "I hereby certify under penalty of law that the information provided in this document is true, accurate and complete. I am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including fines and/or imprisonment."

(c) The permittee shall provide a copy of its request for an adjudicatory hearing to all other co-permittees (if any).

(d) The Department, in its discretion, may extend the time allowed for submission of a hearing request under this section for good cause shown.

(e) If the violator fails to include any of the information required by (b) above, the Department shall deny the request for a hearing.

(f) The Department, in its discretion, shall decide the extent to which the request for an adjudicatory hearing shall be granted. The Department may grant a request for a hearing in whole or in part. The Department's decision shall be made following a determination that the permittee's request conforms to the requirements of this section and sets forth material issues of fact or law relevant to the issuance of the permit.

(g) The Department, if it grants a request for an adjudicatory hearing, shall identify those contested permit conditions for which an adjudicatory hearing has been granted. The Department shall specify these conditions in writing and shall serve notice pursuant to N.J.A.C. 7:14A-8.11. Permit conditions which are not contested, which were not commented on by the permittee during the public comment period, or for which the Department has denied the hearing request, shall not be affected by or considered at the adjudicatory hearing. The issues presented in the adjudicatory hearing shall be limited to those permit conditions specifically identified by the Department as required by this section.

(h) The Department, if it denies a hearing request in whole or in part, shall briefly state the reasons for such denial. Such denial shall be considered final agency action.

7:14A-8.10 Stays of contested permit conditions

[(a) If a request for an adjudicatory hearing of a permit under N.J.A.C. 7:14A-8.9 is granted, an appeal from any effluent limitations shall not automatically result in staying the conditions challenged. During the duration of such an appeal, the contested condition shall remain in full force and effect unless a stay is granted by the Director of the Division of Water Resources on formal application by the permittee. In exercising his/her discretion on such stay requests the Director shall consider the following factors:]

(a) A permittee may request, in writing, a stay of any permit condition for which the Department has granted an adjudicatory hearing.

(b) The Department's grant of a permittee's request for an adjudicatory hearing under N.J.A.C. 7:14A-8.9 shall not automatically result in a stay of a contested permit condition and, when the Department denies a stay request, the contested condition shall remain in full force and effect during the adjudicatory process.

(c) The Department, in determining whether to grant or deny a stay request, shall consider the following factors:

- 1.-3. (No change.)

[(b)](d) Where the [Director] Department determines that immediate compliance [would] will result in irreparable economic dislocation[, while and that immediate compliance is not required to preserve irreplaceable environmental resources, [he/she] it shall direct that compliance with the effluent limitations be phased into effect, partially stayed or entirely stayed pending resolution of the permittee's appeal.

[(c)](e) Any facility or activity [holding an] regulated by an existing permit [must] shall:

1. Comply, at a minimum, with the conditions of [that] its existing permit during any modification or revocation and reissuance proceeding under N.J.A.C. 7:14A-7.5; and

2. To the extent conditions of [any new] a modified or revoked and reissued permit are stayed under this section, comply with the conditions of the existing permit [which] corresponding to the stayed conditions unless compliance with the existing conditions would be technologically incompatible with [compliance with other] any unstayed conditions [of] in the new permit. [which have not been stayed, as determined by the Director in accordance with (a) and (b) above.]

(f) In granting a stay, the Department shall detail in writing:

1. The reasons for granting the stay; and

2. The specific permit conditions that are stayed.

[7:14A-8.11 Decision on request for a hearing

(a) Following the expiration of the time allowed by N.J.A.C. 7:14A-8.9 for submitting a request for an adjudicatory hearing, the Department shall decide the extent to which the request shall be granted. The Department shall grant a request either in whole or in part ordinarily only when if the request conforms to the requirements of N.J.A.C. 7:14A-8.9 and sets forth material issues of fact relevant to the issuance of the permit

(b) If the Department grants a request for an adjudicatory hearing, the Department shall identify those contested permit conditions for which an adjudicatory hearing has been granted and whether such conditions are stayed. The Department shall specify these conditions in writing and serve notice in accordance with N.J.A.C. 7:14A-8.12. Permit conditions which are not contested or for which the Department has denied the hearing request shall not be affected by or considered at the adjudicatory hearing.

(c) If the Department grants a request for an adjudicatory hearing, in whole or in part, in regard to a particular proposed permit, then any other request for an adjudicatory hearing in regard to that permit shall be treated as a request to be a party and the Department shall grant any such request which meets the requirements of (a) above.

(d) If a request for a hearing is denied in whole or part, the Department shall briefly state the reasons. Such denial shall be considered the final action of the Department.]

7:14A-8.1[2]1 Notice of adjudicatory hearing

[Public notice of the grant of an adjudicatory hearing regarding a permit shall be given by mailing a copy to all persons who commented on the draft permit, testified at the public hearing, or submitted a request for a hearing.]

The Department shall provide public notice of an adjudicatory hearing by mailing a copy of the notice to co-permittees, to all commenters on the draft permit, and to those parties that testified at the public hearing.

7:14A-8.1[3]2 Conduct of [A]adjudicatory [H]hearing

Adjudicatory hearings on permit conditions (including denial of variance requests) shall be governed [by the procedures described in] under the "New Jersey Uniform Administrative Procedures Rules", [1980", N.J.A.C. 1:1-1 et seq.

7:14A-8.1[4]3 Public participation in the State enforcement process

(a) (No change.)

(b) Within 30 days of publication in the DEP Bulletin, [a citizen,] any person having an interest which is or may be affected[,] may request in writing to intervene as of right in any administrative enforcement action brought pursuant to Sections 10(b) or (d) of the State Act.

(a)**DIVISION OF HAZARDOUS WASTE MANAGEMENT
Availability of Information; Confidential Business
Information****Proposed New Rules: N.J.A.C. 7:26-17.****Proposed Amendments: N.J.A.C. 7:14A-11.1,
7:26-1.9 and 12.2.**

Authority: N.J.S.A. 13:1E-6 and 13:1E-18.

DEP Docket Number: 043-87-09.

Proposal Number: PRN 1987-431.

Submit comments by November 18, 1987 to:

Ann Zeloof, Esq.
New Jersey Department of Environmental Protection
Office of Regulatory Services
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection ("Department") is proposing a new subchapter titled "Availability of Information; Confidential Business Information" to be added to N.J.A.C. 7:26. The proposed new rules will satisfy requirements of the Federal program for maximum possible access by the public to hazardous waste management information while protecting certain trade secrets. The requirement for availability of information is based on the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. Section 3006(f) and subsequent guidance documents issued by the United States Environmental Protection Agency (USEPA) expanding on the language contained in Section 3006(f) (See 40 CFR part 2.100, 41 FR 36902, September 7, 1976, and 43 FR 40000, September 8, 1978). This proposal establishes a State information program equivalent to that of USEPA. In order to continue full authorization to operate the hazardous waste regulatory program, the State is required to revise its program to be equivalent to the Federal regulations.

The proposed amendment covers the following areas regarding the availability of information and confidential business information:

1. Exchange of information between the Department and USEPA;
2. Areas of information to be made available to the general public;
3. Administrative procedures to make information available to the general public;
4. Judicial procedures for the general public to appeal departmental denials of access to information;
5. Procedures and criteria for confidentiality rulings; and
6. Fee collection procedures.

The proposed new rules delineate the scope and exchange of information. N.J.A.C. 7:26-17.1 states that the Department and USEPA shall provide to each other, upon request, any information obtained or used in the administration of the State program. Any claim of confidentiality shall be transmitted at the same time and shall be maintained by the receiving party, whether it be the Department or USEPA. Any information that is transferred without a claim of confidentiality may be made available to the public without further notice by the receiving party, either the Department or USEPA.

The proposed new rules at N.J.A.C. 7:26-17.1 and 17.3 provide that all information either collected or generated by the Department in connection with hazardous waste regulatory activities shall be made available to the public unless a valid claim for confidentiality exists. N.J.A.C. 7:26-17.1 and 17.3 additionally describe the classes of information covered by the proposed new rules. The scope of records available to the public is also described under N.J.A.C. 7:26-17.4(a).

The proposed new rule at N.J.A.C. 7:26-17.2 sets out the definitions of terms used in the subchapter. The proposed new rule at N.J.A.C. 7:26-17.4 sets forth the administrative procedures to be followed in supplying information to a requester. It provides for an information officer, deadlines for the Department to meet in determining whether or not the requested information will be made available to the requester, a fee schedule, and certain extenuating circumstances regarding the established deadlines. This proposed new rule also provides for appeal procedures if a request for information is denied or not satisfied within the time limits established under N.J.A.C. 7:26-17.4.

The proposed new rules at N.J.A.C. 7:26-17.5 to 17.9 address various aspects of confidentiality. In N.J.A.C. 7:26-17.5, administrative procedures are set forth for asserting a claim of confidentiality and for the Department to grant or deny such a claim.

The proposed new rule at N.J.A.C. 7:26-17.6 lists the criteria for rendering confidentiality determinations under N.J.A.C. 7:26-17.5. The confidentiality files that the Department shall maintain are described at N.J.A.C. 7:26-17.6. N.J.A.C. 7:26-17.8 lists the exceptions to granted confidentiality claims. N.J.A.C. 7:26-17.5(c)3 also sets forth an exception to confidentiality. These exceptions cover emergencies such as explosions, fires, floods, discharges and spills, as well as a provision for court orders, subpoenas and legislative subpoenas. The proposed rules at N.J.A.C. 7:26-17.9 concern limiting access to and safeguarding of confidential information.

N.J.A.C. 7:26-17.10 sets forth specifications for identifying certain classes of information that will generally be entitled to a confidential classification. Conversely, certain classes of information will be determined to generally not be entitled to a confidential classification. In N.J.A.C. 7:26-17.11 and 17.12, procedures regarding fees for information requests and confidentiality claims are listed.

An amendment to the New Jersey Pollutant Discharge Elimination System ("NJPDDES") rules at N.J.A.C. 7:14A-11.1 is proposed in order to clarify the use of N.J.S.A. 7:14A-11 and N.J.A.C. 7:26-17.

Amendments have been proposed at N.J.A.C. 7:26-1.9 and N.J.A.C. 7:26-12.2 to refer to the proposed new rule and to delete references to N.J.A.C. 7:14A-11, (the confidentiality procedures in the NJPDDES program).

Social Impact

The proposed new rules will have a positive social impact. The rules will provide the public with enhanced access to Departmental information and records used in hazardous waste management and disposal. Previously, confidentiality procedures for hazardous waste were contained in the NJPDDES rules at N.J.A.C. 7:14A-11. The proposed new rules more conveniently locate these procedures in the hazardous waste regulations. Further, business and industry will be assured that confidential information may be protected from disclosure except for certain limited circumstances involving public welfare and safety.

Economic Impact

The proposed new rules continue to have an economic impact on the general public by imposing a fee system for the information available to the public and that information which is protected by confidentiality procedures. By protecting trade secrets through confidentiality, the proposed new rules will continue to have a positive economic impact on industry. The Department will continue to be able to implement the hazardous waste management program while allowing industry to protect confidential information.

It is expected that the fees paid in connection with this program will cover the expenses incurred by the Department for this activity. A designated information officer will handle and process the requests for information and the confidentiality claims.

Environmental Impact

It is expected that the proposed new rules will have an indirect environmental impact. The purpose of the proposed rules is to establish confidentiality procedures and procedures for public access to non-confidential information. The increased availability of information is expected to have a beneficial impact on the environment by the dissemination of records to a wider area of the public.

Regulatory Flexibility Statement

Although recordkeeping, compliance and reporting requirements are not imposed, the Department recognizes that small businesses will continue to be impacted by the fee requirements for confidential claims and information requests. It is not anticipated that small businesses will need to utilize the services of consultants in order to comply. Since these costs to the Department will not change or vary based on the size of the business, the Department has determined that it is not appropriate to alter the fees charged to small businesses.

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

7:14A-11.1 Public access to information and scope of authority

(a) All NJPDDES permit applications, documented information concerning actual and proposed discharges, comments received from the public, and draft and issued NJPDDES permits shall be made available to the public for inspection and duplication in accordance with Section 9 of the State Act and pursuant to N.J.S.A. 13:1E-1 et seq.

(b) This subchapter shall apply to any person who has applied for or received a NJPDES permit. However, those facilities also falling within the jurisdiction of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., and/or the Hazardous and Solid Waste Amendments of 1984 to the Act will be regulated by N.J.A.C. 7:26-18, Availability of Information; Confidential Business Information.

7:26-1.9 Public access to information and requirements for Department determination of confidentiality

Any confidential information obtained or used in the administration of the State hazardous waste program, as provided in Section 3006 of "The Resource Conservation and Recovery Act of 1976", 42 U.S.C. 3251 et seq., and amendments thereto, shall be treated in accordance with N.J.A.C. [7:14A-11] 7:26-18.

7:26-12.2 Permit application

(a) Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign and submit an application to the Department as described in this section. Procedures for applications, issuance and administration of emergency permits are found exclusively in N.J.A.C. 7:26-12.9. Procedures for claiming confidentiality are found in N.J.A.C. [7:14A-11.1 et seq] 7:26-18.1 et seq.

(b)-(l) (No change.)

SUBCHAPTER 17. AVAILABILITY OF INFORMATION; CONFIDENTIAL BUSINESS INFORMATION

7:26-17.1 Scope and exchange of information

(a) This subchapter sets forth the procedures for making information received by the Department in administering the hazardous waste program under N.J.A.C. 7:26-1, 4 and 7 through 12 available to the public and maintaining confidentiality of certain parts of that information.

(b) All information collected by or originated by the Department in connection with hazardous waste regulatory activities under N.J.A.C. 7:26-1.4, and 7 through 12 shall be generally available to the public except as provided otherwise in this subchapter. This requirement shall also include information regarding hazardous waste facilities regulated by N.J.A.C. 7:14A-1 et seq.

(c) Claims for confidentiality will be decided by the Department in accordance with the provisions of this subchapter.

(d) If a request for information is made for interagency or intraagency memoranda or letters, the Department may deny the request if such request is exempted from disclosure pursuant to 5 U.S.C. 552(b)(5).

(e) If a request for information is made for investigatory records, the Department may deny the request if such request is exempted from disclosure pursuant to 5 USC §552(b)(7) or N.J.S.A. 47:1A-3.

(f) Any information obtained or used in the administration of the hazardous waste program under N.J.A.C. 7:26-1.4, or 7 through 12, shall be available to EPA upon request without restriction. If the information has been submitted to the Department under a claim of confidentiality, the Department shall submit that claim to EPA when providing information to EPA under this subchapter.

(g) When EPA supplies information to the Department which was submitted to EPA under a claim of confidentiality, the information shall be subject to the conditions set forth in 40 CFR Part 2 and this subchapter. If the Department obtains information from EPA that is not claimed to be confidential, the Department may make that information available to the public without further notice to any interested party.

7:26-17.2 Definitions

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

"Act" means the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.

"Business" means any person engaged in a business, trade, employment, calling or profession, whether or not all or any part of the net earnings derived from such engagement by such person inure, or may lawfully inure, to the benefit of any private shareholder or individual.

"Hazardous waste" means those solid wastes identified as hazardous wastes in accordance with N.J.A.C. 7:26-8.

"Person" means an individual, partnership, corporation, association, or other public or private organization or legal entity, including Federal, State or local governing bodies and agencies and their employees.

7:26-17.3 Classes of information

(a) The classes of information to be made available to the public and to EPA shall include, but not be limited to, the following:

1. Permits, permit applications and modifications;
2. Annual reports;
3. Closure plans;

4. Notification of a facility closure;
5. Contingency plan incident reports;
6. Delisting petitions and other petitions for variances or waivers;
7. Financial responsibility instruments;
8. Environmental monitoring data;
9. International shipment records;
10. Manifests and manifest exception, discrepancy and unmanifested waste reports;
11. Facility EPA identification numbers;
12. General correspondence with the facility;
13. Orders, consent orders, notices of violations, penalty settlement offers, civil and administrative penalty assessments, and other enforcement documents;
14. Inspection reports;
15. Results of corrective action investigations, undertaken pursuant to §3004 (u) and (v) of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.; and
16. Analytical data submitted to the Department.

7:26-17.4 Administrative procedures and appeals for requests for information

(a) The scope of records maintained by the Department that are subject to requests for information shall be as broad as the scope of records as provided by the United States Environmental Protection Agency at 40 CFR 2.100(b).

(b) Materials which are routinely available to the general public are not confidential information and shall be supplied within a reasonable time upon written request by interested parties. Such materials include, but are not limited to final orders in case adjudications, press releases, copies of speeches, pamphlets and educational materials.

(c) A requester of non-confidential and confidential records including, but not limited to, records defined in (b) above shall not be required any justification for the information request.

(d) All requests for information shall identify with specificity the information requested. The Department, in responding to requests containing incomplete identification of records, shall make reasonable efforts to assist a requester in identifying the records being sought. The Department's designated information officer shall contact the requester by telephone if possible or in writing to assist the requester to formulate his or her request. The Department's designated information officer shall also aid the requester in locating the office maintaining the records he or she seeks.

(e) If a request is formulated in general terms covering a large quantity of records, the Department's designated information officer shall assist the requester in narrowing the scope of the request to minimize the fees payable by the requester. This type of assistance shall not be used as a means to discourage requests, but to help narrow the scope of investigation when possible.

(f) Information concerning the fees in regard to both information requests and confidentiality claims is set forth in N.J.A.C. 7:26-17.11 and 17.12.

(g) Requests for information shall be answered in writing within 20 working days of receipt by the designated information officer. The written response shall designate which records will be released, which will not be released, and the reasons for denial.

1. If the request for information is incomplete or insufficient, the time span covering the State's request for clarification to the requester's reply shall not be counted in the 20 working days in (g) above.

2. Failure of the Department to issue a determination within the 20 day period shall be considered a denial. This shall authorize the requester to pursue further legal recourse and apply for an order to release the requested information pursuant to (h) below.

(h) If the Department denies a request for information, it shall inform the requester of the reasons for denial and shall advise the requester that he may appeal the denial to the Superior Court of New Jersey as provided in N.J.S.A. 47:1A-1 et seq.

(k) The Department may require prepayment of the fees set forth at N.J.A.C. 7:26-18.11 and 18.12. When prepayment of a fee is required, the Department will release the information to the requester upon payment of the fee.

(l) The Department may allow the public to inspect and to make copies of any non-confidential information at the per copy fee set forth at N.J.S.A. 47:1A-2, which is as follows:

First to tenth page	\$0.50 per page
Eleventh page to 20th page	\$0.25 per page
All pages over 20	\$0.10 per page

7:26-17.5 Claims of confidentiality

(a) Information for which a confidentiality claim has been asserted will be treated by the Department as entitled to confidential treatment unless

the Department determines that the information is not entitled to confidential treatment as provided in this section and N.J.A.C. 7:26-17.6.

(b) When the Department requires the submission of information which may be confidential, it shall advise the submitter of the information concerning departmental procedures which govern application for a confidentiality claim. If confidentiality is not requested upon submission to the Department, the Department will place the information in the files which are available to the public.

(c) The following procedures apply to confidentiality claims:

1. Claims of confidentiality for permit application information and any other information shall be substantiated in accordance with the criteria set forth in N.J.A.C. 7:26-17.6 at the time the information is submitted. Any applicable fees shall be enclosed with the submittal. Failure to request confidentiality or failure to pay the confidentiality fee shall be grounds for denial of the confidentiality claim.

2. If a submitter does not provide substantiation which satisfies the criteria of N.J.A.C. 7:26-17.6, the Department will notify the submitter by certified mail, return receipt requested of the requirement to do so. If the Department does not receive the substantiation within 10 days after the submitter receives the notice, the confidentiality claim is waived and the Department may make the information available to the public.

3. Within the Department, Division Directors or their appropriate designees shall determine, based on the criteria listed in N.J.A.C. 7:26-17.6, whether or not information is entitled to confidential treatment.

4. If, in accordance with the criteria listed in N.J.A.C. 7:26-17.6, the Department determines that the information is entitled to confidential treatment, it shall maintain the information in confidence (subject to court order, any applicable court rules or other provisions of this subchapter which authorizes disclosure in specific circumstances), and the Department shall so inform the business. If any other person's request for the release of the information is then pending under N.J.S.A. 47:1A-1 et seq., the Department shall state the basis for the denial and that it constitutes final agency action.

5. If, in accordance with the criteria listed in N.J.A.C. 7:26-17.6, the Department determines that the information is not entitled to confidential treatment, the Department shall so notify the business. Such notice of denial of a confidentiality claim shall be in writing and shall be furnished by certified mail, return receipt requested.

i. The notice shall state the basis for the determination, that it constitutes final agency action concerning the confidential claim, and that the Department shall make the information available to the public 10 days after the date of the business's receipt of the notice.

6. Documents, in whole or in part, may be determined by the Department to be confidential.

(d) When a request is made for access to confidential information, the request shall be denied and the Department shall notify the submitter of the information of the request by certified mail, return receipt requested.

7:26-17.6 Criteria for confidentiality determinations

(a) Where the following criteria are satisfied by the business in regard to a claim of confidentiality under N.J.A.C. 7:26-17.5, information shall be kept confidential:

1. The business has asserted a confidentiality claim, when it submits the information to the Department;

2. The business has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information, and that it intends to continue to take such measures;

3. The information is not, and has not been, reasonably obtainable, without the business's consent, by other persons (other than governmental bodies) using legitimate means (other than discovery based on showing of social need in a judicial or quasi-judicial proceeding);

4. No statute requires disclosure of the information;

5. The business has satisfactorily shown that disclosure of the information would be likely to cause substantial harm to the business's competitive position; and

6. The business has paid all fees required by this subchapter when it submits the information to the Department.

7:26-17.7 Confidential files

(a) If the Department approves a claim of confidentiality, the submitter shall submit two copies of the documents.

1. One copy shall be stamped "confidential" and shall contain all the information requested by the Department. This copy shall be maintained in a separate locked file and shall be accessible to State employees only as necessary for regulatory purposes, or as otherwise provided in the subchapter.

2. A second copy with the confidential information deleted shall be placed in the files available to the public. The second copy shall carry a notation that confidential material has been deleted.

7:26-17.8 Exception to granted confidentiality claims

(a) If the Department finds that disclosure of information covered by a confidentiality claim would serve to alleviate an emergency situation posing an imminent and substantial danger to public health or safety, it may:

1. Disclose confidential information to any person whose role in alleviating the danger to public health or safety or the environment necessitates that person's knowing the information. Any such disclosure shall be limited to the minimum information necessary to enable the person to whom it is disclosed to carry out that person's role in alleviating the dangerous situation.

2. Any disclosure made pursuant to this section shall not be deemed a waiver of a confidentiality claim nor shall it, by itself, be grounds for any determination that the information is no longer entitled to confidential treatment.

(b) Information required for legal proceedings that is protected by confidentiality claims will be released only when properly subpoenaed for a court proceeding or an investigative committee impaneled by the Federal or State Legislature.

7:26-17.9 Access to and safeguarding of confidential information

(a) Unless specifically provided for by Federal law, State law, court order, or applicable court rule, no person shall have access to information which has been determined to be entitled to confidential treatment, other than:

1. The designated Department personnel;

2. Federal or other State agencies; or

3. Authorized representatives of the Department, subject to the provisions of this subchapter.

(b) Each departmental officer or employee who has custody or possession of confidential information shall take appropriate measures to properly safeguard such information and to protect against its improper disclosure.

(c) No departmental officer or employee may disclose, or use for his or her private gain or advantage, any confidential information which comes into his or her possession, or to which he or she gains access, by virtue of his or her official position of employment, except as authorized by this subchapter.

(d) If the Department finds that any person has violated the provisions of this subchapter, it may:

1. Commence a civil action in Superior Court for a restraining order and an injunction barring that person from further disclosing confidential information; and

2. Pursue any other remedy available by law.

(e) In addition to any other penalty that may be sought by the Department, violation of this subchapter by a departmental employee shall constitute grounds for dismissal, suspension, fine, or other adverse personnel actions.

7:26-17.10 Class determinations

(a) The Department may, through the promulgation of amendments in accordance with the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., make a determination that a certain class of information is or is not entitled to confidential treatment if it finds that:

1. The Department possesses, or is obtaining, related items of information; and

2. One or more characteristics common to all such items of information will necessarily result in identical treatment for each such item, and that it is therefore proper to treat all such items as a class.

(b) A class determination shall clearly identify the class of information to which it pertains.

(c) A class determination shall state that all of the information in the class:

1. Fails to satisfy one or more of the applicable criteria in N.J.A.C. 7:26-17.6 and is therefore ineligible for confidential treatment; or

2. Satisfies the applicable criteria in N.J.A.C. 7:26-17.6 and is therefore eligible for confidential treatment.

7:26-17.11 Procedure regarding fees for information requests

(a) Except as provided in (b) below, requesters shall pay for all expenses incurred by the Department in identifying and copying requested records.

(b) No payment is required for the following services:

1. The cost of reviewing requests for information and preparing and reviewing written responses thereto;

2. For furnishing documents requested by USEPA;

3. For furnishing documents requested by and for the official use of other State agencies; or

4. For furnishing documents needed by a State contractor or grantee to perform the work required by a State contract or grant.

(c) All fee payments shall be in the form of a check or money order payable to the "Treasurer, State of New Jersey" and shall be submitted to the designated information officer.

(d) If the Department estimates that the fee for information requests will exceed \$25.00 and the requester has not submitted payment in advance to cover the estimated fees, the Department shall notify the requester of the amount of the estimated fees or such portion thereof as can readily be estimated. In such cases, the Department shall not release the information to the requester until it receives the total amount of fees due or estimated to become due. Such notice shall be transmitted to the requester within 10 working days after the Department has made the initial determination that the records are available.

(e) Where an estimate fee paid by the requester in advance exceeds the fee chargeable under the fee schedule for services actually performed, the Department shall refund the balance. Where the actual fees due for the services exceed the estimate, the requester shall remit the amount of the actual fees before the copies are released. In such cases, the Department shall not release the information to the requester until payment has been received.

(f) The fee for information requests may be reduced or waived by the Department if the public interest would be served thereby. The Department shall consider, but is not required to grant reduction or waiver of fees in connection with each request from a representative of the press or other communications medium, or from a public interest group.

1. A request for reduction or waiver of fees shall be addressed to the appropriate Division or Bureau which is responding to the request for records.

2. The Division or Bureau shall initially determine whether the fee shall be reduced or waived, and shall so inform the requester.

3. The requester may appeal the determination of the Division or Bureau by letter addressed to the appropriate Assistant Commissioner. The Assistant Commissioner shall decide such appeals.

(g) In the event that a requester who is in arrears for previous requests makes a request for documents, whether requested under this subchapter or any other Department rule, the Department may deny the request until the arrears have been paid in full.

1. Any request made by an individual who specifies an affiliation with, or representation of, a corporation, association, law firm, or other organization shall be deemed to be a request by the corporation, association, law firm, or other organization. If an organization can show that the person who made the request for which payment is overdue did not make the request on behalf of the organization, the organization will not be considered in arrears, but the individual shall be.

7:26-17.12 Fee schedule for confidentiality claims

Any person submitting documents to the Department under a claim of confidentiality under N.J.A.C. 7:26-17.5, shall submit a check in the amount of \$250.00 for the first 50 confidential pages and \$1.00 for each page thereafter, to cover the costs of evaluating the confidentiality claim.

HEALTH

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

The following proposals are authorized by Molly Joel Coye, M.D., M.P.H., Commissioner, Department of Health; with approval of the Health Care Administration Board.

For proposals numbered PRN 1987-422, 423, 424 and 435, submit comments by November 18, 1987 to:

John A. Calabria, Chief
Health Systems Review Program
New Jersey Department of Health
CN 360, Room 604
Trenton, NJ 08625

(a)

Certificate of Need: Policy Manual for Planning and Certificate of Need Reviews of Health Care Facilities and Services within the State of New Jersey

Proposed Readoption: N.J.A.C. 8:43E-1.1 through 1.37

Authority: N.J.S.A. 26:2H-1 et seq. specifically 26:2H-5.
Proposal Number: PRN 1987-435.

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 8:43E-1.1 through 1.37 expires on January 17, 1988.

The 1971 Health Care Facilities Planning Act (N.J.S.A. 26:2H-1 et seq., as amended) requires the Department to assure that New Jersey's hospital and related health care services are of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost. To implement this public policy, Chapter 136 gave the Department of Health broad responsibilities in regulating the health care system through authorization of the Certificate of Need Program.

The Department initially adopted The Policy Manual for Planning and Certificate of Need Reviews of Health Care Facilities and Services within the State of New Jersey (N.J.A.C. 8:43E-1.1 et seq.) on April 21, 1977. The original and overall purpose of these rules was to identify policies, standards and criteria to be used by the Department of Health, the Statewide Health Coordinating Council, and the Health Systems Agencies to guide the planning and review of all Certificate of Need applications submitted by hospitals in the State of New Jersey. The rules do not govern Certificate of Need applications for projects in which separate and specific rules have been adopted, such as Perinatal Services, (N.J.A.C. 8:33C) or Cardiac Diagnostic and Surgical Services (N.J.A.C. 8:33E). However, the rules do establish policies, standards and criteria pertaining to major hospital projects such as bed additions, and modernization/renovation programs. The criteria include sections that specifically address issues of cost effectiveness, occupancy, physical plant, patient care, location of facilities and environmental impact.

The rules have been found since 1977 to be generally effective in their ability to insure quality of care, regional accessibility, and adequate utilization of hospital services in New Jersey.

The Department recognizes nevertheless that many changes have occurred in health care within the past ten years thus necessitating major revisions in the Policy Manual for Planning and Certificate of Need Reviews of Health Care Facilities and Services within the State of New Jersey (N.J.A.C. 8:43E-1.1 through 1.37). The Department is therefore developing proposed new rules which will be entitled The Hospital Policy Manual (N.J.A.C. 8:43I-1.1 et seq.) which will replace N.J.A.C. 8:43E-1.1 through 1.37.

The Department recognizes, however, that the effective date of the new rules (and the concurrent repeal of N.J.A.C. 8:43E-1.1 through 1.37) cannot occur prior to expiration of N.J.A.C. 8:43E-1.1 through 1.37 on January 17, 1988. Therefore, it is essential to preserve basic review criteria in order to maintain continuity in the processing of Certificate of Need applications from hospitals for capital projects. In order to continue to fulfill the statutory mandates of the 1971 Health Care Facilities Planning Act, the Department of Health proposes readoption of N.J.A.C. 8:43E-1.1 et seq. as an interim measure until such time as the new Hospital Policy Manual becomes effective.

Social Impact

N.J.S.A. 26:2H-1 (as amended) recognizes as "public policy of the State that hospitals and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health . . . shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and health care services, and health facility cost containment programs. . ."

Through N.J.A.C. 8:43E-1.1 through 1.37, the Department of Health has implemented public policy that has been directed toward both improving the health of residents and towards increasing the accessibility, continuity, and quality of services provided to them. Through these rules, hospitals and related health care facilities submitting Certificate of Need applications must meet established standards and criteria addressing all of these concerns.

New Jersey's 97 general hospitals experienced almost 1.1 million admissions in 1985, resulting in a total of over 8 million patient days. The structure and design of the health care system as promoted by these rules thus has a significant impact on the lives and well being of New Jersey's residents.

The proposed re-adoption of N.J.A.C. 8:43E-1.1 through 1.37 will allow the Department to continue in full force and effect the policies resulting from the original promulgation of these rules. However, N.J.A.C. 8:43E-1.1 through 1.37 will be repealed upon the adoption of the new Hospital Policy Manual (N.J.A.C. 8:43I-1.1 et seq.).

Economic Impact

Total annual capital reimbursement to New Jersey general acute care hospitals (the Capital Facilities Allowance under Chapter 83 DRG regulations) increased from \$226 million in 1984 to \$304 million in 1986, an increase of 34 percent. Based on already approved capital projects, the total CFA is expected to increase to approximately \$365.8 million, a further increase of \$61.5 million or about 62 percent over 1984. This does not include the October 15, 1986 Batch which totals approximately \$439.5 million and will result in about \$42.7 million in annual reimbursement. With the approval of all of these projects, the total CFA will increase to \$408.5 million or about 80 percent over 1984.

Through application of N.J.A.C. 8:43E-1.1 through 1.37 and other health planning rules, a number of proposed capital projects have either been denied Certificates of Need by the Commissioner of Health or have appropriately reduced the cost and scope of their applications. In concert with proposed modifications to capital reimbursement procedures for hospitals, the Certificate of Need review process serves to reduce the actual and projected levels of capital reimbursement in hospitals. N.J.A.C. 8:43E-1.1 through 1.37, therefore, provides the Department with an essential means to objectively assess and evaluate the need for proposed new capital projects as well as their impact on capital and operating expenditures. Re-adoption of these rules is critical in order to assure continuity in the Department's efforts to maintain an affordable health care system which addresses the needs of New Jersey residents for access to quality health care.

It is not expected that re-adoption of these rules will place any additional economic burden on existing health care facilities.

Regulatory Flexibility Statement

The Department has determined that these rules affect only the 89 acute care hospitals and three hospitals with Special Hospital licenses. All but one of these hospitals employ more than 100 full-time employees and do not fall into the category of small businesses as defined in Section 2 of the New Jersey Regulatory Flexibility Act (P.L. 1986, c.169). The one hospital covered by the rules will not be required to alter any of its traditional reporting requirements and therefore will not be affected by this proposed re-adoption.

The rules are necessary to preserve the public health by ensuring that capital expenditures are made only for needed health care facilities and resources.

Full text of the proposed re-adoption appears in the New Jersey Administrative Code at N.J.A.C. 8:43E-1.1 through 1.37.

(a)

Certificate of Need: Psychiatric Inpatient Beds Adult Open Acute Psychiatric Bed Standards Proposed Re-adoption with Amendments: N.J.A.C. 8:43E-2.1 through 2.18

Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Proposal Number: PRN 1987-423.

The agency proposal follows:

Summary

The Department of Health is responsible for establishing rules governing the planning and certificate of need for hospital and related health care facility services. Planning rules, N.J.A.C. 8:43E-2, specifically ad-

ressing Certificate of Need applications for Adult Open Acute Psychiatric Beds, were adopted by the Health Care Administration Board on December 8, 1983, and became effective on January 17, 1984. In originally developing these rules, the Commissioner obtained the recommendations of the Statewide Health Coordinating Council (SHCC) and its special advisory committee, the SHCC Psychiatric Bed Task Force, as well as the Department of Human Services, Division of Mental Health and Hospitals.

The purpose of these rules was to provide criteria for the review of Certificate of Need applications for the addition of adult open acute psychiatric beds. The rules contained a methodology for estimating bed need on a county and Statewide basis, and established standards and guidelines regarding planning concerns such as cost effectiveness, continuity of care, accessibility, quality, and endorsements by local and State mental health authorities.

The rules have provided adequate standards and criteria by which to carefully review Certificate of Need applications for the establishment or addition of Adult Open Acute Psychiatric Beds to licensed hospitals in the State of New Jersey.

N.J.A.C. 8:43E-2 will expire on January 17, 1988. The Department of Health is proposing the re-adoption of these rules in compliance with Executive Order No. 66 (1978) and thereby seeks to establish a new five-year expiration date.

Minor amendments are also being proposed as part of this re-adoption. The Definitions section (8:43E-2.2) is being amended to incorporate related definitions in N.J.A.C. 8:43E-5, Intermediate Adult and Special Psychiatric Bed Standards, which became effective on May 18, 1987. Appendix A contains the following amendments: 1) "Projected Target Year County Population" will replace "Projected 1990 County Population" in order to facilitate the appropriate updating of projected county population in a timely manner without having to go through the regulatory process. 2) The concept of multiplying (2-.85) to determine occupancy is replaced in Appendix A with the requirement to divide by .85 in order to be consistent with the recent formulation of occupancy in other health planning regulations by the Department. 3) The "Mental Health Need Modifier" which was originally published in 1982 was updated in 1986 by the Division of Mental Health and Hospitals. The amendment concerning this Need Modifier simply reflects this updating. 4) Appendix A is also amended to eliminate from the calculation of bed need those patients being served in undesigned psychiatric beds in general hospitals. It has been determined by the Department that this data is not readily available for this calculation.

Social Impact

N.J.S.A. 26:2H-1 (as amended) recognizes as "public policy of the State that hospitals and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health . . . shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and health care services, and health facility cost containment programs . . ."

The rules were originally developed to promote the provision of inpatient psychiatric care in a cost-effective manner at a level appropriate to the needs of the patient. One of the primary objectives of this re-adoption is to continue to improve the continuity and accessibility of care by assuring that providers will deliver services as part of a unified system of mental health care. Referral agreements with both community mental health agencies as well as with state and county psychiatric hospitals will continue to be encouraged, while the involvement of these agencies and local mental health planning authorities in program development will continue to be promoted.

Economic Impact

Current utilization levels of existing licensed psychiatric units in New Jersey are not indicative of a need to expand capacity statewide in any significant way. During 1979, 1980, and 1981, average statewide psychiatric unit occupancy rates averaged approximately 78 percent. Since adoption of these rules, occupancy has declined to approximately 74 percent statewide during 1986. The proposed re-adoption will continue to require an annual occupancy of 90 percent prior to expansion, although length of stay for such hospitals must also be within 110 percent of the statewide mean length of stay, currently at 13.3 days for 1986.

All areas of New Jersey now have an existing or approved Certificate of Need adult open acute psychiatric unit within 30 minutes average driving time. The readoption of these rules would have the impact of continuing to permit expansion of licensed psychiatric beds to occur only in areas of demonstrated need, and would promote cost effectiveness through mechanisms such as encouraging conversion of existing hospital bed capacity. The capital costs of conversion projects should continue to be significantly lower than new construction. No significant increases in operating costs are projected as a result of the readopted rules or the proposed amendments. The rules will continue to contain the rise in health care costs in New Jersey by prohibiting the establishment of potentially duplicative or unnecessary health care resources.

Regulatory Flexibility Statement

Since only hospitals, having, by nature, well over 100 employees, would be capable of qualifying for a certificate of need for Adult Open Acute Psychiatric Beds, no recordkeeping, reporting or other compliance requirements are placed upon small businesses by the proposed rules and therefore, no regulatory flexibility analysis is required.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:43E-2.

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

SUBCHAPTER 2. RULES GOVERNING PSYCHIATRIC INPATIENT ADULT OPEN ACUTE BEDS

8:43E-2.1 Scope

The New Jersey Department of Health currently licenses and regulates inpatient psychiatric beds as provided in licensed general and special hospitals throughout the State. The vast majority of licensed psychiatric beds remain in use for the purpose of treating adults with acute psychiatric disorders on a voluntary basis. These rules address the addition or establishment of licensed psychiatric beds of this type, to be classified as Adult Open Acute Psychiatric Beds, in any existing or proposed licensed hospital in New Jersey. [These rules will also apply to proposed beds or facilities providing services as defined in N.J.A.C. 8:43E-2.2 (Adult Open Acute Psychiatric Beds) in cases where the projected length of stay may exceed 30 days.]

8:43E-2.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings:

"Adult Open Acute Psychiatric Beds" means licensed psychiatric beds in a designated and separate unit of a New Jersey hospital, for the provision of intensive **evaluation, stabilization and treatment** [and rehabilitation] of persons who are experiencing an acute episode of a psychiatric disorder. Admissions to the unit have a length of stay which averages 30 days or less.

"Adult Closed Acute Psychiatric Unit" means a separate and locked unit of inpatient beds in a New Jersey hospital specifically designated for the provision of intensive treatment services for persons experiencing an acute episode of a primary or secondary psychiatric disorder which accepts and treats individuals under an involuntary commitment order and may also admit patients to the unit under voluntary commitment status. Admissions to the unit have an average length of stay of 30 days or less. (N.J.A.C. 8:43E-3.1 et seq.)

"Children's Acute Psychiatric Beds" means any separate unit or facility, or sub-unit of an existing licensed psychiatric unit or facility, established for the provision of intensive treatment and rehabilitation of individuals under the age of 18, who are experiencing an acute episode of a psychiatric disorder. (See N.J.A.C. 8:43E-4.1 et seq.)

...
"Emergency/Screening Mental Health Services" means a designated or discrete program of psychiatric crisis intervention, evaluation, treatment and referral services available on a 7-day, 24 hour basis to individuals experiencing an acute psychiatric crisis within a defined service area.

...
"Intermediate Adult Psychiatric Beds" means licensed psychiatric beds in a separate and designated area in a New Jersey Hospital which provide intensive psychiatric evaluation and treatment services as part of a comprehensive psychiatric and psychosocial rehabilitation program and which are appropriate for individuals aged 18 and above who are experiencing an acute episode of a psychiatric disorder and who require a comprehensive and specialized treatment program that cannot be fully provided within a short-term acute psychiatric setting. Admissions to the Intermediate Psy-

chiatric unit or facility have an average length of stay which is generally greater than the average length of stay for Adult Open Acute Psychiatric Units in New Jersey and less than 45 days.

...

8:43E-2.4 Bed Need

(a) Each applicant for Adult Open Acute Psychiatric Beds [must] **shall** demonstrate the need for additional bed capacity through application of the adult open acute bed need methodology, attached herein as Appendix A.

(b) Exceptions may be considered by the Department when the applicant has demonstrated compliance with either of the following conditions:

1. When the establishment of beds is for the purpose of serving patients who traditionally have been admitted to a State or County Psychiatric Hospital[,] **where the applicant provides Inpatient Screening Beds.** This must be documented by an affiliation agreement with the State or County Psychiatric Hospital, attached to the application. Need for the proposed number of beds must be documented through application of the methodology attached herein as Appendix B.

2. (No change.)

8:43E-2.12 Conversion of existing bed capacity

(a) Facilities seeking approval of new or additional Adult Open Acute Psychiatric Beds shall convert existing bed capacity when occupancy rates for other services (for example Medical-Surgical, Pediatric, Ob/Gyn) are below, for the four previous reporting quarters, those levels set as minimum by the State Medical Facilities Plan. Copies of the State Medical Facilities Plan may be obtained by written request to:

[Health Planning Services, Room 403]

Health Systems Review, Room 604

New Jersey Department of Health

CN 360

Trenton, NJ 08625

(b) (No change.)

APPENDIX A ADULT OPEN ACUTE PSYCHIATRIC BED NEED METHODOLOGY

A. Formula for determining county bed need

Step 1

$$(\text{Statewide Use Rate} \times \frac{\text{Projected [1990] Target Year County Population}}{1000}) \div 365 =$$

Bed need at 100% occupancy [x (2-.85)] ÷ .85 = bed need at 85% occupancy (Method 1)

Step 2

$$\frac{\text{Current Patient Days}}{1000} \times \frac{[\text{1990] Target Year Projected County Population}}{1000} =$$

Projected Patient Days ÷ 365 = Bed need at 100% occupancy

[x (2-.85)] ÷ .85 = Bed need at 85% occupancy (Method 2)

Step 3 through Step 5 No Change

B. Derivation of Formula Components

1. "Total Statewide Patient Days" is the sum of patient days resulting in admissions to adult open acute psychiatric units, except as noted in v. below, of the following New Jersey licensed hospitals:

- i. General Hospitals
- ii. Private Psychiatric Hospitals
- iii. County Psychiatric Hospitals
- iv. Special Hospitals

[v. Patient days resulting from psychiatric admissions (as defined by the diagnoses listed in B. 4, below, to general hospitals without licensed psychiatric beds.)

2. "Statewide Use Rate" is the Total Statewide Patient Days divided by the total current New Jersey population [(1980 census)] per 1000 residents.

3. "[1990] Target Year Projected Population" is a 5-year projection from the year of application which is derived from the New Jersey Department of Labor official projections utilizing the "preferred" model.

4. "Current Patient Days" are the sum, by county of facility location, except as noted in iii. below, of patient days resulting from admissions to adult open acute psychiatric beds except as noted in v. below, in the following facilities, during the last full calendar year for which such data has been reported to the Department:

- i. General Hospitals
- ii. Special Hospitals
- iii. Private Psychiatric Hospital patient days assigned to county of origin.
- iv. County Hospitals

[v. General hospitals without licensed psychiatric beds, patients with primary diagnose: under the ICD-9-CM Codes 295, 296, 297, 298 (Psychoses), and 290, 300, 301, 309, 311 (Neuroses), inclusive of sub-diagnoses.]

5. The "Mental Health Need Modifier" is a factor which estimates relative need for mental health services in a given county. Source of the data upon which the factor is based is a report published in [November 1982] 1986 by the N.J. Division of Mental Health and Hospitals, entitled **Regional Need-Based Planning for the New Jersey State Mental Health System**. Copies of the full text may be obtained by written request to the:

N.J. Division of Mental Health and Hospitals,
Office of Program Evaluation,
[Capital Place One,
222 South Warren Street, CN 700,
Trenton, N.J. 08625.]

13 Roszel Road
CN 700
Princeton, N.J. 08540

(a) The Mental Health Need Modifier is computed for each county utilizing the following methodology:

$$\frac{\text{Composite Need T-Score} - \text{Mean of Composite Need Scores, 21 Counties}}{\text{Standard Deviation, Mean Composite Need Score}} =$$

$$\text{Relative Composite Need } X \frac{\text{1990 Projected County Population}}{100,000} = \text{Mental Health Need Modifier}$$

(b) The "Composite Need T-Score" is a relative value as listed under Table I in the above [November 1982] 1986 report, under the column heading "Composite Need Score for Community Mental Health Resources."

(c) Future applications of this methodology may incorporate revised values should they be contained in officially published updates of the above [November 1982] 1986 report. Information on and copies of updates may be obtained at the above address.

6. "Total Bed Supply" is the sum of the following:

i. Licensed psychiatric beds, as determined under official license issued by the Department, designated for use as an adult open acute psychiatric inpatient service, including beds licensed but not maintained.

ii. Adult open acute psychiatric beds approved by the Department through a currently valid Certification of Need but not yet in operation.

iii. [Private psychiatric hospital assigned beds, derived] **Adult Open Acute Psychiatric Beds in Special Hospitals, allocated by County** as follows:

Total [Private] **Special**
Hospital **Adult Open Acute**
Patient Days by County

$$\left(\frac{\text{of Origin}}{365} \right) [x (2-.85)] \div .85 = \text{[Private Hospital] Bed [Use] Supply by County}$$

APPENDIX B (No change.)

(a)

**Certificate of Need: Psychiatric Inpatient Beds
Inpatient Screening Psychiatric Bed Standards
Proposed Readoption with Amendments: N.J.A.C.
8:43E-3.1 through 3.18**

Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Proposal Number: PRN 1987-424.

The agency proposal follows:

Summary

The Department of Health is responsible for establishing rules governing the planning and certificate of need for hospital and related health care facility services. New rules N.J.A.C. 8:43E-3, specifically addressing Inpatient Screening Psychiatric Bed Standards were adopted by the Health Care Administration Board on December 8, 1983, and became effective on January 17, 1984. In originally developing these rules, the Commissioner obtained the recommendations of the Statewide Health Coordinating Council (SHCC) and its special advisory committee, the SHCC Psychiatric Bed Task Force, as well as the Department of Human Services, Division of Mental Health and Hospitals.

The purpose of the rules was to establish criteria for the review of Certificate of Need applications for the addition of psychiatric inpatient screening beds. The rules contained a methodology for estimating bed need on a county and Statewide basis, and established standards and guidelines regarding planning concerns such as cost effectiveness, continuity of care, accessibility, quality, and endorsements by local and State mental health authorities.

The rules have provided adequate standards and criteria by which to carefully review Certificate of Need applications for the establishment or addition of inpatient psychiatric screening beds. The minor amendments

being proposed at this time essentially update the definition of "Closed Acute Psychiatric Beds" so that it corresponds to the definition of such beds in N.J.A.C. 8:43E-5, Intermediate Adult and Special Psychiatric Bed Standards, which became effective on May 18, 1987. The section on Bed Need, N.J.A.C. 8:43E-3.4, will now incorporate a new provision utilizing this revised closed psychiatric bed definition, and will allow applicants for closed psychiatric beds to propose a length of stay based on their projections as contained in the Certificate of Need application.

N.J.A.C. 8:43E-3 will expire on January 17, 1988. The Department of Health is proposing the readoption of these rules in compliance with Executive Order No. 66(1978) and thereby seeks to establish a new five-year expiration date.

Social Impact

N.J.S.A. 26:2H-1 (as amended) recognizes as "public policy of the State that hospitals and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health . . . shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and health care services, and health facility cost containment programs. . . ."

The rules were originally developed to address the establishment of inpatient psychiatric units in community hospitals that accept individuals under involuntary commitment status for periods of up to 72 hours. The availability, accessibility, cost, continuity, and quality of care in these units are impacted by the rules.

The proposed readoption will continue the orderly development of inpatient psychiatric services for involuntarily committed patients in the community. The Department believes this will provide a better quality of care for such persons without the social stigma typically associated with admission to a public psychiatric hospital. Those community hospitals which choose to develop inpatient psychiatric units that accept involuntary commitments will continue to be governed by Certificate of Need review criteria contained in these proposed rules.

Economic Impact

The proposed readoption of these Inpatient Screening Psychiatric Bed rules is not expected to add additional financial burden on patients, providers, the State or federal government. Costs of treating patients admitted on an involuntary commitment order continue to be higher per case than that incurred for patients seeking care on a voluntary basis. Involuntary patients require an initial evaluation in a mental health emergency/screening service and more intense staffing patterns will be necessary to assure adequate patient monitoring. Increased psychiatric time and additional mental health professional staff are generally required for more frequent evaluation and treatment planning activities, also necessary generally for more severely disturbed patients, regardless of commitment status.

Capital costs of establishing inpatient screening beds are not generally significant. Most units are of minimal size (2 to 4 beds) and all units are contained within or contiguous to existing acute psychiatric units.

Regulatory Flexibility Statement

Since only hospitals, having, by nature, well over 100 employees, would be capable of qualifying for a certificate of need for Acute Inpatient Psychiatric Screening Beds, no recordkeeping, reporting or other compliance requirements are placed upon small businesses by the proposed rules and, therefore, no regulatory flexibility analysis is required.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:43E-3.

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

**SUBCHAPTER 3. RULES GOVERNING PSYCHIATRIC
INPATIENT SCREENING BEDS**

8:43E-3.2 Definitions

The following words and terms, when used in this subchapter shall have the following meanings:

"Adult Open Acute Psychiatric Beds" means licensed psychiatric beds in a designated and separate unit of a New Jersey hospital, for the

provision of intensive treatment and rehabilitation of persons who are experiencing an acute episode of a psychiatric disorder. Admissions to the unit have a length of stay which averages 30 days or less.

["Closed Acute Psychiatric Beds" means licensed psychiatric beds in a separate unit of a licensed New Jersey hospital which have been designated as Mental Hospital beds by the Commissioner of the Department of Human Services. Such beds are for the provision of intensive treatment and rehabilitation services for persons who are experiencing an acute episode of a psychiatric disorder. Admissions to the unit have an average length of stay of less than 30 days.]

"Adult closed acute psychiatric unit" means a separate and locked unit of inpatient beds in a New Jersey hospital specifically designated for the provision of intensive treatment services for persons experiencing an acute episode of a primary or secondary psychiatric disorder which accepts and treats individuals under an involuntary commitment order and may also admit patients to the unit under voluntary commitment status. Admissions to the unit have an average length of stay of 30 days or less.

...

3:43E-3.4 Bed need

(a) The number of beds approved for a proposed service area, which shall be defined by county or mental health service area boundaries, shall be equivalent to the following formula:

[Step No.]

Step

1. Total involuntary commitments from area, age 18 and above, excluding detainer patients
2. $\times 75$ percent (Projected proportion diverted by Screening Unit) = Potential Admissions
3. $\times 3$ day length of stay = Potential patient days
4. $\div 365$ = Bed need at 100 percent Occupancy
5. $\times (2-.8)$ = Bed need at 80 percent Occupancy

(b) An exception to the three-day length of stay (LOS) identified at (a) Step #3 above may be considered by the Department in the case of Certificate of Need applications proposing the establishment of Adult Closed Acute Psychiatric Beds. The LOS proposed at this step may reflect that LOS which the applicant projects and documents in the application. This LOS and corresponding rationale must be acceptable to the Department and shall not exceed 30 days.

8:43E-3.7 Minimally required services

(a) (No change.)

(b) The applicant facility must provide a comprehensive psychiatric emergency/screening program meeting requirements for Emergency Services as determined by the Division of Mental Health and Hospitals in the Rules and Regulations Governing State Aid under the Community Mental Health Services Act (N.J.S.A. 30:9A; 10:37-5.3 and 5.4). Evidence that the program is or will be upon initiation in compliance with these standards shall be demonstrated within the Certificate of Need application. Copies of the above regulations may be secured by writing:

Bureau of Standards and Inspections
New Jersey Division of Mental Health and Hospitals
[Capitol Place One
222 South Warren Street
Trenton, NJ 08625]
13 Roszel Road
CN 700
Princeton, N.J. 08540

(a)

Certificate of Need: Psychiatric Inpatient Beds Children's Acute Psychiatric Bed Standards Proposed Readoption with Amendment: N.J.A.C. 8:43E-4.1 through 4.4

Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Proposal Number: PRN 1987-422.

The agency proposal follows:

Summary

The Department of Health is responsible for establishing rules governing the planning and certificate of need for hospital and related health care facility services. New rules, N.J.A.C. 8:43E-4, specifically addressing Children's Acute Psychiatric Bed Standards were adopted by the Health

Care Administration Board on December 8, 1983, and became effective on January 17, 1984. In originally developing these rules, the Commissioner obtained the recommendations of the Statewide Health Coordinating Council (SHCC) and its special advisory committee, the SHCC Psychiatric Bed Task Force, as well as the Department of Human Services, Division of Mental Health and Hospitals. The current rules impose a moratorium on new Children's Acute Psychiatric Beds, with exceptions permitted under certain specific circumstances.

The purpose of the proposed readoption is to provide the Department and the SHCC an opportunity to further review the future need for additional children's acute inpatient psychiatric beds in New Jersey. The rules will continue the moratorium on new children's acute psychiatric units but will permit existing units to expand, where the need for such expansion has been clearly established. These are interim rules which will be revised pending the promulgation of an effective bed need methodology and specific review criteria and standards. The Department has collected relevant Statewide data and has reviewed national trends and research on children's acute psychiatric inpatient units. The recommendations of the Department of Human Services have been obtained through the Plan Development and Implementation Committee of the SHCC.

The Department of Health is proposing the readoption of these rules in compliance with Executive Order No. 66(1978) and seeks to leave the moratorium on Children's Acute Psychiatric Beds in effect until the new proposed regulatory standards and criteria are presented this fall.

These rules will otherwise expire on January 17, 1988.

Social Impact

N.J.S.A. 26:2H-1 (as amended) recognizes as "public policy of the State that hospitals and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health . . . shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and health care services, and health facility cost containment programs . . ."

The delivery of inpatient psychiatric care to children has historically been centered in State and county psychiatric hospitals, but has increasingly been provided in community settings. Child and adolescent units at New Jersey's state psychiatric hospitals were reorganized by the Department of Human Services beginning in 1980. At the same time, the Division of Mental Health and Hospitals began a process of developing a statewide network of community-based mental health services for this special target population. As of January 1983, all counties in New Jersey have in existence or under development a designated Children's Crisis Intervention Service, established to handle both emergency and inpatient treatment of children experiencing acute episodes of a psychiatric disorder.

The Department of Health and the SHCC have recently assessed the current availability of psychiatric beds for children and adolescents in New Jersey, and will be proposing review criteria and standards, including a bed-need methodology, for the fall of 1987.

The State Health Plan and the New Jersey Behavioral Health Services Plan both call for the continued development of community-based mental health services for children and adolescents in the least restrictive setting. Significant growth in partial hospitalization, outpatient, and residential care mental health services for children has occurred since 1980, strongly promoted by the Department of Human Services. The expansion of this system is viewed as an appropriate and cost effective public policy by the Department of Health. Thus, until new criteria are promulgated in the near future, no adverse social impact is anticipated.

Economic Impact

Implementation of the rules will not result in the addition of new costs to the health care system. Without any regulation of the growth of this system, the Department believes that significant costs would potentially be generated. Children's acute psychiatric inpatient units are programs with high operational costs. The staffing patterns must be very intensive, and specialized and highly-trained professionals are necessary. A large physical plant area is required to support the provision of ancillary therapies, affecting both capital and operating costs. Average length of stay on children's acute psychiatric units has been found to be two to three times longer than on adult psychiatric units. The readopted rules

will contain the rise in health care costs in New Jersey by prohibiting the establishment of potentially duplicative or unnecessary resources, while a more thorough analysis of future need is conducted.

Regulatory Flexibility Statement

The Department of Health has determined that compliance with the proposed rules, as well as with all N.J.A.C. 8:33, is required by all health care facilities which provide health care services as defined in N.J.A.C. 8:33-1.6. The Department acknowledges that applicants who desire to develop health care facilities which provide children's psychiatric services could conceivably have less than 100 full-time employees and therefore be categorized as small businesses as defined in Section 2 of the New Jersey Regulatory Flexibility Act (P.L. 1986, c.169).

In order to assure the orderly development of health care services, the Department of Health must apply these rules equitably and uniformly regardless of type or size of the applicant organization. This action will assure that psychiatric care for children be delivered in quality programs, of demonstrated need, efficiently provided, properly utilized, and at a reasonable cost and are established to best serve the public health.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:43E-4.

Full text of the proposed amendment to the readoption follows (additions indicated in boldface thus; deletions shown in brackets (thus)).

8:43E-4.4 Regulation review

[This regulation will be reviewed and evaluated within 18 months of its adoption by the Statewide Health Coordinating Council and its psychiatric bed advisory committee.]

These rules will be repealed when new Child and Adolescent Acute Psychiatric Bed Standards are promulgated by the Department of Health, with the approval of the Health Care Administration Board.

(a)

Certificate of Need: Intermediate Adult and Special Psychiatric Bed Standards

Proposed Readoption: N.J.A.C. 8:43E-5.1 through 5.20

Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Proposal Number: PRN 1987-425.

Submit comments by November 18, 1987 to:

Robert Fogg, Assistant Chief
Health Systems Review
Department of Health
CN 360, Room 604
Trenton, New Jersey 08625-0360

The agency proposal follows:

Summary

The Department of Health is responsible for establishing rules governing the planning and certification of need for hospital and related health care facility services. New rules, N.J.A.C. 8:43E-5, specifically addressing inpatient Intermediate and Special Psychiatric programs was adopted by the Health Care Administration Board on April 9, 1987, and became effective on May 18, 1987. In originally developing these rules, the Commissioner obtained the recommendations of the Statewide Health Coordinating Council (SHCC), its Plan Development and Implementation Committee and a special SHCC Psychiatric Bed Task Force.

The purpose of these rules was to establish criteria for the review of Certificate of Need applications for the establishment of Intermediate Adult and Special psychiatric beds in licensed hospitals in the State of New Jersey. The rules contain a methodology for estimating the need for such beds on a county and statewide basis, and establish standards and guidelines regarding planning concerns such as cost effectiveness, continuity of care, accessibility, quality and the endorsement by county and state mental health authorities.

Even though the Certificate of Need rules concerning Intermediate Adult and Special Psychiatric Bed Standards became effective on May 18, 1987, they are scheduled to expire January 17, 1988 with N.J.A.C. 8:43E, in accordance with Executive Order No. 66(1978). Due to the fact that the Department of Health has had these rules in effect for a comparatively short period of time, and is currently in the process of reviewing Certificate of Need application requests made possible by the rules, the

Department of Health is proposing a readoption without change in order to maintain the effective use of current rules and to establish a new expiration date under the provision of Executive Order No. 66(1978).

Social Impact

N.J.S.A. 26:2H-1 et seq. (as amended) recognizes as "public policy of the State that hospitals and related health care providers of the highest quality of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of the inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health . . . Shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and health care services, and health facility cost containment programs . . ."

The updated New Jersey State Health Plan recognizes the under-utilization of inpatient beds, specialty services, and expensive equipment as an important factor contributing to the increased costs of health care. Regionalization of specialty services and equipment is viewed as an important mechanism for promoting health by improving the capabilities of services and quality offered, by improving the solvency of hospitals offering these expensive services, and by containing the rising cost of health care services.

The rules which were promulgated on May 18, 1987, are intended to promote the provision of a continuum of inpatient psychiatric care for adults who are experiencing an acute episode of a psychiatric disorder. Intermediate Adult and Special psychiatric units must provide a comprehensive and specialized treatment program that cannot be fully provided within a short term acute psychiatric setting. It was the intent of these new rules to improve the continuity and accessibility of care by establishing this appropriate and cost effective level of care as part of a unified system of mental health care at the community level. Referral agreements with providers of acute psychiatric services, community mental health agencies, as well as with State and County psychiatric hospitals are required, while the involvement of these agencies and local mental health planning authorities in program development is promoted.

Although the Department of Health is currently in the process of implementing these rules, it remains the intent of these rules to improve the continuity and accessibility of care by establishing this appropriate and cost effective level of care as part of a unified system of mental health care at the community level.

Economic Impact

In 1985, there were 1,123 acute psychiatric beds and 510 Intermediate Adult and Special Psychiatric Beds in general acute and free-standing psychiatric hospitals. The average length of stay in acute psychiatric beds was 13.6 days, while occupancy was approximately 71 percent. The rules being proposed for readoption are intended to address services for adults who require a specialized treatment program that cannot be fully provided within the short term acute bed setting. Admissions to intermediate and special psychiatric beds are intended to have an average length of stay which is less than 45 days. Ten Certificate of Need applications for this level of service have been received by the Department of Health, which in total would create 592 new beds at an estimated cost of \$13 million statewide. The methodology presented in these rules will limit initial development of intermediate adult services to approximately 150 beds statewide and expansion of special psychiatric services by 50 beds statewide. It is expected that these new rules would have the impact of allowing the creation of a needed community treatment modality only in areas of demonstrated need, and would promote cost effectiveness through mechanisms such as encouraging conversion of existing hospital bed capacity. Although it is anticipated that the provision of this service at the community level will allow certain savings at county and State hospitals, the extent of these savings will be more clearly identified as the Department implements this new modality of treatment.

Regulatory Flexibility Statement

The Department of Health has determined that compliance with the proposed readopted rules as well as with all of N.J.A.C. 8:33, is required by all health care facilities which provide health care services as defined in N.J.A.C. 8:33-1.6. The Department acknowledges that many applicants who desire to develop health care facilities which provide Intermediate and Special Adult Psychiatric Services could conceivably have less than 100 full-time employees and therefore be categorized as small businesses as defined in Section 2 of the New Jersey Regulatory Flexibility Act. (P.L. 1986, c.169).

In order to assure the orderly development of health care services the Department of Health must apply these rules equitably and uniformly regardless of type or size of the applicant organization. This action will assure that Intermediate and Special Adult Psychiatric care is delivered in quality programs, of demonstrated need, efficiently provided, properly utilized, and at a reasonable cost and are established to best serve the public health.

Full text of the proposed re-adoption appears in the New Jersey Administrative Code at N.J.A.C. 8:43E-5.

(a)

DRUG UTILIZATION REVIEW COUNCIL

**Interchangeable Drug Products
Proposed Amendments: N.J.A.C. 8:71**

Authorized By: Drug Utilization Review Council, Sanford Luger, Chairman.

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

Proposal Number: PRN 1987-411.

A public hearing concerning this proposal will be held on November 9, 1987, at 3:00 P.M. at:

Commissioner's Conference Room
Eighth Floor
Department of Health
Health-Agriculture Bldg.
Trenton, N.J. 08625-0360

Submit comments by November 18, 1987 to:

Thomas T. Culkin, PharmD, MPH
Executive Director
Drug Utilization Review Council
New Jersey Department of Health
Room 801, CN 360
Trenton, N.J. 08625-0360
609-984-1304

The agency proposal follows:

Summary

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

For example, the proposed triamterene/HCTZ capsules could then be used as a less expensive substitute for Dyazide, a branded prescription medicine. Similarly, the proposed theophylline tablets could be substituted for the more costly branded product, Theodur.

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

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

Social Impact

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

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

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

Economic Impact

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

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

Regulatory Flexibility Statement

The proposed amendments impact many small businesses: specifically, over 1500 pharmacies and several small generic drug manufacturers which employ fewer than 100 employees.

However, there are no reporting or recordkeeping requirements for pharmacies, and small generic drug manufacturers have minimal initial reports, and no additional ongoing reporting or recordkeeping requirements. Further, these minimal requirements are offset by the increased economic benefits accruing to these same small generic businesses due to the proposed amendments.

Full text of the proposal follows:

Amiloride/HCTZ tabs 5/50	Biocraft
Aminocaproic acid syrup 250 mg/ml	My-K
Amitriptyline 10,25,50,75,100,150 mg	Mutual
Carbamazepine tabs 200 mg	Sidmak
Cephalexin caps 250, 500 mg	IBSA
Cephalexin for susp 125/5, 250/5 ml	Novopharm
Cephalexin tabs 250, 500 mg	Barr
Chlorthalidone tabs 25, 50 mg	PharmBasics
Chlorthalidone tabs 25, 50 mg	Sidmak
Clorazepate tabs 3.75, 7.5, 15 mg	Amer.Ther.
Doxepin caps 25, 50 mg	Barr
Erythromycin topical solution 20 mg/ml	My-K
Fluphenazine tabs 1, 2.5, 5, 10 mg	Cord
Flurandrenolone lotion 0.05%	Barre-Nat'l
Flurazepam caps 15 mg	Purepac
Flurazepam caps 15, 30 mg	Cord
Furosemide oral solution 10 mg/ml	My-K, Roxane
Furosemide tabs 80 mg	Barr
Furosemide tabs 80 mg	Roxane
Haloperidol tabs 0.5, 1, 2, 5, 10, 20 mg	Roxane
Haloperidol tabs 10, 20 mg	Duramed
Haloperidol tabs 10, 20 mg	Purepac
Haloperidol oral solution 2 mg/ml	Lemmon
Hydrochlorothiazide solution 50 mg/5 ml	My-K
Hydrocodone/APAP tabs 5/500	PBI
Hydrocortisone cream 1%	Lemmon
Ibuprofen tabs 400, 600, 800 mg	Danbury
Ibuprofen tabs 400, 600, 800 mg	Sidmak
Indomethacin E.R. caps 75 mg	Vitarine
Iodinated glycerol liquid 60 mg/5 ml	Barre-Nat'l
Iodinated glycerol/codeine syrup	Duramed
Iodinated glycerol/dextromethorphan syr	Duramed
Isoetharine for inhalation 1%	Barre-Nat'l
Lactulose syrup 10 g/15 ml	My-K
Leucovorin calcium tabs 5, 15, 25 mg	Par
Lorazepam tabs 0.5, 1, 2 mg	Purepac
Lorazepam tabs 1, 2 mg	PharmBasics
Meclofenamate caps 50, 100 mg	Chelsea
Metaproterenol syrup 10 mg/5 ml	My-K
Methyldopa susp 250 mg/5 ml	My-K
Methyldopa tabs 125 mg	Cord
Methyldopa tabs 125, 250, 500 mg	Novopharm
Methyldopa tabs, 250, 500 mg	Duramed
Methyldopa/CTZ tabs 250/150, 250/250	Par
Methylphenidate tabs 5, 10, 20 mg	MD
Methylprednisolone tabs 4 mg	Duramed
Metoclopramide syrup 5 mg/5 ml	Biocraft
Nystatin oral susp 100,000 U/ml	Biocraft
Nystatin oral susp 100,000 U/ml	My-K
Oxazepam caps 10, 15, 30 mg	Zenith
Phenylephrine compd ped drops (Naldecon®)	Barre-Nat'l
Phenylephrine ophth soln 2.5%	Steris
Prazepam caps 5, 10 mg	PharmBasics

Prednisone oral solution 5 mg/5 ml	My-K
Propranolol syrup 20 mg/5 ml	My-K
Propranolol syrup 40 mg/ 5 ml	My-K
Propranolol /HCTZ tabs 40/25, 80/25	Schering
SMZ/TMP tabs 400/80, 800/160	PFI
SMZ/TMP tabs 400/80, 800/160 mg	PharmBasics
Spironolactone/HCTZ tabs 25/25	Mutual
Sulfacetamide sod. ophth. soln 30%	Steris
Theophylline E.R. tabs 200, 300 mg	Inwood
Theophylline/iodinated glycerol 120/30	Barre-Nat'l
Thiothixene oral solution 5 mg/ml	My-K
Tolazamide tabs 100, 250, 500 mg	Mutual
Triamcinolone dental paste 0.1%	Thames
Triamterene/HCTZ caps 50/25	Bolar
Triamterene/HCTZ tabs 75/50	Barr
Trimethoprim tabs 100 mg	Biocraft
Trimethoprim tabs 200 mg	Biocraft
Valproic acid caps 250 mg	Chase

and maximum awards for Graduate and Undergraduate EOF grants for each type of institution follows:

Undergraduate	Minimum	Maximum
2-Year Public Colleges	\$200	\$ 550
4-Year Public Colleges		
Commuter	200	550
Residential	200	800
Rutgers, NJIT		
Commuter	200	550
Residential	200	800
Independent Colleges	200	1,700
Graduate	Minimum	Maximum
4-Year Public Colleges	\$200	[\$1,500] 2,000
4-Year Independent Colleges	200	2,500
Rutgers, NJIT	200	2,500
UMDNJ/FDU Dental School	200	4,000

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

HIGHER EDUCATION

(a)

BOARD OF DIRECTORS OF EDUCATIONAL OPPORTUNITY FUND

Grant Amounts

Proposed Amendment: N.J.A.C. 9:11-1.7

Authorized By: Board of Directors of Educational Opportunity Fund, T. Edward Hollander, Chancellor and Chairman.

Authority: N.J.S.A. 18A:71-33.

Proposal Number: PRN 1987-432.

Submit comments by November 18, 1987 to:

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

The agency proposal follows:

Summary

The Educational Opportunity Fund Program is designed to provide financial and other assistance to collegiate students who are educationally and economically disadvantaged. Grants are available to students attending all collegiate sectors within New Jersey on both the undergraduate and graduate level of study. The proposed amendment increases the maximum amount of financial aid available under the program to graduate students at the State colleges.

Social Impact

The proposed amendment, by increasing grant amounts, will provide greater opportunity for economically and educationally disadvantaged students to attend graduate school at the State colleges.

Economic Impact

The proposed amendment, by increasing grant amounts, will provide increased financial aid to Educational Opportunity Fund graduate students attending State colleges. The increased aid will increase the number of such students who are financially able to attend graduate school and also decrease their reliance upon student loans and total loan indebtedness.

Regulatory Flexibility Statement

The proposed amendment does not impose any compliance requirements on small businesses, therefore, a regulatory flexibility analysis is not required. The proposal only establishes Educational Opportunity Fund grants for graduate students attending State colleges in New Jersey.

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

9:11-1.7 Grant amount

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

(d) The EOF Board of Directors shall annually review the State grant amounts EOF students and make adjustments if necessary. The minimum

HUMAN SERVICES

(b)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual

Responsibilities of the State Agency

Proposed Amendment: N.J.A.C. 10:81-11.7

Authorized By: Drew Altman, Commissioner, Department of Human Services.

Authority: N.J.S.A. 44:7-6 and 44:10-3.

Proposal Number: PRN 1987-413.

Submit comments by November 18, 1987 to:

Marion E. Reitz, Acting Director
Division of Public Welfare
CN-716
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Child Support Amendments of 1984 (P.L. 98-378) were developed by Congress to make critical improvements in the child support system and provide the states with the initiative to improve and enhance their current child support program.

As provided under Federal regulation CFR 302.34, this Department's Division of Public Welfare entered into a written cooperative agreement with the Administrative Office of the Courts. The agreement contains provisions for providing court and probation officials with pertinent information needed in locating absent parents, establishing paternity, securing support and assistance in carrying out the child support and paternity programs.

The proposed amendment clarifies an administrative procedure that provides for the disclosure of financial information to consumer credit agencies. Current procedure states that upon receipt of Form CSP-166 (Consumer Credit Request) from a county agency or a direct request from a consumer reporting agency, the Child Support and Paternity Unit (CSPU) shall investigate the status of the person in question to determine whether that person is identified as an obligator. This is incorrectly stated. The correct procedure is that upon receipt of a consumer credit request the CSPU shall contact the appropriate county probation department with regard to the arrears status of the person in question, using form CSP-166, Consumer Credit Request.

Social Impact

The proposed amendment should have a positive social impact. It clarifies the function of both the consumer credit agencies and the CSPU. The ability to work cooperatively with other agencies through cooperative agreements tends to strengthen and enhance the child support enforcement program. A strong enforcement system also increases community support for the program.

Economic Impact

The proposed amendment does not economically impact on the client population. The intent is to clarify the correct procedure the CSPU is to follow upon receipt of a direct request from a Consumer Reporting Agency.

Regulatory Flexibility Statement

The proposed amendment has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. This action imposes no compliance requirements on small businesses, as the Aid to Families with Dependent Children program is administered by county welfare agencies.

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

10:81-11.7 Responsibilities of the State Agency

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

1.-10. (No change.)

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

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

ii.-iii. (No change.)

INSURANCE**(a)****DIVISION OF ADMINISTRATION****Dangerous Drivers/Drivers with Excessive Claims****Proposed New Rules: N.J.A.C. 11:3-23**

Authorized By: Kenneth D. Merin, Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:29C-2.1, 17:30E-20.

Proposal Number: PRN 1987-434.

Submit comments by November 18, 1987 to:

Verice M. Mason
Assistant Commissioner
Legislative and Regulatory Affairs
Department of Insurance
CN 325
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The purpose of this proposed subchapter is to implement section 8 of P.L. 1985, c.520, as amended by P.L. 1986, c.211 (N.J.S.A. 17:29C-2.1). The statute authorizes the Commissioner of Insurance to establish standards and guidelines for a dangerous driver/driver with excessive claims category and specifies that the criteria adopted by the Commissioner must take into consideration the total driving record of the individual, including serious driving offenses and at-fault accidents. N.J.S.A. 17:29C-2.1 permits insurers writing automobile insurance in the voluntary market to refuse to issue or renew physical damage coverages, that is collision and/or comprehensive coverage, to persons who are identified as dangerous drivers or drivers with excessive claims pursuant to the standards and

guidelines promulgated by the Commissioner of Insurance. Further, the law provides that voluntary market insurers may, and the New Jersey Automobile Full Insurance Underwriting Association (Association) shall, offer physical damage coverages to dangerous drivers at rates based on their experience. The Department's proposed rules, N.J.A.C. 11:3-23, set forth the standards and guidelines to be used by all insurers for the identification of dangerous drivers and drivers with excessive claims.

N.J.A.C. 11:3-23.1 and 2 set forth the purpose and scope of the proposed new rules, respectively. The subchapter applies to insurers authorized to write automobile insurance in this State, including the Association, and to policies covering automobiles as defined in N.J.S.A. 39:6A-2 or N.J.S.A. 17:30E-3. N.J.A.C. 11:3-23.3 defines certain key terms used in the proposal, such as voluntary market insurer, physical damage coverages and DMV abstract.

N.J.A.C. 11:3-23.4 describes the type of flexibility granted to insurers by N.J.S.A. 17:29C-2.1 with respect to the issuance, renewal and rating policies covering dangerous drivers and drivers with excessive claims. Specifically, the subsection provides that voluntary market insurers may refuse to issue or renew physical damage coverages to insureds identified as dangerous drivers or drivers with excessive claims, or may offer such coverages at rates that are based on the experience of such drivers. The subsection further specifies that higher physical damage rates may only be implemented pursuant to a rate filing submitted to the Department in accordance with statutory and regulatory guidelines, and approved by the Commissioner. Finally, the subsection specifies that the Association shall offer physical damage coverage to Association insureds identified as dangerous drivers or drivers with excessive claims at rates and in accordance with the requirements and procedures set forth in its Plan of Operation.

N.J.A.C. 11:3-23.5 contains standards applicable to the identification of dangerous drivers and drivers with excessive claims. The proposal specifies that a dangerous driver or driver with excessive claims shall mean a person who has been involved, within a three-year period, in: (1) three or more at-fault accidents as defined in the proposal; (2) three or more comprehensive claims involving claim payments of at least \$300.00; (3) a combination of four or more at-fault accidents and comprehensive claims; (4) a conviction of one or more of the motor vehicle violations or other offenses listed in the proposal at N.J.A.C. 11:3-23.8, vehicle offenses; or (5) accumulation of nine or more DMV points.

N.J.A.C. 11:3-23.6 delineates certain additional guidelines to be used by insurers in application of the dangerous driver or driver with excessive claims designation. Subsection (a) provides that dangerous driver designations based on conviction of motor vehicle offenses shall include similar offenses occurring in other states. Subsection (b) specifies that for the identification of dangerous drivers or drivers with excessive claims, accidents or claims must be assigned to the driver of the vehicle at the time of incident. If there was no driver when the incident occurred the accident or claim shall be assigned to the named insured.

N.J.A.C. 11:3-2.7 establishes criteria to be used in determining the at-fault status of an accident. The provision defines an at-fault occurrence as an accident involving a driver insured under the policy that resulted in at least a \$300.00 claim payment by the insurer, provided that for the occurrence to be considered at fault, the driver must have been determined by the insurer to be at least 50 percent responsible for the accident. In determining whether the \$300.00 claim payment threshold has been met, the rule provides that sales tax shall be included, but interest or other costs paid pursuant to N.J.S.A. 39:6A-5c shall not be included. The subsection also requires that a determination of fault be made for accidents involving a claim payment only under coverages where payment is actually made by the insurer without regard to fault such as collision or PIP. Finally, the subsection lists various circumstances which are not considered at-fault occurrences. These include an accident that occurred when the automobile was lawfully parked or when using the automobile in response to an emergency if the driver is a member of a Police or Fire Department or First Aid Squad.

N.J.A.C. 11:3-23.8 lists the motor vehicle violations and other offenses, referred to in N.J.A.C. 11:3-23.5, which result in a dangerous driver/driver with excessive claims designation. These offenses include alcohol related offenses, racing on the highway and exceeding the speed limit by 15 or more miles per hour. The list also includes a conviction for any act that violates the New Jersey Insurance Fraud Prevention Act or any crime involving insurance fraud. The event identifier code(s) that appears on the DMV Abstract of Driver Record History is also shown for each listed offense that has such a code.

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N.J.A.C. 11:3-23.9 explains how to read the DMV abstract to identify violations for the identification of dangerous drivers and drivers with excessive claims.

N.J.A.C. 11:3-23.10 is a severability provision.

Social Impact

The proposed new rules will affect both the availability and cost of physical damage coverages for those persons who have been identified as dangerous drivers or drivers with excessive claims in accordance with the criteria set forth in the rules. As a result of rules, such drivers may be unable to purchase or renew physical damage coverages with a voluntary market insurer, or may find that such coverage is no longer available from a voluntary insurer at standard market rates.

The proposed new rules authorize a voluntary market insurer which determines to provide or continue collision and/or comprehensive coverage to a dangerous driver/driver with excessive claims to utilize rates that are reflective of that person's adverse driving history. However, the rules afford adequate protection to drivers who are subject to increased premium charges under its terms. It accomplishes this goal by requiring that any higher rate for physical damage coverage may only be implemented pursuant to a rate and rule filing submitted to the Department in compliance with statutory and regulatory standards, and approved by the Commissioner.

The rights of policyholders also are protected by interpretive guidelines contained in the proposed rules which must be used by insurers in determining whether a person meets the dangerous driver/driver with excessive claims definition. For example, the rule provides objective criteria applicable to findings of at-fault accident involvement, as well as dollar thresholds for comprehensive claims.

Further, it should be noted that the proposed new rules do not deny persons identified as dangerous drivers or drivers with excessive claims access to physical damage coverages. Although these coverages are not mandatory under the law, they frequently are a condition attendant to approval of automobile financing arrangements. Recently adopted amendments to the Association's Plan of Operation establish a Driver Improvement Plan which, among other things, requires that collision and comprehensive coverages be made available on policies covering dangerous drivers. The coverages are, however, available at increased rates and in some instances subject to mandatory deductibles, as set forth in the Driver Improvement Plan. Nonetheless, where it is necessary that an insured obtain these coverages, access is provided.

The proposed new rules will benefit voluntary market insurers by affording a greater degree of flexibility with respect to the offering and renewal of collision and/or comprehensive coverages to identified dangerous drivers or drivers with excessive claims. Both the voluntary market and the Association will benefit from the rating flexibility contemplated by the rules.

Economic Impact

A person who is found to be a dangerous driver or driver with excessive claims pursuant to the standards and guidelines contained in the proposed new rules may be subject to higher rates for collision and/or comprehensive coverages. These higher rates, however, reflect the adverse driving history of such persons, including involvement in multiple at-fault accidents, excessive comprehensive claims and motor vehicle infractions. Moreover, because collision and comprehensive coverages are not mandatory, drivers not subject to auto finance requirements may elect to forego such protection.

Insurers that wish to implement the increased underwriting and rating flexibility afforded by these rules will incur certain additional costs in altering underwriting practices and, where appropriate, instituting procedures for coverage rejections and nonrenewals. Such insurers also will incur expenses in connection with dangerous drivers rate and rule filings made by or on their behalf. The costs attendant to implementing a dangerous driver program are expected to be outweighed by benefits arising from underwriting and rating flexibility granted to insurers.

The Association and its servicing carriers will implement its dangerous driver procedure as part of the overall surcharge system established under the Driver Improvement Plan. The costs of implementation are expected to be outweighed by the additional revenues generated by the dangerous driver/driver with excessive claims category.

Regulatory Flexibility Statement

Some of the insurers affected by this proposal may be small businesses as that term is defined in the Regulatory Flexibility Act, P.L. 1986, c.169. Insurers will be impacted by the rules to the extent that they avail themselves of the underwriting and rating flexibility authorized by the proposed rules.

N.J.S.A. 17:29C-2.1 specifies that higher rates charged to dangerous drivers must be based on their experience. Therefore, the requirement that insurers, or rating organizations filing on their behalf, develop data and information to support experience rating is essential for proper implementation of the law and consistent with other statutory requirements pertaining to rate making. In order to properly implement the statutory intent, no exemption is provided for small businesses.

Full text of the proposed new rules follows:

SUBCHAPTER 23. DANGEROUS DRIVERS OR DRIVERS WITH EXCESSIVE CLAIMS

11:3-23.1 Purpose

The purpose of this subchapter is to implement N.J.S.A. 17:29C-2.1 (P.L. 1985, c.520) which authorizes insurers in the voluntary market to refuse to issue or nonrenew physical damage coverages to drivers who are identified as dangerous drivers or drivers with excessive claims. The statute permits voluntary market insurers, and requires the New Jersey Automobile Full Insurance Underwriting Association, to issue physical damage coverages to drivers identified as dangerous drivers or drivers with excessive claims on the basis of their experience. N.J.S.A. 17:29C-2.1 requires that the Commissioner adopt standards and guidelines for the identification of dangerous drivers and drivers with excessive claims which take into consideration the total driving record of the driver including serious driving offenses and at-fault accidents occurring within a three year period.

11:3-23.2 Scope

This subchapter shall apply to all insurers authorized to write private passenger automobile insurance in this State including the New Jersey Automobile Full Insurance Underwriting Association, and to all policies covering automobiles as defined in N.J.S.A. 39:6A-2 or N.J.S.A. 17:30E-3.

11:3-23.3 Definitions

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

"Association" means the New Jersey Automobile Full Insurance Underwriting Association and its servicing carriers.

"Commissioner" means the Commissioner of the Department of Insurance.

"DMV" means the New Jersey Division of Motor Vehicles.

"DMV abstract" means the New Jersey Division of Motor Vehicles Abstract of Driver History Record.

"Insurer" means an insurance company authorized to write private passenger automobile insurance in this State, including the New Jersey Automobile Full Insurance Underwriting Association.

"Physical damage coverages" means collision coverage or comprehensive coverage or both coverages.

"Voluntary market insurer" means an insurance company authorized to write private passenger automobile insurance in this State, except the New Jersey Automobile Full Insurance Underwriting Association.

11:3-23.4 Availability of physical damage coverages for dangerous drivers or drivers with excessive claims

(a) Any voluntary market insurer may refuse to issue or may nonrenew physical damage coverages for any policy covering a driver who is identified as a dangerous driver or driver with excessive claims pursuant to criteria set forth at N.J.A.C. 11:3-23.5. The form and content of any nonrenewal made pursuant to this subchapter shall be subject to the standards and requirements set out at N.J.A.C. 11:3-8.

(b) Any voluntary market insurer may issue or renew physical damage coverages for any policy covering a driver who is identified as a dangerous driver or driver with excessive claims pursuant to N.J.A.C. 11:3-23.5 at rates based on their experience and approved by the Commissioner. Any voluntary market insurer wishing to impose higher rates for physical damage coverage for dangerous drivers or drivers with excessive claims shall submit to the Commissioner filings of rates and manual rules prepared in accordance with N.J.A.C. 17:29A-1 et seq., N.J.A.C. 11:1-2 and any applicable insurance laws, rules, and the Department's current filing procedures. The filing of a rating organization shall be applicable to the members of the organization who have authorized the organization to file on their behalf.

(c) The New Jersey Automobile Full Insurance Underwriting Association shall issue physical damage coverages to its insureds identified as dangerous drivers or drivers with excessive claims pursuant to the requirements and procedures found in its Plan of Operation, Operating Principles, Part IV, Association Rates, Section 2, Driver Improvement Plan.

11:3-23.5 Identification of dangerous drivers or drivers with excessive claims

- (a) A dangerous driver or driver with excessive claims shall mean:
1. A driver who has been involved within the three-year period ending 60 days prior to the date of application or renewal in:
 - i. Three or more at-fault accidents as defined in N.J.A.C. 11:3-23.7;
 - ii. Three or more comprehensive claims resulting in payment by the insurer of at least \$300.00 per claim; or
 - iii. Four or more combined at-fault accidents or comprehensive claims; or
 2. A driver who has been convicted within the three-year period ending 60 days prior to the date of application or renewal of any of the offenses listed in N.J.A.C. 11:3-23.8; or
 3. A driver who has accumulated nine or more DMV points. DMV point accumulation shall apply regardless of any annual safe driving point credits granted by DMV.

11:3-23.6 Application of dangerous driver designation

- (a) Dangerous driver designations arising from conviction of the offenses described in N.J.A.C. 11:3-23.7 shall include similar violations in other states.
- (b) For the purpose of identifying dangerous drivers or drivers with excessive claims as set forth in N.J.A.C. 11:3-23.5, each accident and/or claim shall be assigned to the driver of the vehicle at the time of the incident. In the event that there was no driver when the incident occurred, the accident or claim shall be assigned to the named insured.

11:3-23.7 At-fault accidents

(a) An at-fault accident is any accident involving a driver insured under the policy which occurred within the three-year period ending 60 days prior to the date of application or renewal and which resulted in payment by the insurer of at least a \$300.00 claim. Provided, however, that for the purposes of this subchapter, an accident shall not be considered at-fault and shall not be counted toward the dangerous driver or driver with excessive claims designation unless it has been determined that the driver was at least 50 percent at fault in the occurrence and that none of the exceptions set forth in (b) below are applicable.

1. The degree of driver responsibility for an accident shall be investigated and determined by the insurer for each accident that results in its paying a claim of at least \$300.00 under any of the following coverages or combinations thereof:

- i. Bodily injury liability;
- ii. Property damage liability;
- iii. Personal injury protection; or
- iv. Collision.

2. In determining whether a \$300.00 claim payment has been made, the insurer shall include any applicable sales tax, but shall exclude any interest or other costs that it must pay pursuant to N.J.S.A. 39:6A-5c.

3. The insurer shall conduct its investigation and render its determination in compliance with N.J.S.A. 17:29B-4 and any rules promulgated pursuant thereto. The requirement of determining the degree of driver responsibility shall include those accidents which involve a claim payment only under first party coverages, such as collision or PIP, where payment is actually made by the insurer without regard to fault.

(b) Any accident occurring under the following circumstances shall not be considered an at-fault occurrence:

1. The named insured, or other insured driver obtained a judgment against, or a settlement from or on behalf of the person responsible for the accident and no judgment was obtained against nor any amount paid in settlement by or on behalf of the named insured or other insured driver as a result of the accident;
2. The accident occurred while the motor vehicle owned or operated by a driver insured under the policy was lawfully parked. An automobile rolling from a parked position shall not be considered as lawfully parked, but shall be considered as in the operation of the last operator;
3. The automobile was struck in the rear by another vehicle and the named insured or other insured driver has not been convicted of a moving traffic violation in connection with this accident;
4. The operator of the other automobile involved in the accident was convicted of a moving traffic violation and the named insured or other insured driver was not convicted of a moving traffic violation in connection with the accident;
5. The automobile was struck by a hit and run driver, if such accident was reported to the proper authority within 24 hours;
6. The accident occurred when using the automobile in response to an emergency if the insured driver at the time of the accident was a paid or volunteer member of any Police or Fire Department, First Aid Squad,

or any law enforcement agency. This exception does not include an accident occurring after the automobile ceases to be used in response to such emergency; or

7. Physical damage losses other than collision.

11:3-23.8 Convictions

(a) Table I below sets forth those offenses and, where applicable, corresponding Event Identifier Codes for violations that appear on the DMV Abstract, which shall result in a dangerous driver or driver with excessive claims designation pursuant to N.J.A.C. 11:3-23.5.

Table I

Conviction Description	Event Identifier Code
1. Allowing unlicensed driver to operate vehicle.	339b
2. Altered driver's license/registration.	3381
3. Obtaining a license or registration through deception of any kind.	0337, 0312, MS05, MSNJ 1312, C312, 0505
4. Operating a motor vehicle without a license or registration.	0310, 0304
5. Operating during a period of suspension or revocation.	0340
6. No liability insurance on motor vehicle.	06B2
7. Failure to verify insurance—accident or termination.	FVIA, FVIT
8. Vehicular homicide.	C115
9. Fatal accident, emergent or nonemergent.	EFTL, NFTL
10. Possession of narcotic drugs.	4491
11. Use of counterfeit plates or plates other than issued.	0338
12. Consuming alcohol while operating/riding.	451A
13. Any driver insured under the policy has had a vehicle registered in New Jersey during the preceding year but has failed to carry compulsory liability insurance or has had a lapse in compulsory liability coverage for more than 30 days.	Inapplicable
14. Operating under the influence of liquor or drugs.	0450, 3261
15. Refuse alcohol breath test.	4504
16. Racing on highway.	0452, 05C1
17. Reckless driving.	0496
18. Following too closely.	0489
19. Leaving the scene of an accident; Personal Injury.	129A
20. Passing school bus.	1281
21. Exceeding maximum speed 15 or more mph over limit.	9124, 4984, A114, 4985 9125, 8124, A115, 8125
22. Any individual covered under the policy has been found by a court of competent jurisdiction to have committed any act which is in violation of the New Jersey Insurance Fraud Prevention Act (N.J.S.A. 17:33A-1) or has been convicted of any crime in any jurisdiction involving insurance fraud.	Inapplicable

(b) With respect to any conviction of a violation that is disclosed on the DMV abstract, the insurer shall use the Event Responsibility Codes shown on column two of the abstract to determine whether the listed violation reflects a Court Code (including foreign state violations listed on the abstract) or a Division Code.

1. The dangerous driver designation for Court Code violations shall apply only where the Event Type column of the abstract (column three on the abstract) contains a "V" designation; court code violations where the Event Type column contains an "O" designation shall be disregarded. The dangerous driver designation for Division Code violations shall apply only where the Event Type column of the abstract contains an "O" designation; Division Code violations where the Event Type column contains an "S" designation shall be disregarded.

2. The three year period specified at N.J.A.C. 11:3-23.5(a) shall be computed based upon the date shown in the event date column (column one) of the abstract.

3. With respect to out-of-state violations for driving under the influence of alcohol or drugs and refusal to take an alcohol breath test (compact and non-compact states) the dangerous driver designations shall apply only where the Event Type column contains a "V" designation.

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Subsequent entries reflecting administrative action by DMV based upon the out-of-state violation (Division Code, Event Type "O") shall be disregarded.

11:3-23.9 Severability

If any provision of this subchapter or its application to any person or circumstance is held invalid, the remainder of this subchapter and its application to other persons or circumstances shall not be affected.

LABOR**(a)****DIVISION OF WORKPLACE STANDARDS****Explosives****Proposed New Rules: N.J.A.C. 12:190****Proposed Amendments: N.J.A.C. 12:190:1.3, 2.1, 3.2, 3.3, 3.5, 3.6, 3.8, 3.10, 3.12, 3.13, 3.14, 3.20, 5.2, 5.25, 6, 8, 9.1, 9.3, 9.8, 11.2 and 12**

Authorized By: Charles Serraino, Commissioner, Department of Labor.

Authority: N.J.S.A. 21:1A-128 et seq., specifically 21:1A-131.

Proposal Number: PRN 1987-418.

Submit comments by November 18, 1987 to:

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

The agency proposal follows:

Summary

N.J.A.C. 12:190 expires September 5, 1987 under the five-year limit on rules under the sunset provisions of Executive Order No. 66(1978).

N.J.A.C. 1:30-4.4(g), Rules for Agency Rule-making, specifies that any proposed re-adoption of a rule which has expired before filing the proposal shall be considered a new rule. Therefore, the Department wishes to adopt the rules on explosives as new rules, and propose certain amendments to the expired rules.

The Department has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally intended.

These rules regulate the manufacture, sale, off the highway transportation, storage, use and possession of explosives for protection of the public.

The Department has found it necessary to substantially modify subchapter 6, Transportation of Explosives. The enactment of N.J.S.A. 39:5B-25 et seq., An Act for the Transportation of Hazardous Materials, and the rules written thereunder now address the issue. Subchapter 6 has been revised to cover only off-the-highway issues in the transportation of explosives.

Chapter 190 contains 12 subchapters. N.J.A.C. 12:190-1 contains general provisions dealing with purpose, scope and jurisdiction. N.J.A.C. 12:190-2 contains definitions of terms. N.J.A.C. 12:190-3 covers the issuance of permits, record-keeping by permit holders, and the reporting procedures. N.J.A.C. 12:190-4 covers the manufacture of explosives. N.J.A.C. 12:190-5 applies to the storage of explosives in magazines and tunnels. The current N.J.A.C. 12:190-6 regulating the transportation of explosives is not being retained, and is being replaced by new provisions applicable to the off-the-highway transportation of explosives. N.J.A.C. 12:190-7 applies to the use of explosives in various operations including blasting and demolition. The current N.J.A.C. 12:190-8 is not being retained because other Federal and State agencies have jurisdiction over explosives at piers, railway, truck and air terminals. The chapter is being reserved as a location for future rules. N.J.A.C. 12:190-9 covers the storage, mixing and handling of blasting agents. N.J.A.C. 12:190-10 contains the provisions for the storage and distribution of smokeless powder and black powder. N.J.A.C. 12:190-11 applies to the sale of commercial explosives, N.J.A.C. 12:190-12 lists the availability of the various standards and publications referred to by reference in the chapter.

Social Impact

These rules have had and should continue to have a positive social impact in that the public will remain safeguarded from the hazards

associated with explosives. The people affected by these rules have been the manufacturers, sellers, off-the-highway transporters, and users of explosives. The public at large has been protected by the control of this hazardous material.

Economic Impact

The continuation of these rules should present no change in economic impact. Continued compliance with the rules should prevent a negative economic impact in that the unsafe use of explosives could result in disaster for the public. As in the past, operators will be required to take corrective actions when violations are found during inspections. The past economic impact of the rules will also continue upon re-adoption in that there will be no additional cost to those operators in compliance. The public will continue to benefit by reductions in injuries and losses of life and property.

Regulatory Flexibility Statement

These rules mandate that all persons engaged in the manufacture, sale, storage, off-the-highway transportation, use and possession of explosives are required to comply with these rules. There are no exemptions granted for small business. The Department feels that any exemption from these rules would endanger the health, safety and general welfare of the public.

Full text of the expired rules on explosives, which are proposed as new, appears in the New Jersey Administrative Code at N.J.A.C. 12:190.

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

12:190-1.3 Scope

(a) (No change.)

(b) This chapter shall not apply to:

1. (No change.)

2. Transportation of explosives in interstate or intrastate commerce;

3.-7. (No change.)

12:190-2.1 Definitions

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

* * *

"CFR" means Code of Federal Regulations in effect on [effective] date [of] this chapter was last amended.

* * *

"Commissioner" means the Commissioner of Labor or his authorized [representative] designee.

* * *

12:190-3.2 Permit restrictions

(a) No person shall manufacture, sell, [transport,] store or use explosives unless a permit has been issued as provided in the applicable provisions of this subchapter.

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

(d) No permit holder shall manufacture, sell, [transport,] store or use explosives except in compliance with the limitations expressed on the permit.

(e) No permit shall be issued for the sale, [transportation,] storage or use of explosives which are not acceptable to the [c]Commissioner.

(f) (No change.)

12:190-3.3 Exemptions from permits

(a) No permit shall be required for the storage [transportation] or use of smokeless powder which is used by private persons for the hand loading of small arms ammunition and which is not for resale. For this purpose not more than 36 pounds of smokeless powder and not more than five pounds of black powder shall be stored or transported without a permit.

(b) (No change.)

12:190-3.5 Investigation of applicants for permits

(a) Upon receipt of an application for a permit to manufacture, store, sell [transport] or use explosives, and before the permit is issued, the [c] Commissioner shall make or cause to be made an investigation for the purpose of ascertaining if all applicable requirements of this chapter and the Act have been met.

(b) For an initial permit to manufacture, store, sell [transport] or use explosives the [c]Commissioner shall make a determination of "good moral character and loyalty to the United States" referenced in N.J.A.C. 12:190-3.6. This determination is based on:

1.-3. (No change.)

(c) The [c]Commissioner shall not issue a permit to manufacture, sell, store, [transport] or use explosives when an investigation reveals that all the provisions of this chapter and the [a]Act have not been met.

12:190-3.6 Qualifications of applicants for permits

(a) An applicant for a permit to manufacture, sell, [transport,] store or use explosives shall:

1.-8. (No change.)

(b) When the applicant for a permit to manufacture, sell, [transport,] store or use explosives is a firm, association or corporation[;], the applicant shall demonstrate that such activities with regard to explosives will be under the direct supervision of a person who meets the qualifications contained in this section.

12:190-3.8 Revocation of permits

(a) A permit for the sale, [transportation,] storage or use of explosives may be revoked by the [c]Commissioner for any of the following reasons:

1.-6. (No change.)

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

12:190-3.10 Permit class

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

[(c) The "permit to transport" shall authorize the transportation of explosives in or on an approved motor vehicle. However, no permit shall be required for:

1. Transportation in interstate commerce,

2. Transportation off-the-highways solely within the confines of explosive manufacturing establishments, mines, quarries, or construction sites, and

3. Transportation of samples of explosives for examination in a laboratory only and not intended for use or demonstration when the quantity does not exceed one hundred blasting caps or five pounds of other explosives.]

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

12:190-3.12 Responsibilities of permit holder

(a) All holders of a "permit to manufacture, sell, [transport,] store or use" explosives shall comply with the reporting provisions of this subchapter.

(b) All holders of a "permit to manufacture, sell, [transport,] store or use" explosives shall post or be in possession of a permit as described in this subsection.

1.-2. (No change.)

[3. The "permit to transport" shall be kept in the motor vehicle at all times.]

[4.-5.]3.-4. (No change in text.)

[6. The "permit to purchase" shall be posted at the use site.]

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

12:190-3.13 Explosives not permitted

(a) A "permit to sell, [transport,] store or use" any of the following explosives shall not be issued:

1.-11.(No change.)

12:190-3.14 Annual fee for permits

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

[(h) An annual fee shall be paid for a "permit to transport" explosives at a rate of \$20.00 per motor vehicle.]

[(i)-(k)](h)-(j) (No change in text except for table numbers in accordance with new subsection letters.)

[(l)](k) An annual fee shall be paid for a private individual to store[, transport] and use smokeless powder, in the hand loading of small arms ammunition, which is for personal use and not for resale, in accordance with Table 3.14[(a)](k).

Table 3.14[(l)](k)

Fee for "Permit to Store[, Transport,] and Use"

Smokeless Powder

(No change in text of table.)

[(m)](l) An annual fee shall be paid for a private individual to store[, transport] and use black powder, in the hand loading of small arms ammunition, which is for personal use and not for resale, in accordance with Table 3.14[(m)](l).

Table 3.14[(m)](l)

Fee for "Permit to Store[, Transport,] and Use"

Black Powder

(No change in text of table.)

12:190-3.20 Reporting

(a) (No change.)

(b) Every person holding a "permit to manufacture, sell, [transport,] store or use" explosives shall report immediately any loss by theft or otherwise of explosives in his possession to the [Office of Safety Compliance] appropriate officials of the Division of Workplace Standards.

(c)-(g) (No change.)

12:190-5.2 Types of magazines

(a) (No change.)

(b) The five types of magazines as listed in (a) above shall be defined as follows:

1.-3. (No change.)

4. "Type 4 magazine" means an indoor or outdoor magazine.

5. (No change.)

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

12:190-5.25 Notification to municipality

(a) The holder of a "permit to store" explosives shall keep the [construction] fire official informed of:

1.-4. (No change.)

The current subchapter 6 is not being retained but has been replaced with the following new provisions.

SUBCHAPTER 6. TRANSPORTATION OF EXPLOSIVES OFF-THE-HIGHWAY

12:190-6.1 Scope of subchapter

This subchapter shall apply to the transportation of explosives off-the-highway, underground, and manually.

12:190-6.2 Transportation of explosives off-the-highway in motor vehicles

(a) This section shall apply to the transportation off-the-highway of explosives at the project site.

(b) When the blasting project is being performed in a location where the public, or workers not associated with the blasting, could approach, the explosives on the vehicle shall be kept locked in:

1. An approved transportation day-box meeting the specifications of a Type 3 magazine; or

2. A closed van type cargo space.

(c) No detonator may be transported on the same motor vehicle with other explosives, unless the provisions of 49 CFR 177.835 are complied with.

(d) No person shall smoke or carry matches or any other flame producing device while in, on, or near a motor vehicle transporting explosives.

(e) No matches, firearms, electric storage batteries, flammable substances, acids, oxidizing materials or corrosive compounds shall be carried in the body of any motor vehicle transporting explosives, except where permitted by 49 CFR Parts 171-178 and 49 CFR Parts 390-397.

(f) When carried in a vehicle transporting explosives, tools for the repair of the motor vehicle and tools required to conduct blasting operations shall be so segregated or secured in place in or on the vehicle and separated by bulkheads or other suitable means as to prevent damage to the explosives.

(g) Every motor vehicle transporting any quantity of explosives shall, at all times, be attended by a driver or other person designated by the owner.

(h) The attendant shall be:

1. Made aware of the class of explosives in the motor vehicle and of its inherent dangers;

2. Instructed in the measures and procedures to be followed in order to protect the public from inherent dangers;

3. Familiarized with the motor vehicle he is assigned to attend; and

4. Trained, authorized, and licensed to move the motor vehicle, when required.

(i) For the purpose of (g) above, a motor vehicle shall be deemed "attended" only when:

1. The attendant is physically on or in the motor vehicle, or has the motor vehicle within his field of vision and can reach the motor vehicle quickly without any interference; or

2. A motor vehicle at a blasting site is within view of the blasting crew.

12:190-6.3 Motor vehicles on off-the-highway projects

(a) This section shall apply to motor vehicles transporting explosives at off-the-highway projects.

(b) Motor vehicles used for transporting explosives shall be strong enough to carry the load and shall be in good mechanical condition.

(c) When explosives are transported in an open-bodied vehicle, they shall be in an approved transportation day-box and such magazine shall be securely fastened to the truck bed.

(d) All motor vehicles used for the transportation of explosives shall have tight floors and any exposed spark-producing metal on the inside of the body, portable magazine, or closed container, shall be covered with wood or other nonsparking material to prevent contact with the explosives.

(e) Motor vehicles, when used for transporting any quantity of explosives, shall display the placards required by N.J.A.C. 12:190-6.4.

(f) Each motor vehicle used for transporting explosives shall be equipped with fire extinguishers as follows:

1. Motor vehicles of less than 14,000 pounds gross vehicle weight with at least two extinguishers having a total rating of at least 4-A:20-B:C; and

2. Motor vehicles of 14,000 pounds gross vehicle weight or more and tractor semi-trailer units with at least two or more extinguishers with total rating of at least 4-A:70-B:C.

(g) Only extinguishers listed by a nationally recognized testing agency shall be used on vehicles carrying explosives. Extinguishers shall be equipped with a device permitting visual determination of charged condition.

(h) Extinguishers shall be located where they will be accessible for immediate use.

(i) Extinguishers shall be examined and recharged periodically in accordance with the manufacturer's recommendation.

(j) Where motor vehicles are operated in temperatures at or below 32 degrees fahrenheit, dry powder extinguishers shall be pressurized with nitrogen gas.

(k) A motor vehicle used for transporting explosives shall be inspected each day before use to determine that it is in proper condition for safe transportation. The inspection shall insure that:

1. The fire extinguishers are fully charged and ready for use;
2. All electrical wiring is protected and fastened to prevent short-circuiting;
3. Chassis, motor, pan and underside of body are reasonably clean and free of excessive oil and grease;
4. Fuel tanks, feed lines, and cross-over lines are secure and have no leaks;
5. Brakes, lights, horns, windshield wipers, defrosters, and steering apparatus are functioning properly; and
6. Tires are properly inflated and are not defective.

12:190-6.4 Signs and markings

(a) Any vehicles on the job site containing explosives shall be placarded on the front, back, and sides, in one of the following ways:

1. Placards with the word "EXPLOSIVES" in letters six inches high and in colors contrasting with the background; or
2. Placards in accordance with 49 CFR 172.522, 523, or 524.

12:190-6.5 Transportation of explosives in underground operations

(a) This section shall apply to the transportation of explosives from the surface to underground operations.

(b) Explosives in small amounts shall be transported in a substantially constructed transport box with lid and sides of plywood at least one inch thick or equivalent. The transport box shall be painted red, with a conspicuous marking reading: "EXPLOSIVES".

(c) Explosives exceeding 100 pounds shall be transported in a powder car of sound construction with an interior and lid of nonsparking material.

(d) The hoist operator shall be notified before transporting explosives in a shaft.

(e) Explosives shall be moved from the surface to the underground destination without any delay enroute.

(f) Detonators and other explosives shall not be transported together in the same transport box, in any shaft conveyance, or in the same cargo space of a powder car. Explosives shall not be transported in any conveyance containing other material.

(g) A person shall not ride in any shaft conveyance transporting explosives.

(h) Explosives transported underground by railroad shall be:

1. In a powder car or, if in small amounts, in a clean empty railroad car;
2. Pulled by a locomotive, if a locomotive is used; and
3. Separated by at least one empty railroad car between the locomotive and the explosive car.

(i) When a trolley locomotive is used to pull a car carrying explosives, at least two empty cars shall be placed between the explosives car and the locomotive, and an electrically insulated coupling or drawbar shall be used between the locomotive and the explosives car.

(j) When a railroad car carrying explosives is pulled by a locomotive, no person other than the train crew and powder man shall be on the train.

(k) The powder car or conveyance carrying explosives shall bear a reflectorized sign on each side with the word "EXPLOSIVES" in letters not less than four inches in height, upon a background of sharply contrasting color.

(l) The amount of explosives taken to any work area shall not exceed the estimated amount needed for the next blast.

(m) Transport boxes shall not be used to store explosives, unless the following shift is to continue loading explosives for the same blast.

12:190-6.6 Manual transportation of explosives

(a) This section shall apply to the manual transportation of explosives by a person.

- (b) Explosives shall not be carried in personal clothing.

(c) When it is necessary to carry explosives which are not in the original outside container, they shall be carried in a suitable bag or container.

(d) Blasting caps shall not be transported in the same bag or container with other explosives.

SUBCHAPTER 8. [EXPLOSIVES AT PIERS, RAILWAY, TRUCK AND AIR TERMINALS] (RESERVED)

(The text of this subchapter has been deleted.)

12:190-9.1 Scope of subchapter

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

(c) The construction and operation of motor vehicles for the bulk delivery and mixing of blasting agents [in interstate commerce or] in transportation off-the-highway shall comply with the applicable section of N.J.A.C. 12:190-6.

12:190-9.3 [Mixing buildings] (Reserved)

(a) Buildings used for the mixing of blasting agents shall conform to this section, unless otherwise specifically approved by the commissioner.

(b) Buildings shall be of noncombustible construction or sheet metal on wood studs.

(c) Floors in a mixing building shall be of concrete or of other nonabsorbent materials.

(d) All fuel oil storage facilities shall be separated from the mixing building and located in such a manner that in case of tank rupture, the oil will drain away from the mixing plant building.

(e) The building shall be well ventilated.

(f) Heating units which do not depend on combustion process, when properly designed and located, may be used in the building. All direct sources of heat shall be provided exclusively from units located outside the mixing building.

(g) All internal-combustion engines used for electric power generation shall be located outside the mixing building, or shall be properly ventilated and isolated by a firewall. The exhaust systems on all such engines shall be located so that any spark emission cannot be a hazard to any materials in or adjacent to the building.

(h) All electrical switches, controls, motors, and lights located in the mixing room of the mixing building shall conform to the National Electrical Code, NFPA 70-1978, for Class II, Division 2 locations. The frame of the mixer and all other equipment that may be used shall be electrically bonded and be provided with a continuous path to the ground.]

12:190-9.8 Bulk storage bins

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

(e) Any electrically driven conveyors for loading or unloading bins shall conform to the National Electrical Code, NFPA No. 70-[1978]1987. [They] The conveyors shall be designed to minimize damage from corrosion.

(f)-(h) (No change.)

12:190-11.2 Prohibitions

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

(c) No person shall sell, give or deliver explosives to any person not in possession of a valid permit to sell, [transport,] store or use explosives. This provision shall not apply to an authorized representative of a valid permit holder who is on a certified list by the permit holder.

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

12:190-12.1 Documents referred to by reference

(a) The full title and edition of each of the standards or publications referred to in this chapter are as follows.

1.-4. (No change.)

[5. MPC-1975 19th Edition, United States Pharmacopoeia;]

[6.]5. NFPA No. [70-1978] 70-1987 National Electrical Code;

[7. NFPA No. 498-1976, Explosives Motor Vehicle Terminals;

8. N.J.A.C. 5:23, Uniform Construction Code;]

[9.]6. N.J.A.C. 12:194, Model Rocketry;

[10.]7. N.J.S.A. 21:1A-128 et seq., Explosives Act;

[11.]8. N.J.S.A. 21:2-1 et seq., Manufacture, Storage and Transportation of Fireworks;

[12.]9. N.J.S.A. 21:3-1 et seq., Sale and Public Display of Fireworks;

[13.]10. 18 USC Chapter 44, Gun Control Act of 1968;

[14.]11. 29 USC 651 et seq., Occupational Safety and Health Act; and

12. USPC-1980-20th Edition, United States Pharmacopoeia.

12:190-12.2 Availability of documents for inspection

A copy of each of the standards and publications referred to in [N.J.A.C. 12:190-12.1] this chapter is on file and may be inspected at the following office of the Division of Workplace Standards between the hours of 9:00 A.M. and 4:00 P.M. on normal working days:

New Jersey [State of New Jersey] Department of Labor
Division of Workplace Standards
[Labor and Industry Building, Room 1103C] 4 Station Plaza
East State Street and South Clinton Avenue
Trenton, New Jersey

12:190-12.3 Availability of documents from issuing organization

Copies of the [referred to] standards and publications referred to in this chapter may be obtained from the organizations listed below. The abbreviations preceding these standards and publications have the following meaning and are the organizations issuing the standards and publications listed in N.J.A.C. 12:190-12.1.

* * *

[N.J.A.C.—New Jersey Administrative Code Copies available from:
Construction Code Enforcement Section Department of
Community Affairs 363 West State Street Trenton, NJ
08608]

LAW AND PUBLIC SAFETY**(a)****STATE BOARD OF NURSING****Fee Schedule****Proposed Amendment: N.J.A.C. 13:37-12.1**

Authorized By: New Jersey State Board of Nursing,

Sylvia C. Edge, R.N., M.A., President.

Authority: N.J.S.A. 45:1-3.2 and 11-23.

Proposal Number: PRN 1987-428.

Submit comments by November 18, 1987 to:

Sylvia C. Edge, R.N., M.A.

President

State Board of Nursing

1100 Raymond Boulevard

Room 319

Newark, New Jersey 07102

The agency proposal follows:

Summary

This proposal amends the Board of Nursing fee schedule by increasing the initial licensing and examination fees and biennial registration license renewal fee for registered professional nurses and licensed practical nurses. These fees are calculated to provide the Board with adequate funding to discharge its statutory obligation to evaluate applicants for licensure and to regulate the practice of nursing.

There has been a dramatic increase in the volume and complexity of the matters that have been referred to the Board for review. Policy issues requiring significant analysis and research have arisen with increasing frequency. In the last two years, the Board has seen an enormous increase in the number of complaints received by letter and the number of investigations undertaken by the Enforcement Bureau. While the Board has attempted to keep up with this increasing burden, its resources and staffing have remained constant over that same period.

The sums provided by this fee increase will allow the Board to devote appropriate attention to the policy issues it is asked to address. The funds generated will enable the Board to continue to scrutinize applicants for licensure to assure that each has obtained a thorough and satisfactory education. Additionally, the increase will allow for the expansion of the Board's investigatory capacity and the allocation of sufficient monies to fund expert review and the creation of additional legal staff within the Division of Law.

This proposal also amends the fees for license verification. It establishes a fee for temporary work permits, notaries and record duplication. These fees are calculated to recoup the cost of issuing and processing these documents.

Social Impact

The funding generated by this fee increase will be used to address the Board's present needs, and to enable it to increase and improve enforcement activities. The development of new technologies and rapidly changing trends in delivery of health care require the Board to focus its attention on complex and varied policy issues. The Board hopes to utilize the additional funds to study and research these issues to determine when regulatory response may be appropriate. The Board also seeks to be in

a position to continue its practice of giving individualized attention to applicants for licensure to assure the public that only those qualified will be authorized to practice in this State. With adequate resources, the Board hopes to expeditiously address misconduct and to identify nurses proven incompetent, so that appropriate corrective measures may be ordered. In so doing, it will be fulfilling its statutory obligation to protect the public health, safety and welfare.

Economic Impact

While obviously any increase imposes an economic burden on those who will have to pay higher fees, the fees as set forth in the proposed schedule will remain in a range comparable to other large states. The biennial fee for a nurse will be increased by \$5.00. That fee has remained unchanged since 1982. The fees for verification and temporary work permits are increased by a proportionate sum.

The revenues to be generated through this increase have been calculated to be the amount necessary to defray all proper expenses incurred by the Board in accomplishing the goals described herein. In accordance with N.J.S.A. 45:1-3.2, the sums raised are estimated to not exceed the amount required.

Regulatory Flexibility Statement

Since the proposed amendment affects nursing licensees, and does not impose any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, P.L. 1986 c.169, a regulatory flexibility analysis is not required.

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

13:37-12.1 Fee schedule

(a) The following fees shall be charged by the Board.

1. Certification for original examination and licensure:
 - i. Professional nurse—[\$35.00] **\$40.00**;
 - ii. Practical nurse—[\$25.00] **\$30.00**.
2. Certification for reexamination and licensure:
 - i. Professional nurse—[\$35.00] **\$40.00**;
 - ii. Practical nurse—[\$25.00] **\$30.00**.
3. Licensure by endorsement:
 - i. Professional nurse—[\$30.00] **\$35.00**;
 - ii. Practical nurse—[\$20.00] **\$25.00**.
4. Verification—[\$25.00] **\$30.00**.
5. Renewal of license (Biennial)—[\$18.00] **\$24.00**.
6. Late renewal of license—[\$23.00] **\$34.00**.
7. Duplicate license—\$10.00
8. Temporary work permit—\$5.00.
9. Notary fee—\$5.00.
10. Instate verification—\$5.00.
11. Record duplication—\$5.00.

(b)**STATE ATHLETIC CONTROL BOARD****Hygienic Gloves for Seconds, Referees, Ringside Physicians and Inspectors****Proposed New Rule: 13:46-12.13**

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

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

Proposal Number: PRN 1987-421.

Submit comments by November 18, 1977 to:

Larry Hazzard, Commissioner

State Athletic Control Board

CN 180, Station Plaza 4

Trenton, New Jersey 08625

NEW JERSEY REGISTER, MONDAY, OCTOBER 19, 1987

The agency proposal follows:

Summary

The proposed new rule mandates the wearing of latex, disposable hygienic gloves by Seconds, Referees, Ringside Physicians and Inspectors during each boxing show. This initiative was introduced earlier this year by the Commissioner on a voluntary basis, but has been received with near unanimous cooperation.

This concept was inspired by the Commissioner's own refereeing experiences, with his shirts caked and stained with blood, perspiration and resin; the sight of Seconds holding mouthpieces and dressing open cuts with bare hands that were stained likewise; and Ringside Physicians treating boxers that were covered by blood and perspiration.

The Commissioner believes there is need to improve such conditions and provide a greater degree of confidence in the area of hygiene associated with boxing shows.

Social Impact

The proposed new rule permits the State Athletic Control Board to mandate use of latex, hygienic gloves as safeguards to promote safer health conditions for the boxers, seconds and associated officials.

Use of the gloves should provide a higher confidence level in health conditions for individuals involved with the sport of boxing and for those individuals considering a future in the boxing industry.

Economic Impact

There has been an increased cost to the State Athletic Control Board associated with the purchase of these gloves. It is anticipated that this additional cost will be a consideration when license fees are restructured. Except for a potential license fee increase, there is no apparent additional cost.

Regulatory Flexibility Statement

Since the proposed new rule does not impose reporting, recordkeeping or other compliance requirements on small businesses, a regulatory flexibility analysis is not required.

Full text of the proposed new rule follows.

13:46-12.13 Hygienic gloves for seconds, referees, ringside physicians and inspectors

(a) The Commissioner shall provide, at each professional boxing show, an adequate supply of latex, disposable hygienic laboratory gloves of a type approved by the Commissioner, to be worn by Seconds, Referees, Ringside Physicians and Inspectors while involved with the boxing show.

(b) The Commissioner shall provide, during the medical examination phase of the weigh-in, an adequate supply of latex, disposable hygienic laboratory gloves to be worn by Ringside Physicians and Inspectors.

(c) No Boxing Referee shall be permitted to enter the ring unless the Referee is wearing the hygienic gloves specified in (a) above.

(d) No Second shall be permitted to work in that capacity during a boxing show unless the Second is wearing the hygienic gloves specified in (a) above.

(e) No Ringside Physician shall be permitted to examine or medically treat a boxer during a boxing show unless the Ringside Physician is wearing the hygienic gloves specified in (b) above. Exceptions shall be permitted if the treatment is considered an emergency, or the nature of treatment or examination makes the wearing of hygienic gloves impractical during the procedure.

(f) No inspector shall be permitted to perform his assigned duties during a boxing show, unless the Inspector is wearing the hygienic gloves specified in (b) above, except as the Commissioner in his discretion may authorize for Inspectors on certain assignments.

TRANSPORTATION

TRANSPORTATION OPERATIONS

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

Submit comments by November 18, 1987 to:

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

(a)

Speed Limits

Routes 23 in Sussex County; 94 in Sussex County and 172 in Middlesex County

Proposed Amendments: N.J.A.C. 16:28-1.25, 1.79 and 1.80

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-98.

Proposal Number: PRN 1987-416.

The agency proposal follows:

Summary

The proposed amendments will establish "speed limit" zones along Route 23 in Hamburg Borough, Sussex County, Route 94 in Hamburg Borough, Sussex County, and Route 172 in the City of New Brunswick, 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 "speed limit" zones along Routes 23 in Sussex County, 94 in Sussex County and 172 in Middlesex County were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28-1.25, 16:28-1.79 and 16:28-1.80 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "speed limit" zones along Routes 23 in Hamburg Borough, Sussex County, 94 in Hamburg Borough, Sussex County, and 172 in the City of New Brunswick, 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 "speed limit" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendments do not place any bookkeeping, recordkeeping, or compliance requirements on small businesses, as the term is defined by N.J.S.A. 52:14B-19, a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

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

16:28-1.25 Route 23

(a) The rate of speed designated for the certain parts of State highway Route 23 described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1.-3. (No change.)

4. For both directions of traffic:

i.-iii. (No change.)

iv. Zone two: 45 mph in Franklin Borough, [Hamburg Borough] to the intersection of King Cole Road (Milepost 34.8); thence

v. (No change.)

vi. Zone four: 50 mph in [Hamburg Borough,] Hardyston Township, Wantage Township to the southerly intersection of Old Deckertown Road (Cemetery Road—milepost 37.2); thence

(1) In Hamburg Borough, Sussex County, 35 mph between the Franklin Township-Hamburg Borough line and the Hamburg Borough-Hardyston Township line (milepost 34.30 to 35.97)

vii.-xiv. (No change.)

16:28-1.79 Route 94

(a) The rate of speed designated for the certain parts of State highway Route 94 described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1. For both directions of traffic:

i.-xii. (No change.)

xiii. In Sussex County:

(1)-(3) (No change.)

(4) Hamburg Borough: 35 miles per hour between the southernmost Hardyston Township-Hamburg Borough Corporate line and the northernmost Hamburg Borough-Hardyston Township Corporate line (milepost 35.23 to 36.01).

xiv.-xxi. (No change.)

2. (No change.)

16:28-1.80 Route 172

(a) The rate of speed designated for the certain part of State highway [r]Route [number] 172 described in this section shall be [and hereby is] established and adopted as the maximum legal rate of speed thereat:

1. [For both directions of traffic:

i. 30 miles per hour from the intersection of Route 172 and Commercial Avenue to the intersection of Jones Avenue; thence

ii. 35 miles per hour to a point 600 feet east of the intersection of Nichol Avenue; thence

iii. 25 miles per hour to Route 18, including Route 18 and 172 connections; **In the City of New Brunswick, Middlesex County, 30 miles per hour between Commercial Avenue and Route 18 (Milepost 0.0 to 0.81).****(a)****Restricted Parking and Stopping
Routes N.J. 21 in Essex County, N.J. 47 in
Gloucester County, and U.S. 9W in Bergen County
Proposed Amendments: N.J.A.C. 16:28A-1.11, 1.33
and 1.61**

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

Proposal Number: PRN 1987-433.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking" zones along Routes N.J. 21 in the City of Newark, Essex County; N.J. 47 in Franklin Township, Gloucester County; and U.S. 9W in Alpine Borough, Bergen 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 which proved that the establishment of "no parking" zones along Routes N.J. 21, N.J. 47 and U.S. 9W is warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.11, 1.33 and 1.61 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments establish "no parking" zones which will ensure 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 "no parking" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendments do not place any reporting, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, P.L. 1986, c.169, a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

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

16:28A-1.11 Route 21 including Old Route 21 (Passaic Place)

(a) The certain parts of State highway Route 21 described in this section shall be designated and established as "no parking" zones where stopping or standing [are] is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping and standing in the City of Newark, Essex County:

[i. Along both sides of Route 21 from the northerly curb line of Pointer Street to the southerly curb line of Clark Street.

ii. Along the westerly side of Passaic Place (Old Rt. 21) from a point 240 feet north of the northerly curb line of Center Street to its northerly terminus.

2. No stopping or standing, 4:00 P.M. to 6:00 P.M. Monday through Friday, along the northbound side of Route 21 from the northerly curb line of Clark Street to a point 315 feet north of the northerly curb line of Third Street.

3. No stopping or standing 7:00 A.M. to 9:30 A.M. Monday through Friday, along the southbound side of Route 21 from a point 315 feet north of the northerly curb line of Third Avenue to the northerly curb line of Clark Street.]

i. Along both sides from Pointer Street to the Newark City-Belleville Town line, including ramps and connections under the jurisdiction of the Commissioner of Transportation.

[4.]2. No stopping or standing in the City of Clifton, Passaic County, along both sides, for the entire length within the corporate limits of the City of Clifton, including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation.

[5.]3. No stopping or standing in Nutley Township, Essex County, along both sides for the entire length within the corporate limits of the Township of Nutley, including all ramps, service roads, and connections under the jurisdiction of the Commissioner of Transportation.

16:28A-1.33 Route 47

(a) The certain parts of State highway Route 47 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-2. (No change.)

3. No stopping or standing in Franklin Township, Gloucester County:

i. (No change.)

ii. [Along the southbound side from the southerly curb line of Little Mill Road-Hall Avenue to a point 330 feet south of the southerly curb line of Grant Avenue.] **Along the southbound side:****(1) From the southerly curb line of Little Mill Road-Hall Avenue to a point 330 feet south of the southerly curb line of Grant Avenue.****(2) Beginning at the southerly curb line of County Road 538 (Coles Hill Road) and extending 270 feet south therefrom.**

4.-10. (No change.)

(b) (No change.)

16:28A-1.61 Route U.S. 9W

(a) (No change.)

(b) The certain parts of State highway Route U.S. 9W described in [(b) of] this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Alpine Borough, Bergen County:

i. Along the easterly (northbound) side:

(1) Between a point [150] 500 feet south of[,] the prolongation of [and] the southerly curb line [extension] of Closter Dock Road[.] and extending 1,500 feet north of the prolongation of the northerly curb line of Closter Dock Road.

ii. Along the westerly (southbound) side:

(1) Between a point [150] 1,000 feet north of[,] the prolongation of [and] the northerly curb line of Closter Dock Road[.] and extending 1,000 feet south of the prolongation of the southerly curb line of Closter Dock Road.

iii. Along both sides: [between the hours of 7:00 P.M. and 7:00 A.M. daily.]

(1) Between the hours of 7:00 P.M. and 7:00 A.M. daily.**[(1)](2) Between points 1,000 feet south [of] and 1,000 feet north of the pedestrian bridge at milepost [10] 9.7.****(3) Between a point 1,000 feet north of Hillside Avenue and a point 1,000 feet south of Hillside Avenue.**

2. (No change.)

NEW JERSEY REGISTER, MONDAY, OCTOBER 19, 1987

(a)

**Restricted Parking and Stopping
Routes 23 in Morris County and 28 in Union County
Proposed Amendments: N.J.A.C. 16:28A-1.15 and
1.19**

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

Proposal Number: PRN 1987-415.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking" zones along Routes 23 in Pequannock Township, Morris County and 28 in Garwood Borough, Union County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon requests from the local officials, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking" zones along Routes 23 and 28 were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.15 and 1.19, based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no parking" zones along Route 23 in Pequannock Township, Morris County and Route 28 in Garwood Borough, Union 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 "no parking" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendments do not place any bookkeeping, recordkeeping, or compliance requirements on small businesses, as the term is defined by N.J.S.A. 52:14B-19, a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

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

16:28A-1.15 Route 23 and Route 23 (Temporary)

(a) The certain parts of State highway Route 23 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-4. (No change.)

5. (See proposal at 19 N.J.R. 1633(a).)

6. No stopping or standing in Pequannock Township, Morris County:
i. Along both sides for the entire length in Pequannock Township including all ramps and connections under the jurisdiction of the Commissioner of Transportation.

(b) The certain parts of State highway Route 23 (Temporary) described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-3. (No change.)

[4. No stopping or standing in Pequannock Township, Morris County:
i. Along the northbound side:

(1) From the center line of Garden Place to a point 1,200 feet north of the center of Garden Place.

(2) From the Pequannock Township-Riverdale Borough corporate line to a point 1,000 feet southerly thereof.

ii. Along the southbound side:

(1) From the Pequannock Township-Riverdale Borough corporate line to a point 1,000 feet southerly thereof;

(2) From a point 1,500 feet north of the center line of Garden Place.]
Renumber 5. and 6. as 4. and 5. (No change in text.)

(c) (No change.)

16:28A-1.19 Route 28

(a) The certain parts of State highway Route 28 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-3. (No change.)

4. No stopping or standing in the Borough of Garwood[;], Union County:

i. Along the north side:

(1)-(2) (No change.)

(3) **From a point 390 feet west of the westerly curbline of Walnut Street to a point 120 feet westerly therefrom.**

5.-13. (No change.)

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

TREASURY-GENERAL

(b)

NEW JERSEY STATE LOTTERY COMMISSION**Rules of the Lottery Commission****Proposed Amendments: N.J.A.C. 17:20-7.1, 7.2, 7.4
through 7.8**

Authorized By: Barbara A. Marrow, Executive Director,
Division of State Lottery.

Authority: N.J.S.A. 5:9-7.

Proposal Number: PRN 1987-417.

Submit comments by November 18, 1987 to:

Christopher D. Kniesler
Administrative Practice Officer
Division of State Lottery
CN 041
Trenton, New Jersey 08625

The agency proposal follows:

Summary

This proposal is part of the State Lottery Commission's ongoing process of rule review and evaluation. Most of the changes are grammatical or linguistic; however, substantive matters include the establishment of policies with respect to group ownership of lottery tickets and with respect to the use of non-cash prizes (should the Commission utilize them in the future); a shift in the current rule regarding "breakage," that is, monies left over after rounding off prize awards to the nearest dollar, which will allow use of the excess moneys for future prizes; and a clarification of the rule regarding winners' expectations of privacy to indicate that the Lottery may release a winner's prize amount in addition to the winner's name and home town.

Social Impact

The proposal, being largely technical and linguistic, has a minimal social impact. To the extent that group ownership of lottery tickets will now be addressed, the ticket-buying public will benefit by knowing how group winnings will be treated.

Economic Impact

The proposal has no discernible revenue implications. In addition, it has no economic impact which can be ascertained. To the extent that it allows more efficient functioning of the State Lottery, its impact should be marginally favorable, in that monies available for distribution from the State Lottery Fund should increase if expenditures and other costs of operation are held in check.

Regulatory Flexibility Statement

Although the vast majority of State Lottery ticket sales agents are small businesses, this proposal imposes no recordkeeping, reporting or compliance requirements for such businesses. Insofar as the proposal will inform the ticket-buying public about group ownership of lottery tickets, it should ease the burdens of ticket sales agents, in that they will have fewer questions to answer. Accordingly, no regulatory flexibility analysis is necessary with respect to this proposal by the State Lottery Commission.

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

17:20-7.1 Information to be furnished by [winning ticket holder] **prize claimant**

(a) [The purchaser of a winning ticket, before] **Before** receiving [payment of his or her] **any prize, the claimant** shall furnish the Director with [his or her] a Social Security number if [he or she has] one **exists**, or with any identifying number or account number assigned [to him or her] by the Internal Revenue Service for Federal Income Tax purposes, in addition to such other identification data as [is] **may be** requested by the Director.

(b) [Purchasers] **Prize claimants** who are nonresident aliens for Federal Income Tax purposes shall also file with the Director proof of their nonresident alien status.

(c) [Purchasers of winning tickets shall furnish] **The Director may require** proof of age [to the Director] prior to [payment] **the award of any prize.**

(d) **If more than one person claims ownership of a winning ticket, that fact must be shown on the ticket or claim form submitted to the Lottery, and each claimant must provide the required data.**

17:20-7.2 Waiver of conditions

The Director may waive compliance with any of the requirements of this Subchapter in appropriate cases if [he or she is] satisfied that such compliance is unnecessary.

17:20-7.4 Time of [payment] **award** of prizes

(a) Except as herein provided, [payment of] prizes shall be awarded as soon as reasonably possible after the claimant has been identified to the satisfaction of the Director **and the claim validated pursuant to the applicable game rules.**

(b) **Unless the individual game rules provide otherwise, the [The] payment of prizes to winners who are to be paid in installments shall be made annually on or about the anniversary date of [said lottery] the claim except that the first payment shall be made as soon as reasonably possible [after the drawing].**

(c) Upon the death of a prize winner, all moneys or any portion thereof that remain payable to his or her estate shall be paid either to an executor (executrix) or administrator (administratrix) of the decedent's estate, in accordance with the provisions of N.J.S.A. 54:35-19 **and individual game rules.**

1. Said moneys may be transferred either by intestate succession or by testamentary disposition.

2. Upon payment to the estate, the Lottery shall be absolved of any further liability for [payment] **award** of prizes.

(d) Under no circumstances will [payments of] prize [money] **awards** be [expedited] **accelerated.**

(e) **Claims may be amended prior to the issuance of checks, with the approval of the Director. Thereafter, no change shall be made except in conformity with N.J.S.A. 5:9-13.**

17:20-7.5 Manner of payment of prizes

(a) Payment of **monetary** prizes shall be made by check [and] payable to the bearer of the ticket; however, the Director may, in [his or her] **the exercise** of discretion, withhold payment [to the bearer] pending clarification of ownership of the ticket. The Director may authorize cash redemption of certain prizes payable to the bearer of the "winning" ticket. [It is further provided that with] **With** respect to machine issued tickets, [if the computer file shows the ticket to have been already paid[,] the Director [his or her discretion] may refuse payment **if the computer file and other validation records show that payment has been made.**

(b) **In cases of multiple ownership, a check will be issued to the group representative designated on the claim form.**

1. **Each winner may request the issuance of a separate check. Separate checks will not be issued in amounts less than \$600.**

2. **Where multiple winners are issued a single check, the individual designated to represent the group shall be responsible for filing the appropriate income tax form with the Lottery and distributing the moneys to co-winners.**

(c) **Non-cash prizes such as tickets to theatres or other places of amusement, meals or tangible property shall be awarded by the Director in such manner as is consistent with the dignity and integrity of the Lottery, the convenience of the winner and of the provider of the prize. The Director may establish time limits for the filing of claims for prizes where the event is one of limited duration.**

17:20-7.6 Discharge of State liability upon [payment] **award**

(a) The State of New Jersey, its subdivisions, agents, officers, and employees, the State Lottery Commission, the Director, the Division of the State Lottery, its agents, officers, and employees shall be discharged of all liability upon [payment] **award** of a prize [to the bearer of any winning lottery ticket].

(b) The Director's decision regarding the determination of a winning ticket shall be final.

(c) In the event of [any] a dispute between two or more persons claiming to be the owners [and/or holders] of [any] a winning [lottery] ticket, the Director may [in his or her discretion] **with or without holding a hearing**, deposit the prize money in the Superior Court of the State of New Jersey and interplead all known claims [and]. **The Lottery** shall thereafter be relieved of any further responsibility or liability with respect to such moneys.

17:20-7.7 [Unclaimed prize money] **Unallocated prize money; breakage**

(a) Upon the conclusion of any specific game, when the prize allocation is in excess of the allocation necessary to sustain the payment of prizes within the prize pool, such excess shall be [forfeited to the State] **allocated as unclaimed prize money pursuant to N.J.S.A. 5:9-17.**

(b) **During the term of any specific game, when the prize allocation is in excess of the allocation necessary to sustain the payment of prizes within the prize pool as a result of rounding-off to even dollar amounts ("breakage"), such excess shall be added to the pool of moneys available for the award of future prizes pursuant to specific game rules.**

17:20-7.8 Disclosure

The Lottery may use the names, addresses, **prize amounts** and photographs of winners [in any Lottery campaign]. The address used shall not contain the street or house number of the winner.

(a)

CASINO CONTROL COMMISSION**Gaming Equipment****Limitation on Utilization of Slot Machines of Any One Manufacturer**

Proposed Amendments: N.J.A.C. 19:40-1.2; 19:45-1.1; 19:46-1.32 and 19:54-2.2

Authorized By: Casino Control Commission,

Theron G. Schmidt, Executive Secretary.

Authority: N.J.S.A. 5:12-1(b)12, 5:12-63(c) and 5:12-69.

Proposal Number: PRN 1987-412.

Submit comments by November 18, 1987 to:

Mark Neary
Assistant Counsel
Casino Control Commission
3131 Princeton Pike
Building No. 5, CN-208
Trenton, N.J. 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 19:46-1.32 would permit a casino licensee to use the slot machines of one manufacturer in excess of the 50 percent limitation generally imposed by that rule if the casino licensee and the manufacturer are affiliated, but only up to the point where that manufacturer's slot machines would constitute 50 percent of the total of all slot machines in use in the State at that time. The Commission had previously ruled that the 50 percent limitation did not apply to one casino licensee's use of slot machines manufactured by its parent corporation. (See Resolution 79-138, Casino Control Commission Public Meeting of May 21, 1979). The proposed amendment expands upon that ruling by permitting multiple casino licensees which are affiliated with a single manufacturer to exceed the 50 percent limitation with that manufacturer's slot machines subject to the industry-wide limit, and by defining the relationship between the casino licensee and manufacturer which would entitle a licensee to the exception.

The proposal also requires a casino licensee to apply to the Commission for approval to exceed the 50 percent limitation. Such an application cannot be made more than once annually. This provision will prevent a casino licensee from continually seeking authorization to further increase its use of slot machines manufactured by an affiliated manufacturer as overall market shares of slot machine manufacturers change. The need to continually recalculate such shares would put an excessive burden upon the regulatory authorities and could undermine the stability of slot machine operations in Atlantic City.

Finally, the proposed amendment to N.J.A.C. 19:40-1.2 adds the definition of "affiliate" to the General Provisions chapter, making that defi-

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF RURAL RESOURCES

State Agriculture Development Committee Soil and Water Conservation Cost-Sharing

Adopted Amendment: N.J.A.C. 2:76-5.3

Adopted New Rule: N.J.A.C. 2:76-5.8

Proposed: July 6, 1987 at 19 N.J.R. 1123(a).

Adopted: September 24, 1987 by Arthur R. Brown, Jr.,

Chairman, State Agriculture Development Committee.

Filed: September 25, 1987 as R.1987 d.427, **without change**.

Authority: N.J.S.A. 4:1C-5f, 4:1C-8, and 4:1C-24.

Effective Date: October 19, 1987.

Expiration Date: August 29, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

2:76-5.3 Approved practices and cost-share provisions

(a) (No change.)

(b) The following cost-share provisions shall be applicable for soil and water conservation projects:

1. The State Agriculture Development Committee shall dedicate \$6.0 million from the fund for the purpose of providing grants to landowners for approved soil and water conservation projects.

i. No more than 25 percent of the \$6.0 million dedicated for soil and water conservation projects shall be aggregately obligated for approved projects in any one county.

2.-3. (No change.)

2:76-5.8 Allocation of soil and water cost-share eligibility after subdivision

(a) A subdivision for change of ownership of any lands under common deed of ownership shall affect eligibility for soil and water conservation project cost-share grants as follows:

1. Subdivision(s) of the land(s) in a program will not alter the total eligibility for soil and water cost-share funding as determined at program enrollment.

2. That portion of the original eligible amount not already obligated and/or expended for specific projects shall be reallocated pro rata on a per acre basis among the parcels.

3. Funds obligated for specific projects at time of sale or subdivision that lapse under the provisions of N.J.A.C. 2:76-5.3(b)3 shall be reallocated as eligible funds according to (a)2 above.

HEALTH

(b)

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

Certificate of Need: Application and Review Process

Adopted Amendments: N.J.A.C. 8:33-1.5, 2.7, and 2.8

Adopted Repeal: N.J.A.C. 8:33-4.15

Proposed: July 20, 1987 at 19 N.J.R. 1280(a).

Adopted: September 17, 1987 by Molly Joel Coye, M.D.,

Commissioner of Health (with approval of Health Care Administration Board).

Filed: September 18, 1987 as R.1987 d.415 **with changes** not in violation of N.J.A.C. 1:30-4.3.

Authority: N.J.S.A. 26:2H-1 et seq.

Effective Date: October 19, 1987.

Expiration Date: October 7, 1990.

Summary of Public Comments and Agency Responses:

Written comments were received from the Hospital Planning and Marketing Society of New Jersey (HPMSNJ). The Society's comments addressed a wide-range of Certificate of Need process issues. While the Department of Health will be pleased to discuss with the HPMSNJ any of their ideas for improving the processing of Certificate of Need applications, the Department's written responses at this time will only address their comments on the specific Certificate of Need Rule amendments proposed in the July 20 New Jersey Register.

COMMENT: In commenting on the proposed revisions to the Batching Cycles at 8:33-1.5(d) that would change the number of Certificate of Need "batches" from three per year to two, the HPMSNJ states that there will be a "negative effect on the following:

—Hospitals: An even more prolonged review process will make it increasingly difficult for hospitals to meet patient needs or achieve other institutional goals.

—Statewide Health Coordinating Council (SHCC): The sheer magnitude of reading in each batch will create information overload and an inability to fully evaluate each project, despite the best intentions of SHCC members.

—New Jersey State Department of Health (NJSDH): The staff will have the same volume of work simply organized into fewer cycles. Can improvements in work flow really overcome the burdens of workload?"

RESPONSE: The Social and Economic Impact statements accompanying the initial proposal of this revision describe a number of positive impacts the change in the number of batching cycles is expected to produce. These include:

1. The number of applications reviewed during any given batch will increase. This will provide the decision-making participants in the review process with a larger pool of applicants from which to choose those that best meet identified need, while also satisfying the quality, access, and cost-containment principles of the enabling statute.

2. Under the current rule, applicants are required to submit applications for a new batch before the Commissioner of Health has had an opportunity to act upon the recommendations of the Statewide Health Coordinating Council or Health Systems Agencies from the previous batch. Under the proposed amendment, applicants will have knowledge of the Commissioner's action on previous applications. This will provide them with more definitive information on remaining need and allow them to develop more realistic applications or to refrain from developing an application at that particular time. It is expected that this proposed revision will be particularly helpful to applicants for new or expanded long-term care facilities.

3. The proposal will enable the review process to better assess the impact of proposed new capital and operating expenditures on the State's health care system.

4. With a larger pool of applicants in each remaining batch, the proposal should encourage applicants to develop more economically competitive applications.

The Department believes that these benefits will accrue and will positively affect both the Certificate of Need process and the State's health care delivery system.

It remains difficult to understand why a hospital with a good, ongoing planning process would find this proposal to accept applications every six months instead of every four months "increasingly difficult." This is especially true since hospital bed additions, major capital projects, and surgical facilities and services are currently batched only two times per year.

In addition, this proposal was made only after careful internal discussion and close consultation with the SHCC. The latter body overwhelmingly endorsed this proposal and did not feel they would be subjected to "information overload," especially since, except for long-term care, batches are not and will not be particularly large. And, the SHCC is particularly interested in using the time that will be made available by this proposal to discuss policy and planning issues and for educational sessions.

Finally, the Department and its staff remain convinced that this proposal will improve the quality of staff recommendations and work flow, as well as provide staff with additional time to address important

policy and planning issues. It must be noted that "batched" applications are generally similar and that staff must apply the same rules and/or criteria and perform the same analyses (bed need, access problems, utilization trends) whether there are 5 or 25 applications in the particular batch. Thus, this proposal will enhance work flow since such analyses need be done only twice per year.

COMMENT: The HPMSNJ "favors" the proposal to delete the requirement for a two-stage review for hospital bed addition, modernization and/or renovation, or new construction projects.

RESPONSE: The Department acknowledges this favorable comment from the Society.

COMMENT: In responding to the proposed change from \$10 million to \$5 million in the monetary threshold for hospital modernization and construction projects, the HPMSNJ noted that such projects "are not likely to be competitive, but rather hospital improvements which represent unique circumstances." The Society also noted that "the new reimbursement regulations designed to control capital expenditures should be tested at the \$10 million threshold before further restrictions are put in place. Since the batching threshold is to be the trigger point for changing all old capital from a cost pass through to reimbursement as new capital under volume variability, the implications of this change in the threshold have not yet been sufficiently examined. This is an extremely important point that requires further study."

RESPONSE: This section was proposed at a time when the Department anticipated that development and promulgation of a new Hospital Policy Manual and a new capital reimbursement level would be complete or nearly so. However, these items are still under development. Therefore, until such time as these items are complete and appropriate for promulgation, the Department will not seek to revise the batching threshold and is withdrawing this section from Board consideration at this time.

Full text of the changes between proposal and adoption follows (additions to the proposal in boldface with asterisks *thus*, deletions from proposal indicated in brackets with asterisks *[thus]*):

8:33-1.5 Batching cycles and deadline dates

(a) There shall be 10 review cycles for non-batched Certificate of Need applications in a year. The beginning of each cycle shall be the 15th day of each month and a decision should be rendered by the Commissioner of Health approximately three months after the beginning of the review process.

(b) (No change.)

(c) The calendar for the non-batched Certificate of Need review process follows:

Deadline for Initial Submission	Cycle Begins	Commissioner's Decision Due
December 1	January 15	April 15
January 1	February 15	May 15
February 1	March 15	June 15
March 1	April 15	July 15
April 1	May 15	August 15
June 1	July 15	October 15
July 1	August 15	November 15
August 1	September 15	December 15
October 1	November 15	February 15
November 1	December 15	March 15

*[(b)]**(d)* Batching cycles: Applications pertaining to the following services, facilities, and equipment must be batched according to the following review cycles:

Category	Deadline for Actual Submission	Cycle Begins
Hospital bed additions; modernization/renovation/new construction of \$*[5]* *10* million or more	Jan. 1	Feb. 15
	July 1	Aug. 15
Long term care bed additions; new construction	Feb. 1	March 15
	Aug. 1	Sept. 15
CAT Scanners; PET Scanners; nuclear medicine equipment; magnetic resonance imaging	Apr. 1	May 15
	Oct. 1	Nov. 15
Megavoltage therapy equipment	Apr. 1	May 15
	Oct. 1	Nov. 15

Cardiac diagnostic and surgical services, modernization/renovation and equipment	Feb. 1	March 15
	Aug. 1	Sept. 15
End stage renal disease equipment and services	Apr. 1	May 15
	Oct. 1	Nov. 15
Home Health Care Services	June 1	July 15
	Dec. 1	Jan. 15
Surgical Facilities and Services (inpatient and free-standing)	Jan. 1	Feb. 15
	July 1	Aug. 15
Emergency Transport & MICU Services	June 1	July 15
	Dec. 1	Jan. 15
Other Ambulatory Care Services (initiation and expansion; does not include renovating only to hospital outpatient services)	June 1	July 15
	Dec. 1	Jan. 15
Intermediate Adult and Special Psychiatric Beds	Jan. 1	Feb. 15
	July 1	Aug. 15

8:33-2.7 Equipment and modernization

(a) The following criteria shall apply to equipment and modernization; 1.-10. (No change.)

8:33-2.8 Batching

(a) Applications pertaining to the *[followig]* *following* services, facilities, and equipment must be considered in relation to each other ("batched") according to the schedule specified in N.J.A.C. 8:33-1.5(d):

1. Hospital bed additions; modernization/renovation/new construction of *10* *[five]* million dollars or more.

2.-11. (No change.)

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

8:33-4.15 (Reserved)

HIGHER EDUCATION

(a)

BOARD OF DIRECTORS OF EDUCATIONAL OPPORTUNITY FUND

Grant Amounts

Adopted Amendment: N.J.A.C. 9:11-1.7

Proposed: March 2, 1987 at 19 N.J.R. 399(a).

Adopted: September 16, 1987 by T. Edward Hollander, Chairman, Board of Directors of Educational Opportunity Fund.

Filed: September 22, 1987 as R.1987 d.418, **without change**.

Authority: N.J.S.A. 18A:71-33.

Effective Date: October 19, 1987.

Expiration Date: January 17, 1989.

Summary of Public Comments and Agency Responses:

Written comments were received from four colleges regarding the proposed amendment.

COMMENT: While all of the colleges commenting supported the award increases, all of the colleges questioned whether the proposed increases would be implemented for the 1986-1987 or the 1987-1988 academic year.

RESPONSE: The EOF Board has clarified to the colleges that the increased grant amounts will be implemented for the 1987-1988 academic year.

Full text of the adoption follows.

9:11-1.7 Grant amount

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

(d) The EOF Board of Directors shall annually review the state grant amounts of EOF students and make adjustments, if necessary. The minimum and maximum awards for Graduate and Undergraduate EOF grants for each type of institution follows:

UNDERGRADUATE	MINIMUM	MAXIMUM
Community Colleges:		
Freshman/Sophomore	\$200	\$ 650
State Colleges:		
Commuter:		
Freshman/Sophomore	200	750
Junior/Senior	200	550
Residential:		
Freshman/Sophomore	200	1,000
Junior/Senior	200	800
Rutgers, NJIT:		
Commuter:		
Freshman/Sophomore	200	750
Junior/Senior	200	550
Residential:		
Freshman/Sophomore	200	1,000
Junior/Senior	200	800
Independent Colleges:		
Freshman/Sophomore	200	1,950
Junior/Senior	200	1,700
GRADUATE	MINIMUM	MAXIMUM
State Colleges	\$200	\$1,500
4-Year Independent Colleges	200	2,500
Rutgers, NJIT	200	2,500
UMDNJ/FDU Dental School	200	4,000
(e)-(f) (No change.)		

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual

Realizing Economic Achievement Program (REACH)

Adopted New Rules: N.J.A.C. 10:81-14

Proposed: August 17, 1987 at 19 N.J.R. 1491(a).

Adopted: September 25, 1987 by Drew Altman, Commissioner, Department of Human Services.

Filed: September 25, 1987 as R.1987 d.423, 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. 44:7-6 and 44:10-3; State Appropriations Act for Fiscal Year 1988; 45 CFR 224.20, 238, 239, and 240.

The Department is relying upon the authority granted by waivers issued pursuant to federal demonstration authority, dated October 1, 1987 and upon P.L. 1987 c.

(A3809/S1951).

Effective Date: October 19, 1987.

Expiration Date: October 15, 1989.

Summary of Public Comments and Agency Responses:

Comments were received from client advocacy groups, child care provider agencies, a county planning committee, a county welfare agency, a women's resource center, and a religious organization. A Public Hearing was held September 2, 1987 with one individual presenting comments.

Client advocacy groups submitted numerous comments regarding participation in the REACH program and the sanctioning process. Technical changes were made to the regulations to incorporate those recommendations, and are summarized below.

Comments from child care provider agencies:

COMMENT: There is an inherent inequality in the proposed dialogue between the case manager, backed by the unlimited resources of the State, and the relatively powerless client. A client advocate or Legal Services Corporation representative should be incorporated into the process to enable the participant to better understand the goals and policies of the program without sacrificing his or her interests.

RESPONSE: The emphasis of REACH is on participation, not penalties, and considers the dignity and self-respect of the individual. A variety of employment, training, educational opportunities and support services are available and the Case Manager and participant mutually agree on

the participant's course of action. The rules contain detailed procedures established for conciliation over the terms of the Agreement if the participant is dissatisfied, and for fair hearings which afford a participant full due process rights. Some of the regulatory language was reworded in response to recommendations from client advocacy groups; the protections sought by the child care agencies are incorporated into the rules. As with the regular Aid to Families with Dependent Children (AFDC) program, a REACH participant may always seek advice and counsel from client advocacy groups on any issues concerning eligibility for AFDC.

COMMENT: Rules concerning "noncompliance" need several concrete definitions to protect clients from subjective interpretations. State should require orientation meetings for proposed participants prior to REACH implementation.

RESPONSE: Orientation meetings with potential REACH participants will be held on an ongoing basis by REACH case managers as individuals become eligible for AFDC and REACH. The approach is preferred to the one-time orientation at time of REACH implementation in a county.

COMMENT: REACH relies solely upon mail delivery in the notification process. There is no requirement for a certified letter or mandatory telephone call. The case manager or his or her representative must be required to initiate personal contact.

RESPONSE: The use of certified mail was considered; however, this is subject to the same possibility of nondelivery as regular mail. The final rules require, in addition to letters to the participant, that the case manager also attempt to contact the participant by telephone. (N.J.A.C. 10:81-14.8(c)1, 2)

COMMENT: "Lack of available quality child care" should be listed as a good cause for noncompliance.

RESPONSE: We realize that many situations would qualify as good cause in individual case circumstances. To allow for those variations, another reason for good cause was added. (See N.J.A.C. 10:81-14.8(b)5) Good cause includes situations in which, considering the totality of circumstances surrounding a willingness and ability to participate, his or her participation is impeded or seriously impaired. In addition, the unavailability of a support service, for example, child care, allows for excused participation. (See N.J.A.C. 10:81-14.1(a)3)

COMMENT: Determination of noncompliance requires a series of subjective judgments. Concern is expressed over the adequacy of case manager training in this area, and that the support of a client advocate should be enlisted prior to any adverse decision on noncompliance.

RESPONSE: To ensure that the goals of REACH and participation are correctly and thoroughly understood and applied by case managers, an intensive training program has been developed for REACH case managers. This program includes initial sessions as well as monthly follow up sessions, and includes a presentation by client advocacy groups. As stated above, procedures for conciliation and fair hearings prior to adverse action ensure protection of client due process rights; REACH participants may always consult with client advocates regarding adverse actions and potential sanctions.

COMMENT (from several commenters): Child care, transportation costs and Medicaid service limits should be reevaluated and expanded. Transportation costs should be an allowance rather than a reimbursement.

RESPONSE: Current limits cannot be expanded at this time given the funds allotted for the program. The Department has received the maximum Federal matching funds possible. Amounts for transportation and training related expenses may initially be issued as an allowance for a two-week period, to aid in the transition of the participant into the particular REACH employment-directed activity.

Comments from County Planning Committee:

COMMENT: The Division of Public Welfare should reexamine the automobile resource policy and waive the resource limit regarding an automobile since, in many cases, it undermines the basic premise of attaining and maintaining economic self-sufficiency.

RESPONSE: The motor vehicle resource limit is a Federal eligibility requirement for AFDC. Since REACH participants must be AFDC recipients, the Federal limit cannot be waived for REACH participants. The rules do allow for an exclusion of \$1,500. from a car's equity value and stipulate that special apparatus for the handicapped does not increase the value of the vehicle.

Comments from a women's resource organization:

COMMENT: There is no follow-up specified to ascertain whether an employer has hired a trainee after completion of training.

RESPONSE: REACH provides a variety of opportunities to secure training to enhance employment. Considerable use will be made of on-

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the-job-training programs which provide an unsubsidized job with the employer after the conclusion of training. Other training programs, notably classroom training, are by their nature not designed to culminate in a job offer, but provide specific marketable skills needed by employers in the locality. In these circumstances, the participant would pursue individual job search and seek employment.

COMMENT: There is no provision for housing subsidies for trainees.

RESPONSE: REACH was designed to provide the services most needed to remove barriers to economic independence through unsubsidized employment. Housing subsidies and assistance may be available through other programs such as Rental Assistance.

COMMENT: There is no provision for health care benefits for the trainee from the employer.

RESPONSE: For as long as a participant continues to be eligible for AFDC, health care benefits will be provided under the Medicaid program. Once a participant earns sufficient income from a job to become ineligible for AFDC, health care coverage will continue to be provided by the Medicaid program for an additional 12 months. In addition, for all individuals who are employed, the Division of Medical Assistance and Health Services seeks to obtain health coverage from the employer. In many instances the employer provides partial health care benefits. In those situations, the employer will be the primary provider of health care benefits, with Medicaid coverage available for those benefits not provided by the employer.

COMMENT: The highest level of schooling offered is technical school even though a participant may have college aptitude.

RESPONSE: REACH does allow for participation in postsecondary education programs up to one year or longer, often leading to a recognized college credential, where the programs are directed toward a specific career objective, such as nursing, computer programming, accounting, and so forth. (See N.J.A.C. 10:81-14.4(k).)

COMMENT: Since there will be no monitoring of the kinds of employment, the jobs will be minimum wage positions which will not change the participant's socio-economic status.

RESPONSE: All counties planning for REACH are committed to locating the best quality jobs available for participants. The program does not specify the minimum wage acceptable for REACH placements, but strongly applies the guideline that, given the total dollar value of benefits available to an AFDC family (including the welfare grant, food stamps, energy assistance and medical assistance), the family should not be worse off financially after obtaining a job through REACH.

Comments from a county welfare agency:

COMMENT: The "Economic Impact" statement does not address costs to counties. The impact statement projects a savings to counties as part of the State's savings in assistance expenditures (IV-A) but does not mention counties' share of costs for assistance expenditures and administrative costs for REACH efforts charged to IV-A.

RESPONSE: Assurances have been given both orally and in writing to counties affirming the Department's commitment that REACH will not generate new costs to counties and addressing these potential county costs.

Comments from the Welfare Reform Advisory Council:

COMMENT (several commenters): Given the extensive case management duties, concern is expressed over the ability of each case manager to handle the client/case manager ratio of 80:1 (active participants) and 160:1 (clients who have entered employment) as specified in the Preliminary REACH County Plan Guidelines.

RESPONSE: Ratios of 80:1 and 160:1 are maximum rates that reflect full operation of the REACH program in a county. Initially, as the program phases in, the case manager caseloads will likely remain below those maxima as a county works out the operational problems inherent in a new program. It is noted that State and Federal funding is available for case management consistent with those ratios.

COMMENT: The proposed new rules do not address the need for a statewide process or procedure for monitoring the role and activities of case managers.

RESPONSE: The Division of Public Welfare and the Department are finalizing procedures for on-site technical assistance to counties and monitoring of the initial operation of the program. This includes a quality assurance function, ensuring that services are provided to participants and that adequate administrative support is provided for case managers.

Comments from a religious organization:

COMMENT: Sanctions jeopardize children, particularly in view of the grossly inadequate benefit levels, even when the family receives the full benefit amount. The child will suffer when funds are withheld from the

caretaker relative. Dollars for the administration and enforcement of sanctioning could be spent on negotiating with business for meaningful jobs for participants. Sanctioning procedures should be deleted from the rules.

RESPONSE: While the focus of REACH is on participation rather than penalties, there may be some situations when sanctioning procedures are applicable and, consequently, they cannot be totally removed from the rules.

COMMENT: With limited resources and the goal of employment leading to self-sufficiency, community work experience (CWEP) is a drain on existing resources. The term CWEP was eliminated from the proposed REACH legislation during the Senate deliberations and should be eliminated as an option or sanction in the rules. Counties should be encouraged to steer resources towards job training and the development of meaningful jobs.

RESPONSE: CWEP provides an opportunity for individuals who have been unable to find employment for a number of reasons, including the lack of job experience, to gain needed work experience. Such experience provides a suitable alternative to education and training for some individuals and assists them in preparing themselves for unsubsidized employment. It is up to each county to determine when and the extent to which it will incorporate CWEP in its REACH activities.

COMMENT: Employment is not listed as a REACH component and, consequently, a recipient cannot be excused if that component is not available. Concern was expressed over medical coverage after the 12 month extension and the lack of compliance requirements on small businesses and the medical insurance industry. There is no requirement for employers through PICS, criteria for putting names of employers on a list for contacts or a commitment from employers involved in the Work Supplementation Program. The regulations on Job Search should be changed from "may assist" to "shall assist".

RESPONSE: Employment is a recognized, and the most desirable, component of REACH (See N.J.A.C. 10:81-14.10(e).) All activities in the REACH program are directed toward unsubsidized employment and independence from welfare. Where a participant is already employed, that employment will count as fulfillment of the REACH obligation. Regarding job search and the availability of jobs, participants will not be penalized if jobs are unavailable. The issue of medical assistance was addressed earlier.

COMMENT: Recipients will not know that the job they are accepting will offer adequate pay and benefits. If it does not, concern was expressed over what recourse the recipient will have.

RESPONSE: One function of the case manager is to assess the type of employment and adequacy of benefits available from a particular job. The general standard of adequacy of benefits from employment was addressed earlier.

Comments from a child care organization:

COMMENT: The proposal does not address serious problems, including homelessness. The proposal is silent on how long or how much effort will be allowed to rehabilitate clients with mental health and/or substance abuse problems.

RESPONSE: The rules have been revised to state that REACH participation shall not be required of an individual who is without a permanent residence (See N.J.A.C. 10:81-14.3(c)5.) Rules governing incapacity have been revised to include alcohol and drug addiction as physical impairments if they prevent an individual from engaging in employment along with mental impairment. The duration of the impairment to qualify as "incapacity" has been changed from six to three months. (See N.J.A.C. 10:81-14.3(b)2ii.)

Comments from Public Hearing (Dr. Jose Oliva, President of the Parents and Children Together Organized for Family Learning of Allentown, New Jersey):

COMMENT: The commenter offered general support of REACH's thrust for the dignity and respect of the individual. He indicated that, by promoting the pursuit of gainful employment, REACH will help parents be role models of achievement for their children. There should be more emphasis on parenting skills of all REACH participants, as there is for those with children under the age of two.

RESPONSE: This instruction will be available for the vocational assessment and counselling activity, as set forth at N.J.A.C. 10:81-14.13. In addition, such services and instructions are routinely available from county social service agencies.

COMMENT: REACH should explore the positive impact of intensifying training of child care providers. Will plans be approved without innovative provisions for child care provider training?

RESPONSE: Recipients who provide child care for other AFDC recipients will be entitled to additional disregard of income earned by providing child care. Those individuals may be able to receiving training in the area of child care, as specified in individual plans for self-sufficiency and the REACH Agreement.

COMMENT: During orientation, case managers should build on parents' willingness to motivate themselves for their children's sake.

RESPONSE: The REACH goal of self-sufficiency through employment and its benefit to both the participant and the participant's family will be emphasized initially at orientation and throughout an individual's participation in the program.

Summary of Changes Subsequent to Proposal:

At N.J.A.C. 10:81-14.1 language was added to clarify that if fiscal or other resources are not available to provide the REACH services, then the individual shall be released from REACH participation obligations which are dependent upon those services. The concept of reasonable certainty was deleted because it is contained elsewhere in N.J.A.C. 10:81.

Additional definitions were added to N.J.A.C. 10:81-14.2, including a county designated entity to administer a particular REACH employment-directed activity (replacing the narrower term of "agency") and definition of a temporarily deferred participant.

The participation requirements of N.J.A.C. 10:81-14.3 were amended to clarify that participation is not required as a condition of eligibility for AFDC if the individual is determined to be exempt, deferred or excused, and to add that an individual may claim an exemption at any time. REACH exemptions were clarified to address instances of alcohol abuse, and to shorten the period of incapacity required to qualify for an exemption from six to three months. The condition of homelessness was added as a reason for a temporary deferral from REACH participation. Language was added to clarify that absence from a particular day or session of REACH activity would be excused and approved for illness or death in the family, and other similar personal circumstances. Amendments were made to clarify that full time employment (over 30 hours per week) is considered as compliance with REACH participation requirements.

At N.J.A.C. 10:81-14.4 functions of the case manager were clarified to include ongoing responsibility for a participant's REACH case file. The requirement of at least one bilingual case manager in an agency was added. Language was added to clarify that child care will be available to a participant during sessions, such as orientation, that are preliminary to signing of the Agreement and participation in a REACH activity. Language was also added clarifying a principle of REACH, that placement and employment would be geared to maximizing the individual's potential, and that, where individual lacked experience or similar requirements for such position, reasonable efforts would be made to place participants in activities that would provide the necessary experience, education, or training.

Language was added at N.J.A.C. 10:81-14.5 about the REACH Agreement, clarifying that a Spanish language version will be available, and making technical changes to the terms of the agreement. Wording was also revised such that justification for failure to sign the Agreement included good faith disagreements about a particular employment-directed activity or necessary support service. A statement was added clarifying that an individual may, within three business days of being asked to sign the agreement, have an attorney or other representative review the Agreement. The provisions for conciliation were modified to permit a fair hearing on the reasonableness of the terms of the Agreement.

N.J.A.C. 10:81-14.6 was revised to add to the income maintenance functions referral of the REACH case to the county welfare agency IV-D Child Support Unit for the REACH child support activities of prioritization, income withholding and upward modification of child support orders.

Language was added at N.J.A.C. 10:81-14.7 to clarify that notices of adverse action will be provided in a Spanish language version.

N.J.A.C. 10:81-14.8 was changed to clarify in more detail the procedures to be followed by a case manager upon finding participant noncompliance with REACH requirements. Sanctions are not to be imposed unless a determination is made that the individual willfully refused to participate in REACH and will continue to do so in the future. An inference of willful refusal is permitted based on the individual's past conduct. Three instances of noncompliance within four months without good cause shall establish a rebuttable presumption of willful refusal. Individual may not be sanctioned if he or she was unable to comply with the REACH requirements. An additional reason for good cause was added, that the totality of circumstances surrounding ability and willing-

ness to comply with participation requirements were such as to prevent or seriously impair participation. In addition, a sanctioned participant has the right to personally review his or her case file during regular business hours. If an individual complies during the sanction period and the individual is in immediate need of assistance, the AFDC grant shall be restored immediately upon compliance.

N.J.A.C. 10:81-14.9 was changed to incorporate the provisions of N.J.A.C. 10:81-14.4(k).

N.J.A.C. 10:81-14.10 clarifies that before an individual engages in a REACH job search, the agency shall take such steps as are necessary, including employment counselling, to ensure that a participant is able to complete a job application and otherwise present himself or herself properly for employment.

Language was added to N.J.A.C. 10:81-14.12 clarifying that an individual otherwise qualified for unsubsidized employment shall not be placed in a community work experience position because of the absence of available jobs.

Language was added at N.J.A.C. 10:81-14.14 that education or training should be used wherever there is potential for upgrading a participant's skills and employment prospects.

N.J.A.C. 10:81-14.18 was amended to provide that child care arrangements must be agreeable to the participant. Language was added about the effective date of REACH vouchers, as set forth in the Preliminary REACH County Plan Guidelines published in conjunction with the proposal of this rule at 19 N.J.R. 1491(a). Clarification was added that the case manager must certify that both REACH is payor of last resort and that no other family members or other resources for child care are available.

N.J.A.C. 10:81-14.19 was amended to clarify that the amount available for transportation and training-related expenses under REACH is \$6.00 per day of participation in a REACH activity.

N.J.A.C. 10:81-14.22 was revised to eliminate language about "immediate" income withholding and provide for only income withholding. Immediate income withholding requires underlying authority of either State or Federal legislation, neither of which have been enacted as yet.

N.J.A.C. 10:81-14.23 was amended to include in regulatory format much of the details of the county planning process for REACH contained in the REACH Preliminary County Plan Guidelines. Language was added that the REACH county program implementation plan must include a needs assessment of the potential REACH population and a description of the proposed county REACH program structure and client flow through the system, and must specify how services will be delivered to the target population. Information was added about funding of the REACH program—that funds would be available for a county REACH Program Coordinator, and that payments of REACH monies to counties would be linked to performance standards negotiated by the Department of Human Services and county. The revision contains detailed steps regarding the county REACH plan review process, including opportunity for public input and minimum standard for acceptance of the REACH County Plan, and about the review and approval process by the Department of Human Services.

In addition, technical changes were made throughout the text.

Full text of the adoption follows (additions to proposal indicated with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

SUBCHAPTER 13. (RESERVED)

SUBCHAPTER 14. REALIZING ECONOMIC ACHIEVEMENT (REACH)

10:81-14.1 General provisions

(a) This subchapter is for use by the county welfare agencies (CWAs) in the Realizing Economic Achievement (REACH) program as an integral part of N.J.A.C. 10:81, N.J.A.C. 10:82, N.J.A.C. 10:87, and N.J.A.C. 10:90, and shall at all times be used and interpreted in conjunction with these documents as appropriate.

1. If any regulations herein contradict or conflict with existing regulations or policy established in N.J.A.C. 10:81, N.J.A.C. 10:82, N.J.A.C. 10:87, or N.J.A.C. 10:90, with the exception of N.J.A.C. 10:81-12, such material is superseded by this subchapter. The REACH regulations do not supersede the regulations for Teen PROGRESS.

2. Nothing in this subchapter is to be construed to be in conflict with the regulations on safeguarding information as stated in N.J.A.C. 10:81-7.32.

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3. Nothing in these regulations shall be construed as conferring on AFDC applicants and recipients an entitlement to support, social, training or employment services. ***If the fiscal or other resources necessary to provide support, social, training or employment services to an applicant or recipient are unavailable, that applicant or recipient shall not be deemed to have a right to such services, but shall be released from all obligations dependent upon such services under these regulations until such services are available.***

(b) Principles of the REACH program: REACH is designed to lead to independence from public assistance through employment and activities leading to employment. At the core of REACH is the principle of mutual obligation, under which the agency will make available a variety of employment, training and education opportunities as well as support services, ***and actively assist the individual in attaining independence,*** and the individual will participate in his or her future. The emphasis of REACH will be on participation, not penalties, with the program designed to be flexible to support each family's movement to economic self-sufficiency through employment and to consider the dignity and self-respect of the individual. These principles are to serve as a framework within which the regulations set forth in this subchapter are to be applied.

(c) The purpose of this subchapter is to:

1. Identify individuals eligible for the REACH program;
2. Establish policy for the REACH program;
3. Establish policy for determining eligibility and support services for the REACH program; and
4. Establish procedures for providing and accessing employment-directed educational and training services and support services for participants.

*(d) The concept of reasonable certainty: While this material attempts to minimize discretionary action on the part of the agencies administering REACH, there will be situations which are only generally covered by existing policy guidelines. In cases of this nature, the agency shall be expected to make a judgement, based on experience and/or knowledge of REACH, which can be defended as both reasonable and prudent.

1. Situations not covered by the subchapter: In cases where treatment of a situation is neither specifically nor generally addressed in this subchapter, the matter shall be referred to designated staff of the Division of Public Welfare (DPW) for resolution.]*

*(e)**(d)* Distribution of subchapter: Copies of this subchapter shall be provided to administrative staff and to other appropriate staff working with applicants and recipients. Those individuals are expected to be thoroughly familiar with its contents in order that policy and procedures may be consistently applied.

*(f)**(e)* The REACH program will be phased into counties on a schedule developed by the Department of Human Services. REACH participation requirements will apply to AFDC applicants and recipients in accordance with that schedule.

10:81-14.2 Definitions

The following definitions shall apply to REACH:

["Agency" means the agency selected by the county to administer a particular REACH employment-directed activity, including a county welfare agency, a JTPA agency, or Employment Services.]

"Case manager" means the individual in the county responsible for service coordination and participation by an individual in REACH*, in accordance with N.J.A.C. 10:81-14.3*.

"County selected entity" means the agency selected by the county to administer a particular REACH employment-directed activity, including but not limited to, a county welfare agency, JTPA agency, or Employment Services.*

"Compliance" means participation in *REACH orientation and assessment, and in* employment or the REACH employment-directed activity as set forth and scheduled in the REACH Agreement.

"Deferred participant" or "temporarily deferred participant" means a mandatory REACH participant whose participation is temporarily deferred for the reasons at N.J.A.C. 10:81-14.3(c).*

"Excused participant" means a mandatory REACH participant whose participation is excused for the reasons at N.J.A.C. 10:81-14.3(d).

"Exempt participant" means an individual applying for or receiving AFDC who is not required to participate in REACH for the reasons at N.J.A.C. 10:81-14.3(b).*

"Mandatory participant" means an individual applying for or receiving AFDC who is required to participate in REACH, and whose participation is not exempt or temporarily deferred.

"REACH Agreement" means the agreement between the participant and agency that sets forth the obligations of each party.

"REACH employment-directed activities" means REACH employment-directed activities ***that*** are designed to lead to economic self-sufficiency through employment of AFDC recipients, and include:

1. REACH Job Search (see N.J.A.C. 10:81-14.10);
2. REACH Work Supplementation Program (see N.J.A.C. 10:81-14.11);
3. REACH Community Work Experience Program (see N.J.A.C. 10:81-14.12);
4. REACH training programs (see N.J.A.C. 10:81-14.14);
5. REACH educational services (see N.J.A.C. 10:81-14.15); and
6. Vocational assessment and counseling (see N.J.A.C. 10:81-14.13).

"Voluntary participant" means an individual applying for or receiving AFDC who is not required to participate, but who chooses to participate on a voluntary basis.

10:81-14.3 REACH participation

(a) Participation: All individuals shall, ***[as a condition of eligibility, participate in REACH.]***, **except as otherwise provided in this subchapter, participate in REACH as a condition of eligibility for AFDC.*** Individuals in immediate need shall be entitled to a presumptive eligibility determination in accordance with N.J.A.C. 10:81-3.3 prior to REACH participation. Referral for REACH participation will be made after a final determination of AFDC eligibility is made. However, individuals determined presumptively eligible for AFDC may participate in REACH on a voluntary basis before that final eligibility determination.

*[1. Stepparents who are essential persons: In AFDC-C cases where the stepparent is designated as an individual whose presence in the home is essential to the well-being of the spouse and thus included in the eligible family (see N.J.A.C. 10:82-2.9), the procedures below are to be followed with respect to REACH participation:

i. Criteria identified in N.J.A.C. 10:81-3.18(k)10 shall be used to determine who is the principal earner in the household.

ii. The eligible family member designated as the principal earner shall be required to participate in REACH.

iii. If the principal earner refuses or fails to participate in REACH, the penalty specified in N.J.A.C. 10:81-14.8(c) shall be imposed.

iv. Even if the principal earner is a mandatory REACH participant and has not refused to participate or accept employment without good cause, the other parent shall also be required to participate in REACH.

2. AFDC-N: Rules concerning participation in the REACH program under the AFDC-N segment are as follows:

i. Requirements of the primary wage earner: In an AFDC-N case, the primary wage earner shall participate in the REACH program.

ii. Participation by the other parent: In an AFDC-N case, the other parent may participate in REACH on a voluntary basis.

iii. Requirements of AFDC-N children: AFDC-N children who are 16 to 18 years old who are not attending school and are not employed shall participate in the REACH program.]*

*1. AFDC-C: All individuals, including a step-parent included in the eligible unit as a person whose presence in the home is essential to the well-being of the spouse, are required to participate in REACH, except as otherwise provided in this subchapter. Failure or refusal to participate may result in the imposition of the sanctions specified at N.J.A.C. 10:81-14.8(f).

2. AFDC-F: All individuals are required to participate in REACH, except as otherwise provided in this subchapter. Criteria identified at N.J.A.C. 10:81-3.18(k)10 shall be used to identify the principal earner in the household. Failure or refusal to participate may result in the imposition of the sanctions specified at N.J.A.C. 10:81-14.8(f), which will vary depending upon whether the noncomplying participant is the principal earner.

3. AFDC-N: All individuals are required to participate in REACH, except as otherwise provided in this subchapter. Failure or refusal to participate may result in the imposition of the sanctions specified at N.J.A.C. 10:81-14.8(f), which will vary depending upon whether the noncomplying participant is the principal earner.*

(b) Exemptions: Individuals classified as exempt are not required to participate in employment or REACH employment-directed activities. However, they may participate on a voluntary basis. ***An individual may claim at any time that he or she is entitled to an exemption.*** The following categories of individuals are exempt from participation in REACH:

1. Children and students: Children under age 16; or between 16 and 18 enrolled or accepted for enrollment as full-time students for the next school term in an elementary, secondary, or vocational or technical school; or under age 19 and attending full-time, a secondary school or the equivalent level of a vocational or technical school, and expected to complete the program of the school before reaching age 19.

2. *[Parents]* *Persons* who are:

- i. 65 years of age or older.

ii. Incapacitated: When verified that a physical or mental impairment as determined by a physician or licensed or certified psychologist or by the Bureau of Medical Affairs, either by itself or in conjunction with age, prevents the individual from engaging in employment and/or training, and such incapacity is expected to exist for a continuing period of at least ***[six]* *three* months. *Alcohol or drug addiction shall be considered physical impairments if they prevent an individual from engaging in employment or training.***

(1) Uncomplicated pregnancy of itself shall not be considered incapacitating; however, any claim to complications shall be verified in writing by a physician or licensed or certified psychologist by use of Form PA-5, Examining Physician's Report.

iii. Required in the home: When verification is obtained that a physical or mental impairment, as determined by a physician or licensed or certified psychologist, of another member of the household requires the individual's presence in the home on a substantially continuous basis, and no other appropriate member of the household is available.

3. The parent who is not the principal earner in the AFDC-N segment.

(c) Temporary deferrals: Participation in REACH may be temporarily deferred for circumstances likely to change that make current participation impossible or impracticable. Individuals classified as temporarily deferred will be subject to ***[monitoring]* *monthly review*** by the case manager for changes in circumstances that make them eligible to participate again. The following categories of individuals are temporarily deferred from participation in REACH:

1. Ill: When determined on the basis of medical evidence or on some other sound basis that the illness or injury is serious enough to temporarily prevent entry into employment or training. Reasons for ***[exemption]* *deferral*** on a temporary basis include observation of a cast on a broken limb, or information of scheduled surgery, recuperation from surgery, or other instances where the condition will be of limited duration. This ***[exemption]* *deferral*** will not exceed 90 days. Minor ailments and injuries^[, that is, colds, broken fingers, rashes, and so forth,] do not normally defer the individual under this criterion. However, where the condition appears to be serious enough for deferral, such deferral shall be reviewed every 30 days.

i. Where an individual evidences symptoms of ***alcohol or*** substance abuse or behavioral problems, referral for social services will be made ***[before a temporary deferral is granted]*. *If such referral is not accepted or the individual stops participating in the treatment program, participation in other REACH activities will be required, as provided in N.J.A.C. 10:81-14.16(b)1.***

2. Caretaker of young child: The parent or other caretaker relative of a child under two years of age who personally provides care for the child with only brief and infrequent absences from the child. For purposes of deferral from REACH participation, absence means that the parent and child are apart, one from the other.

i. Absence shall be considered brief and infrequent if the child is routinely absent from the parent for normal activities related to child development or education, such as kindergarten, preschool classes, and so forth. Absence of the parent due to employment shall be considered brief and infrequent.

ii. Absence shall not be considered brief and infrequent if the parent is routinely absent from the child for 12 or more hours per week for activities not related to normal household, child rearing and/or family duties. Absences of the child for more than 12 hours per week due to care of the child by relatives or similar arrangements unrelated to employment or training shall not qualify as brief and infrequent.

3. Pregnancy: A woman who is in the sixth month or later of pregnancy.

4. Extreme hardship: Deferral from participation will not ordinarily be given for circumstances other than those in (c)1 through 3 above. However, if the individual can demonstrate that extreme hardship to the children would result if the individual were required to participate, despite the provision of support services, participation ***[may]* *should* be *excused]* *temporarily deferred*** on a case by case basis^{[, as negotiated in the REACH Agreement]*. Such situations should be monitored ***[weekly]* *once every two weeks*** by the case manager for changes in circumstances permitting participation again. ***[The following circumstances are classified as extreme hardship or]* *Circumstances which* would result in extreme hardship if participation was not deferred ***include but are not limited to the following*:****}

i. ***[Remote]* *Remoteness*:** When commuting time between home and the site of employment-directed activity by available public or private transportation is not reasonable. Commuting time of one hour each way, exclusive of the time necessary to transport children to and from a child care facility, is considered reasonable;

ii. Another adult relative participates: ***[The]* *A temporary deferral may be granted to the* parent or other caretaker of a child who is deprived of parental support or care by reasons of the death, continued absence from the home, or physical or mental incapacity of a parent, if another adult relative in the home is a mandatory REACH participant and has not refused to participate in the REACH program or to accept employment without good cause;**

iii. Another parent is not exempt (AFDC-F): ***[In the AFDC-F segment, the parent]* *A temporary deferral may be granted to a parent in the AFDC-F segment* (who is not the principal earner) of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner) is not exempt under one of the preceding clauses of this section; or**

[iv. Full-time employment: Applicants or recipients working not less than 30 hours per week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break expected to last no longer than 10 working days.]

5. Homelessness: REACH participation shall not be required of any individual who is without a permanent residence, since such an individual will necessarily have to devote himself or herself to seeking a permanent place to live.

(d) Excused participation: REACH participants ***[may]* *shall* be temporarily excused from participation if the component (including social services) for which they are scheduled as set forth in the REACH Agreement is not currently available or if a support service set forth in the REACH Agreement is not available. ***Excused participation is reviewed once every two weeks.*****

1. During the excused period, the participant and the agency will be expected to comply with the other Agreement terms.

2. Another REACH activity which is suitable for the participant and for which necessary support services are available may be substituted as an alternate form of participation.

***[(e) Compliance with participation requirements: An individual must comply with general REACH program expectations and requirements specific to employment and each employment-directed activity, as set forth in the REACH Agreement. Instances of noncompliance with the REACH participation requirements will be reviewed to determine if there was good cause for noncompliance.**

1. General expectations: The general expectations of an individual participating in employment or a REACH employment-directed activity are such instances as: attendance at the date(s) and time(s) mutually arranged in the REACH Agreement, satisfactory completion of all program requirements, and compliance with all employer and training facility rules and regulations that govern all similarly-situated employees and trainees. In addition, the individual is required to participate only in those activities set forth in his or her individual REACH Agreement.

2. Specific requirements: The following are minimum participation requirements for REACH employment and employment-directed activities:

i. Employment: Maintaining employment and not leaving such employment except for good cause;

ii. REACH job search:

(1) Early intervention job search and individual job search: An average of three employer contacts per week;

(2) Group job search activities: Attendance at all classes and sessions;

iii. REACH work supplementation: Attendance at all sessions and maintaining employment;

iv. REACH community work experience: Attendance at employment site for the number of hours designated in the REACH Agreement;

v. Training and educational activities: Attendance at all training sessions or all classes;

vi. Vocational assessment and counseling: Attendance at all sessions as required by the case manager or by the REACH Agreement.

(f) Period of participation: An individual is required to participate in employment and the various REACH employment-directed activities for the time periods specified in the REACH Agreement for each activity.]*

***[(e) Approved absence: Absence from a particular day or session of employment or any REACH employment-directed activity shall be excused, and therefore approved by the case manager, because of:**

1. Illness of the participant, a child of the participant, or any other member of the participant's household or immediate family who is or becomes by reason of the illness dependent upon the participant;

2. Death of a spouse, parent, child, sibling, or grandparent within the preceding three working days; or

3. Other circumstances requiring the participant's immediate and personal attention, including but not limited to jury duty, a court appearance,

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school conferences concerning a child of the participant, medical diagnosis or testing, and other similarly important matters.

(f) REACH participation:

1. An individual who is not exempt, temporarily deferred or excused from REACH shall participate in REACH activities as follows:

- i. Attendance at all necessary orientation sessions;
- ii. Attendance at evaluation, assessment, diagnosis, testing, and counseling sessions necessary for placement in employment and employment-directed activities;
- iii. Participation in good faith at all sessions necessary to develop the REACH Agreement; and
- iv. Compliance in good faith with all provisions of the REACH Agreement, including attendance at all sessions and maintaining employment.

2. Failure to meet the participation requirements will be addressed through procedures set forth at N.J.A.C. 10:81-14.8.*

(g) Any individual who is required to participate in more than one of the REACH activities may not ***[be denied]*** ***subject to sanctioning*** AFDC on the grounds of "failure to participate" in one such program if there is a conflict in the implementation or scheduling of activities between programs, and the individual is satisfactorily participating in the other program.

***(h) Full time employment: Individuals who are working not less than 30 hours per week in unsubsidized employment expected to last a minimum of 30 days are considered to be satisfying the REACH participation requirements, even if there is a temporary break expected to last no longer than 10 working days.**

1. The agency will endeavor to provide such support services as are available under these rules if they are needed to help the participant continue employment.

2. The participant may also voluntarily participate in other training or education agreed upon by the agency.*

10:81-14.4 REACH Case Management

(a) General: Case Management is a structured approach to the delivery of multiple and interrelated services to assure that the goals and objectives of REACH are met. Case management functions will ensure that the principles of REACH set forth at N.J.A.C. 10:81-14.1 are applied in the development of the REACH Agreement, evaluation and monitoring, and during an individual's participation in REACH. Staff included in the case management function are the REACH case manager, supervisory staff, and clerical support staff. Case management functions include but are not limited to:

1. Explaining the REACH program: concept of mutual obligation; participation requirements; commitment to removing barriers to employment; emphasis on self-sufficiency; options available for training, education, and employment opportunities; client's rights;
2. Identifying barriers to self-sufficiency, including education and training, health, child support, social, housing, transportation, child care;
3. Referring the participant to appropriate potential service providers (for example, health, social, education and training, housing, child care) for further assessment and evaluation;
4. Consulting with the participant and potential service providers to develop a plan of service for each REACH participant;
5. Developing with the participant a REACH Agreement which will outline steps toward self-sufficiency;
6. Maintaining an assigned caseload of participants and coordinating their program participation with all participating agencies and educational institutions and programs to facilitate movement through REACH;
7. Monitoring a participant's progress and re-evaluating needs and services as necessary;
8. Correcting possible discontinuities in service delivery and determining excused participation status;

[9. Providing, either directly or indirectly, motivational, personal and family counseling as necessary;]

[10.]9.*** Maintaining records of an individual's participation;

[11.]10.*** Taking necessary action in cases involving sanctioning, including timely referral to the income maintenance worker for client notification and change in eligibility and grant amount;

[12.]11.*** Re-evaluating a participant's needs post-AFDC; and

[13.]12.*** Monitoring continued eligibility and provision of services to post-AFDC participants who receive REACH services of child care and Medicaid.

(b) Case manager: A REACH case manager will be assigned to coordinate the functions of the REACH program participants. For a participant, the case manager is the integral link among the different service subsystems of income maintenance, employment, training, child support

enforcement and support services. ***Case managers or interpreters fluent in a participant's primary language will be provided when a participant is not fluent in English.***

1. After a participant is referred for the imposition of a sanction as set forth in N.J.A.C. 10:81-14.8, the case manager shall retain the original REACH case file and shall have responsibility for making all decisions about exemption, deferrals, excuses, placements and modifications to the REACH Agreement, communications with the participant (other than those directly involved with the imposition of the sanction), and overall handling of the REACH case.

(c) Participant rights: In addition to the rights set forth in this chapter (including the right to confidentiality, notice and hearings), the participant has the right to inform the case manager when services as set forth in the REACH Agreement are not being provided to ensure that the agency fulfills its part of the mutual obligation. The case manager shall explain to the participant that communicating such information as quickly as possible is in the best interest of the family, and that it will enable the case manager to remedy the situation so that continued participation will be ensured.

(d) Orientation: As part of REACH participation, all potential REACH participants will receive orientation to the REACH program. Orientation will include a general description of the REACH program, the employment, training and educational opportunities available, the support services to be arranged by the agency, and the participation required under the principle of mutual obligation.

1. Orientation, individual evaluation, and development of the REACH Agreement may take place at a single interview or in more than one interview in the case management process.

(e) Individual evaluation: Individual evaluation involves an initial assessment of a REACH participant's existing employment-related skill levels, educational level, and similar characteristics related to employability and the job market and of support services needs.

(f) Development of the REACH Agreement: After the individual evaluation, the case manager shall interview the REACH participant and jointly develop an initial REACH Agreement (see N.J.A.C. 10:81-14.5).

(g) Client flow: Upon application or redetermination of eligibility, AFDC clients will proceed through the REACH program as follows.

1. AFDC eligibility determination: The income maintenance worker at intake or active case unit will determine eligibility for AFDC. The worker will ***also*** provide an overview of the REACH program and determine whether the individuals are exempt from participation, in accordance with N.J.A.C. 10:81-14.3(b). Parents whose youngest child is age six months or under will be ***[exempt]*** ***temporarily deferred*** from all REACH requirements, and may volunteer for case management. Parents whose youngest child is over age six months and who volunteers will be referred to the case manager.

2. REACH orientation: In orientation, usually conducted for small groups, the case manager will explain the REACH system, including the available services, the participant's obligations, and the Agreement. Small group employment counselling for parents of children under age two will also be conducted at this step. Parents of children under two years of age may continue deferral or may become REACH participants on a voluntary basis. Initial steps in development of the REACH Agreements will take place.

3. Individual evaluation: The case manager will meet individually with each participant and conduct an initial evaluation of barriers to job readiness and of the need for social services, such as mental health services, vocational rehabilitation, drug and alcohol treatment programs, and health care.

i. Initial REACH Agreement: An initial REACH Agreement will be completed, indicating whether the participant has been deferred or referred to social services, REACH job search or vocational/educational assessment. Steps necessary to secure support services are also initiated. This initial Agreement will become the final Agreement after assessment (see (g)5 below).

4. Assessment: Participants will be referred to the entity chosen by the county to assess the participant's educational and vocational aptitudes and interests or for social services assessment not done by the case manager. The entity will recommend to the case manager whether participants are job ready, in need of preparatory educational services, post-secondary educational services, job skills training, CWEP, or similar services, and will identify potential deliverers of these services where possible.

5. REACH Agreement: The case manager and participant will review the assessments and the initial REACH Agreement and jointly develop the final REACH Agreement (see N.J.A.C. 10:81-14.5).

6. Participation in employment and employment-directed activities: The participant will pursue activities as scheduled in the REACH Agreement, and the case manager will monitor participation.

(h) Referral for social services: The case manager may recommend specific social services for participants who may be in need of such services, for example, where there is evidence of substance abuse or behavioral problems (see N.J.A.C. 10:81-14.16). Although acceptance of these services is optional, the case manager has the responsibility to explain the consequences of not participating in social services: that the individual will be required to participate in another employment-directed activity, that participation requirements for that activity will be set forth in the REACH Agreement, and that nonparticipation in that activity without good cause will result in application of sanctioning procedures.

(i) Unavailability of support services: The case manager shall take all steps reasonably necessary and feasible to ensure that services are provided to support an individual's participation in the REACH program, as set forth in the REACH Agreement. When any service required for participation in REACH is not available or when it is reasonably apparent that available services will not enable the individual to fully comply with the REACH Agreement, the case manager will recommend that the individual's participation in REACH be excused. This recommendation shall be reviewed by the supervisor, and the participant counselled on the ability to participate in the absence of such services. If the supervisor and case manager determine that the individual will be unable to participate, the individual will be temporarily excused from participation.

1. The case manager will record on the REACH Agreement or in the case record the circumstances surrounding the excused participation, the date of excuse, reason, and dates of expected resumption of service and participation.

2. The case manager will immediately make all reasonable efforts to arrange for the necessary support service(s) so that the individual can participate in REACH as quickly as possible.

***(j) Child care during preliminary sessions: A participant will be provided necessary child care, in a manner agreeable to the participant, for all sessions involving orientation, evaluation, counselling, assessment, testing, social services and development of the REACH Agreement.**

(k) Type of placement and employment: REACH is designed to allow each participant to maximize his or her individual abilities. Every effort will be made to place participants in jobs which offer the greatest range of responsibility, opportunity for advancement, and rate of pay, given the participant's abilities and experience. If a job which maximizes the participant's abilities and experience is not available, the participant may be encouraged to take another job. Where such a participant's assessment(s) indicate the ability to hold a job requiring more advanced skills, but the participant is impeded from securing such a position because of lack of experience, education or training, reasonable efforts will be made through REACH to place the participant in employment-directed activities which would provide the necessary experience, education or training, whether or not the participant is contemporaneously working at another less skilled position.*

10:81-14.5 REACH Agreement

(a) Purpose and scope: The REACH Agreement will set forth provisions for both the REACH participant and the agency to comply with under the principle of mutual obligation. Each REACH participant will sign a REACH Agreement with the case manager affirming participation, provision of support services (such as child care and transportation) and commitment to self-sufficiency. The REACH Agreement will be tailored to each participant's skills and necessary employment activities. ***A Spanish language version of the REACH Agreement is available for any participant whose primary language is Spanish.***

1. All mandatory REACH participants will be required to complete and sign a REACH Agreement as a condition of ***continued*** eligibility for the AFDC program.

2. Voluntary REACH participants should complete a REACH Agreement affirming participation in REACH and provision of necessary support services. Completion of the REACH Agreement by voluntary REACH participants is not a condition of AFDC eligibility.

(b) Contents of REACH Agreement: The REACH Agreement will set forth:

1. Participation required by the REACH participant in employment and REACH employment-directed activities;

2. Recommended participation in social service programs ***(but such participation is not required unless the participant so agrees)*;**

3. Support services to be provided or arranged by the agency ***or participant***, including child care, ***[and]* *transportation*** training-related expenses, and post-assistance Medicaid coverage;

4. Objectives, starting dates, completion dates, measures of accomplishments, deliverers of employment-directed and support services;

5. Participant responsibility to advise of changes in circumstances and the right to report discontinuities in support services;

[5.]*6. Sanctions for failure or refusal of the participant to comply with employment and the REACH employment-directed activities set forth in the REACH Agreement;

[6.]*7. That participation will be excused when support services set forth in the REACH Agreement are not available; and

[7.]*8. Effective date, duration and expiration date of the REACH Agreement.

(c) Signing of the REACH Agreement: Both the participant and the case manager will be required to sign the REACH Agreement.

1. Failure or refusal of the participant to sign the Agreement without ***[good cause]* *justification*** will result in sanctions set forth in N.J.A.C. 10:81-14.8. ***Justification shall include good faith disagreements about the particular employment or employment-directed activity proposed by the case manager or about the specific support services that will be required. If the case manager can demonstrate with available and pertinent information that there is no reasonable basis for the participant's position, then the disagreement will be deemed to be without justification.***

2. Inadvertent failure of the agency representative to sign the REACH Agreement will not relieve the participant or the CWA of compliance with the terms of the Agreement and sanctions for noncompliance. However, where it is determined that the case manager failed to sign the Agreement, the case manager shall sign the Agreement immediately after such a determination.

3. Prior to being asked to sign the Agreement, each participant shall be advised that legal responsibilities are involved and that the participant has three business days to have the Agreement reviewed by an attorney or other adviser.

[3.]*4. Conciliation and Agreement terms: If, after evaluation and assessment, the participant is not satisfied with the terms of the Agreement, including the results of the assessment, the scheduled employment-directed activities or support services set forth in the Agreement, and ***[after a three-day cooling-off period]* *if, after the three days in 3 above,*** the case manager cannot resolve the disagreement, ***then the following* conciliation procedures shall be applied.**

i. The participant shall be offered the opportunity to immediately voice his or her dissatisfaction to the supervisor of the case manager. The supervisor will review the assessment and proposed REACH Agreement, listen to the concerns of the participant and, within one working day, make a decision.

ii. If the participant is not satisfied with that decision, the Administrative Supervisor will review the issue with the participant and case manager, and, within one working day, make a decision which shall be ***[final.]* *considered the final position of the agency. If the participant still has disagreement about the Agreement terms the participant shall be advised orally and in writing that he or she has a 10-day period to request a fair hearing as to whether the participant's position is without reasonable basis.***

***(1) If a hearing is not requested and sanctions later arise from non-compliance with the Agreement, the reasonableness of the terms of the Agreement may be challenged at the later fair hearing on the sanction.**

(2) If a hearing is held and the agency is upheld, that is, the participant's position is determined to be without reasonable basis, this determination shall be accepted by the Administrative Law Judge at any subsequent hearing arising from sanction and the issue of reasonableness not reopened.*

iii. In instances in which sanctions arise from noncompliance with the resulting Agreement, and a fair hearing is requested, agency records of all conciliation efforts surrounding the Agreement will be made available to the Administrative Law Judge.

(d) Specifications: the REACH Agreement shall conform to the following specifications:

1. Effective date: The REACH Agreement and amendments to the REACH Agreement shall be effective upon signing by the participant and the case manager, subject to (c)2 above.

2. Duration and expiration date: The REACH Agreement shall cover a minimum period of six months, or until employment makes the individual ineligible for AFDC, whichever is sooner. The expiration date shall not be earlier than the scheduled effective date of the next semiannual or annual redetermination of eligibility.

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i. Example: The redetermination of eligibility for a participant is conducted annually, with the last redetermination effective for October 1, 1987. During November 1987 the participant and case manager complete a REACH Agreement. The expiration date of that Agreement may not be earlier than October 1, 1988, the scheduled effective date of the next ***annual*** redetermination of eligibility.

(e) Amendments: The REACH Agreement may be amended or updated at any time ***[to]* ***. **Amendments may*** reflect changes in skills, education levels of the participant and changes in assignment to employment-directed activities*, **as well as any other agreed change in terms***. Whenever the Agreement is amended or updated the case manager shall review the support services to ensure that they will continue to support REACH participation. Amendments shall be effective in accordance with (d) above.

(f) REACH Agreement review: A review of the REACH Agreement shall be completed at time of the redetermination of AFDC eligibility. At a minimum, the case manager and the participant shall review compliance with the existing Agreement, discuss changes that may be needed, and make the necessary amendments. The effective date, duration and expiration date of the new REACH Agreement shall conform to (d) above.

10:81-14.6 Income maintenance functions

(a) General: The functions and tasks of the income maintenance workers concerning the REACH program are set forth in this section. The functions include but are not limited to:

1. Determination of eligibility for AFDC and computing the AFDC grant amount;

2. Referral of AFDC applicants who do not meet the criteria for exempt participation ***[of]* *at*** N.J.A.C. 10:81-14.3(b) to the case manager;

3. Explaining voluntary participation in REACH and referral of interested individuals to the case manager, for families determined presumptively eligible for AFDC;

4. Referral of potential REACH participants to the county welfare agency IV-D Child Support Unit, for prioritization and evaluation of the need for upward modification of a child support orders and for income withholding;

[4.]*5. Applying the sanction to the individual's AFDC eligibility and grant after notification from the case manager of sanctions for failure or refusal to comply with REACH participation requirements;

[5.]*6. Issuing notices of adverse action (Form PA-15);

[6.]*7. Informing the case manager of a determination of ineligibility for the AFDC program for reasons other than a sanction; and

[7.]*8. Informing exempt REACH participants of their right to voluntarily register for the REACH program.

(b) Operating procedures: The REACH program will be operated in a county under standard procedures approved by the Department of Human Services. County procedures must ensure coordination of the income maintenance and case management functions and ensure that the AFDC eligibility and AFDC grant amount of REACH participants will not be adversely affected by lack of coordination between or among agencies involved in the REACH program.

(c) Voluntary participation: The income maintenance worker shall inform all exempt AFDC-C, -F, and -N segment applicants and recipients who could benefit from REACH program services of their right to voluntarily participate in REACH and of their right to withdraw such participation at any time without loss of assistance payments.

(d) Individuals who have been determined to be exempt from ***[registration]* *REACH*** on the basis of incapacity shall be referred to the Division of Vocational Rehabilitation Services. Form PA-14, Referral for Services, shall be used for this purpose. Acceptance of referral for such services is optional with the individual and shall not affect a recipient's entitlement to benefits.

10:81-14.7 Hearings and notices

(a) Hearings: The provisions governing fair hearings at N.J.A.C. 10:81-6 shall apply to the REACH program. REACH participants who are dissatisfied with a determination of participation requirements, ***exempt, temporarily deferred or excused participation status, support services,*** sanctions and adverse actions may request a hearing.

1. Elements of the Agreement: ***[If appropriate, the]* *The*** Administrative Law Judge shall determine ***all issues concerning*** the reasonableness of the elements of the REACH Agreement as well as determine the participant's cooperation and noncooperation with the Agreement in accordance with ***[good cause provisions at N.J.A.C. 10:81-14.8(b)]*** ***N.J.A.C. 10:81-14.8***.

(b) Notices: Notices of action taken by the CWA concerning REACH participants are subject to the provisions of N.J.A.C. 10:81-7 and N.J.A.C. 10:90-2.5, as appropriate, ***and shall be provided in a Spanish language version for any participant whose primary language is Spanish***.

10:81-14.8 Noncompliance; good cause; sanctions

(a) The REACH principles of self-sufficiency through employment, mutual agency/participant obligation, dignity and self-respect of the individual, and flexible program design, are all directed to encouraging individual participation in his or her future. However, it is recognized that situations will occur in which the individual will not comply with the REACH participation requirements. In instances where noncompliance by a mandatory participant is indicated, the case manager will begin a series of procedures ***[preliminary to the decision]* *designed to assist the participant in complying with the REACH Agreement before any decision is made as to whether*** to impose a sanction for noncompliance.

1. ***Procedures upon finding indication of noncompliance*** ***[The procedures]*** include ***[notification of]* *notifying*** the participant*, an opportunity for a conference about participation, and ***of the details of the indicated noncompliance, one or more face-to-face conferences with the case manager,*** a determination of whether good cause for non-compliance exists*, and a determination by the case manager, based upon all available information, as to whether the participant has willfully refused to participate as required and is likely to do so in the future*. The case manager will consider the principles of REACH in application of both these preliminary procedures and the sanctioning procedures.

***i. Inference of refusal: The case manager may infer refusal and a likelihood that the refusal will be repeated in the future from the participant's past conduct and the other facts and circumstances of a case, provided that there is substantial and reasonable basis for such an inference. Three instances of non-compliance within four months without good cause shall establish a rebuttable presumption of willful refusal.**

ii. The case manager should consider whether the participation requirements should be amended, and whether changes in support services or participant's referral should be made.*

2. Indications of noncompliance: Indications of noncompliance may be reported to the case manager or may become apparent to the case manager while monitoring client participation. Indications of non-compliance with REACH program requirements include ***but are not limited to*** situations in which the participant:

i. Did not attend a REACH orientation session after two notices have been mailed to the participant and have not been responded to;

ii. Did not attend a REACH assessment session after two notices have been mailed to the participant and have not been responded to;

iii. Did not cooperate in the development of the REACH Agreement;

iv. Did not sign the REACH Agreement, for ***[reasons]* *circumstances*** other than those in N.J.A.C. 10:81-14.5(c);

v. Did not make a bona fide application for employment;

vi. Did not accept employment when working ***at the particular type of employment was* *[is]*** part of the REACH Agreement;

vii. Voluntarily left employment without good cause;

viii. Was discharged from employment for cause, for example, gross misconduct connected with such employment, failing to meet ***reasonable*** job requirements, ***[absenteeism, tardiness, untidiness, and so forth]***;

ix. Did not participate in any REACH employment-directed activities or ***refused to*** accept necessary and appropriate support services that are set forth in the REACH Agreement; or

x. Disrupted a REACH activity or behaved in a manner that constituted a threat or hazard to agency staff or fellow participants.

***3. Noncompliance: Noncompliance is not by itself sufficient reason to impose sanctions, but is sufficient to trigger the procedures set forth in (a)1 above.**

4. Decision whether to impose sanction: No participant shall be subjected to a sanction if it appears that he or she is willing to comply with the participation requirements in the future. Sanctions should be imposed only in cases where the case manager finds that there has been a willful refusal to comply with the requirements of REACH or of the REACH Agreement, and that circumstances suggest that this willful refusal will continue in the future.

i. Inference of refusal: The case manager may infer refusal and a likelihood that the refusal will be repeated in the future from the participant's past conduct and the other facts and circumstances of a case, provided that there is substantial and reasonable basis for such an inference. Three instances of non-compliance without good cause within any four-month period shall establish the rebuttable presumption of willful refusal.

ii. **Inability to comply:** If in any single instance a participant is unable to comply but good cause exists, he or she shall not be deemed to be willfully refusing to comply with the requirements of REACH or of the REACH Agreement.*

*[3.]*5.* Voluntary participants: If an individual classified as a voluntary participant discontinues participation in the REACH program, the individual and the individual's family are not subject to the procedures and sanctions set forth in this section. However, under the principles of the REACH program, the case manager may wish to discuss with the individual the circumstances surrounding the decision not to participate and the benefit of participation.

(b) Good cause for noncompliance: A participant shall not be deemed to be in noncompliance unless a specific referral for orientation, evaluation or assessment was made or a definite offer of training, education or employment was made. Good cause for noncompliance exists where:

1. The mandatory participant is physically or mentally unable to engage in such education, training or employment;
2. The mandatory participant is unable to get to and from the particular educational facility, training or employment by available transportation;
3. The conditions of education, training or employment are a risk to health and safety; *or*
4. Conditions violate the rights of the participant or applicable law*.*; or*

5. The totality of circumstances surrounding the participant's ability and willingness to comply with the participation requirements prevent or seriously impair participation.

(c) Notification of participant: When participant noncompliance is indicated, *[prior to any sanction]* the case manager will proceed as follows.

1. The case manager will send a letter notifying the participant of noncompliance*.* and* the penalty for *[noncompliance]* *willful refusal to comply with the requirements of REACH and the REACH Agreement*, and asking the participant to come to the agency for a conference. Form PA-15, Important Notice, may be used for this purpose. In addition, the case manager *[may]* *shall attempt to* contact the participant by telephone.

2. If the participant does not contact the agency within 10 days of the date of this letter, the case manager will send a second notification letter. In addition, the case manager *[may]* *shall attempt to* contact the participant by telephone.

[(d)] Determination of good cause: Prior to any sanction, the case manager will review the REACH Agreement and confirm that good cause for noncompliance does not exist. This step may take place at the conference in (e) below. In determining the existence of good cause, the case manager will consider factors in (b) above and the totality of circumstances surrounding the individual's ability and willingness to comply with participation requirements.

[(e)](d)* Conference: Prior to the first sanction, the case manager will conduct a conference with the REACH participant to discuss the participation requirements and circumstances surrounding nonparticipation. A conference may be conducted before the second and subsequent sanctions.

1. During the conference, the case manager will make an assessment of the circumstances surrounding the individual's noncompliance, including possible personal problems. Where personal problems, such as substance abuse or behavioral problems, are indicated, the case manager will refer the individual for social services (see N.J.A.C. 10:81-14.4(h) and 10:81-14.16).

2. The case manager will be alert to possible discontinuities in support services that have led to noncompliance, and will attempt to remedy the situation and arrange for the needed services. If a needed support service is not available and the participant indicates willingness otherwise to participate, the case manager may excuse the individual from participation in REACH (see N.J.A.C. 10:81-14.3(d) and 10:81-14.4(i)).

3. The case manager will review the REACH Agreement and participation requirements with the individual to clarify and reinforce REACH program expectations. The participant will be given a final opportunity to comply.

4. The case manager will also explain the REACH Community Work Experience program (CWEP) and the nature of its *[participation]* *activities*. The individual may wish to participate in CWEP*, where available*, as an alternative to the existing activities set forth in the REACH Agreement. If so, the case manager will amend the Agreement and begin

referral to CWEP. In no event will a sanction be imposed before an offer of CWEP participation*, where available*, is made to the individual during this conference process.

[(f)](e)* Imposition of the sanction: Sanctions will be imposed if a mandatory REACH participant has *[not complied with REACH program requirements or the REACH Agreement without good cause. If, after application of the above procedures, the individual still does not comply with REACH participation requirements, or if the participant has not contacted the agency within 20 days of the date of the first notification letter and the individual has not been reached by telephone, the case manager will impose the sanction. The case manager will notify the income maintenance worker to take action regarding AFDC eligibility and grant amount, subject to timely and adequate notice.]* *willfully refused to comply with the requirements of REACH or the REACH Agreement and the circumstances suggest that this willful refusal will be continued and repeated in the future.*

*1. Inference of refusal: The case manager may infer refusal and a likelihood that the refusal will be repeated in the future from the participant's past conduct and the other facts and circumstances of a case, provided that there is substantial and reasonable basis for such an inference. Three instances of noncompliance without good cause within any four-month period shall establish the rebuttable presumption of willful refusal.

2. Inability to comply: If in any single instance a participant is unable to comply, but good cause exists, he or she shall not be deemed to be willfully refusing to comply with the requirements of REACH or of the REACH Agreement.

3. If, after application of the above procedures, the individual still does not comply with REACH participation requirements, or if the participant has not contacted the agency within 20 calendar days of the date of the first notification letter and the individual has not been reached by telephone, the case manager will impose the sanction. The case manager will notify the income maintenance worker to take action regarding AFDC eligibility and grant amount, subject to timely and adequate notice.*

*[1.]*4.* Any appeals resulting from sanctioning for noncompliance with REACH program requirements will be handled according to established procedures for fair hearings (see N.J.A.C. 10:81-6). Provisions at N.J.A.C. 10:81-14.5(c) and 14.7(a) will also apply.

5. A participant who has been sanctioned has the right to review personally or through a representative his or her entire file at any time during regular business hours.

[(g)](f)* Sanctions: The following sanctions shall apply for failure or refusal to comply with REACH requirements:

1. AFDC-C: If the mandatory participant is a caretaker relative receiving benefits, including a stepparent designated as an essential person, his or her needs shall not be taken into account in determining the family's eligibility or amount of assistance. The AFDC grant shall be provided in the form of protective or vendor payments (see N.J.A.C. 10:81-4.5), except that, if after making all reasonable efforts, the CWA is unable to locate an appropriate individual to whom protective payments can be made, the CWA may continue to make payments on behalf of the remaining members of the eligible family to the sanctioned caretaker relative.

2. AFDC-F: If the mandatory participant is the principal earner (see N.J.A.C. 10:81-3.18(k)10), the entire family will be rendered ineligible to receive AFDC-F. Under these circumstances the family will not be eligible for AFDC-N. If the mandatory participant is not the principal earner, then his or her needs shall not be taken into account in determining the family's eligibility or amount of assistance.

3. AFDC-N: Noncompliance of the *[primary wage]* *principal* earner with the mandatory participation requirements of REACH will result in both parents being deleted from the *[eligibility]* *eligible* family.

4. If the mandatory participant is the only dependent child in the AFDC-C, -F, or -N segment, assistance for the family shall be terminated.

5. If the mandatory participant is one of several dependent children in the AFDC-C, -F, or -N segment, the child's needs shall not be taken into account in determining the AFDC grant of the eligible family.

6. If a sanctioned individual reapplies for AFDC but the sanction period has not expired, the individual will remain ineligible for AFDC for so long as he or she fails to meet the participation requirements of REACH. In determining entitlement of the remaining eligible family members to assistance, (g)1 through 4 above shall apply.

i. Example: A mandatory participant is sanctioned for six payment months effective January 1 through June 30. Effective February 1 the remaining AFDC family members become ineligible for assistance due to excess resources. The family spends the excess and on April 1 reapplies for AFDC. The sanctioned individual will remain ineligible for AFDC

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after June 30 for so long as he fails to meet the participation requirements. AFDC entitlement of the remaining family members for April 1 will be determined in accordance with (g) through 4 above.

***[(h)]**(g)* Sanctions for voluntary cessation of employment—AFDC-N:** The following additional sanctions shall apply in AFDC-N segment cases. If financial eligibility is the result of voluntary cessation of employment within 90 days prior to the date of application or at any time during receipt of assistance, the following shall apply:

1. Applicants: If financial eligibility is the result of voluntary cessation of employment (including cessation of employment due to inappropriate work habits) by either of the applicant parents, regardless of reason, within 90 days prior to the date of application, neither of the parents shall be included in the eligible family unit. This penalty shall extend for a period of 90 days beginning with the date of the termination of employment. However, eligibility shall be considered for the children.

i. At the end of penalty period, the parents may be granted assistance so long as eligibility continues to exist.

2. Recipients: If an employed primary wage earner voluntarily ceases employment for whatever reason without good cause, both parents shall be deleted from the eligible family. Refusal of an unemployed primary wage earner to accept a job or training without good cause will likewise result in both parents being deleted from the eligible family.

3. Both parents will remain ineligible for a period of 90 days, or a lesser period if the primary wage earner returns to his or her former employment, accepts an equal or better job or enters a training program, approved by the CWA, for employment or better employment.

***[(i)]**(h)* Sanction periods:** The following sanction periods shall apply for noncompliance with the REACH program requirements or the REACH Agreement without good cause:

1. For the first instance of ***[noncompliance]* *willful refusal to comply***, the sanction period will be ***[up to]*** one payment month.

2. For the second instance of ***[noncompliance]* *willful refusal to comply***, the sanction period will be three payment months.

3. For the third and subsequent instances of ***[noncompliance]* *willful refusal to comply***, the sanction period will be six payment months.

4. Continued noncompliance with REACH program requirements or the REACH Agreement after expiration of the sanction period will result in continued sanction.

***[(j)]**(i)* Effective date of sanctions:** The sanctions in (g) above shall become effective on the first day of the first payment month after the month the decision is made to impose the sanction, subject to timely and adequate notice.

[(k)]**(j)* Compliance before or during the sanction period:** ***The case manager shall advise the participant at the time of imposition of a sanction, both orally and in writing, that the participant can voluntarily remove the sanction by coming into compliance with the requirements of the REACH program and Agreement and can thereby overcome the inference of future nonparticipation in good faith. If a mandatory participant complies with REACH program or Agreement requirements before the sanction is imposed or during the sanction period, the sanction may be suspended and the participant's AFDC grant restored for the first day of the month following the month in which the participant complied. ***If the participant is in immediate need as defined in N.J.A.C. 10:81-3.3, the AFDC grant shall be restored immediately upon compliance.*** Compliance is defined as ***first,*** participation in employment or the REACH employment-directed activity as set forth and scheduled in the REACH Agreement*, or alternatively, participation in another employment-directed activity specified by the case manager*.

1. The ***[recommendation]* *decision*** to suspend the sanction and to restore the AFDC grant will be made by the case manager, in consideration of the participant's circumstances, past history of compliance with the REACH program, and similar factors.

2. A decision to suspend a sanction requires notification to the income maintenance unit supervisor.

[(l)]**(k)* Renewed participation after the sanction period:** Individuals who are sanctioned ***but who do not comply with REACH before or during the sanction period (see (j) above) may again participate in REACH ***after the expiration of the sanction period*** upon application and an indication to the REACH case manager of a willingness to participate.

1. For the first occurrence, such individuals may again participate after one payment month has elapsed since the effective date of the sanction.

2. For the second occurrence, such individuals may again participate after three payment months have elapsed since the effective date of the sanction.

3. For the third and subsequent occurrences, such individuals shall be reaccepted into the REACH program when satisfactory evidence is given of willingness to participate and six payment months have elapsed since the effective date of the latest sanction.

[(m)]**(l)* Change to exempt *[or deferred]* *, deferred or excused* status:** If an individual becomes exempt ***[or]* ***, temporarily deferred*, or excused from participation* after refusing to participate in the REACH program, the sanctions specified in ***[(g)]* *(f) above shall be discontinued and assistance shall be provided accordingly.

1. If the sanctioned individual's needs had been deleted from the AFDC grant, the individual's needs shall be immediately reinstated in the AFDC grant*, effective as soon as the change becomes known to the case manager*.

2. If the entire family had been rendered ineligible for AFDC, the entire family unit, upon reapplication, shall be considered eligible for AFDC provided no other changes in circumstances have occurred which would otherwise render the family ineligible for such assistance.

10:81-14.9 Employment

(a) General: The goal of the REACH program and employment-directed activities is unsubsidized employment. Unsubsidized employment, employment-directed activities, and the services that support an individual's employment, are intended to lead to self-support of the family and independence from public assistance.

(b) ***[All]* *Subject to the provisions of N.J.A.C. 10:81-14.4(k), all* mandatory REACH participants will be required to accept a reasonable offer of employment unless good cause exists.**

10:81-14.10 REACH job search

(a) Purpose and scope: The purpose of REACH job search is to reduce welfare dependency by assisting individuals in obtaining regular unsubsidized full time employment of not less than 30 hours per week. The REACH job search program may include different job search activities or impose different participation requirements based on an individual's characteristics and local job availability conditions.

1. Allowable costs to operate REACH job search are matched by the Federal government at the AFDC administrative match level.

2. The Department of Human Services, Division of Public Welfare, the agency designated in the State Plan for Title IV-A to administer the AFDC program, shall administer the REACH job search program.

(b) Eligibility: Mandatory and voluntary REACH participants may participate in REACH job search. Participation in REACH job search may be postponed while an individual is participating in another REACH employment-directed activity, including a social services component (see N.J.A.C. 10:81-14.4(g)).

(c) REACH job search program: The REACH job search program may consist of one or more of the following:

1. Early intervention individual job search for applicants, which requires job search from the point of application for AFDC and may continue after the individual becomes a recipient;

2. Individual self-directed job search for AFDC recipients; and

3. Group job search and/or job club.

(d) Assignment to job search activities and the duration of the activities will be based on individual employability potential and geographic location. Minimum requirements for participation in REACH job search are an average of three employer contacts per week for early intervention job search and individual self-directed job search, and attendance at all classes and sessions for group job search.

(e) Additional job search requirements: The following additional requirements apply to participation in REACH job search activities.

1. Early intervention individual job search: Determining compliance with early intervention individual job search, including the requirement of an average of three employer contacts per week, must not delay processing of an application for AFDC.

2. Job contacts: For early intervention job search and individual self-directed job search, a job contact is defined as a contact with a prospective employer. The agency may assist the participant by providing a list of employers. The following apply to job contacts:

i. Referral: A referral to an employer shall be considered a job contact provided the participant presents himself or herself to the employer as available for employment.

ii. Initiated by participant: To be considered a job contact initiated by the participant, the participant must present himself or herself to the employer as available for work and the employer must ordinarily employ persons in the areas of work that the participant is reasonably qualified for by means of experience, training or ability.

iii. Depending upon the position sought, the job contact requirements may be fulfilled by either a personal visit to the prospective employer or another method of application which is considered by the case manager to be a generally accepted practice*, including telephone contacts where the job offer or advertisement lists a telephone number*.

iv. The participant cannot count the contact of the same employer more than once in a four-week period unless the employer indicated that vacancies in additional positions may soon exist*, or a subsequent advertisement is made by the employer*.

v. Reporting job contacts: The participant will be required to report the result of all job contacts to the agency at a prescheduled time. The time may vary with the job search participation requirements set forth in the REACH Agreement, but must be at least once every four weeks.

(1) Job contacts shall be reported in writing in a manner prescribed by the *[agency as]* *county designated entity at* the time the REACH Agreement is signed. ***This writing requirement shall be reasonable, given the participant's language abilities.*** While such reporting will not require the employer's written confirmation of the job contact, the participant shall be required to sign written documentation to attest to its validity. The written report shall be submitted to the *[agency]* *county designated entity* at the participant's follow-up interview. The participant shall be responsible for providing the *[agency]* *county designated entity* with any additional information concerning job contacts.

vi. *[Agency]* *County designated entity* review of job contacts: The *[agency]* *county designated entity* shall review the participant's job contacts at least once every four weeks and determine if the participant has completed the assigned number of job contacts, as set forth in the REACH Agreement. If the participant missed any contacts or if any of the reported contacts are disallowed (for reasons such as suitability or manner of contact), the participant shall have one additional week for every four weeks of scheduled job search activity to complete any missed or disallowed contacts.

vii. It is a goal of REACH to help and ensure that all participants are prepared to apply for and secure employment. Therefore, before a participant is placed and required to participate in job search activities, the agency shall take such steps as are necessary, including employment counselling, to ensure that the participant can read and complete a job application, and is otherwise able to present himself or herself properly for employment.

3. Group job search activities: REACH group job search activities may include the classroom group job search training and supervised job clubs.

4. Review of job search: At least once every four weeks, the *[agency]* *county designated entity* shall review the individual's participation in Job Search and determine if participation in job search should continue or if assignment to another REACH employment-directed activity is appropriate.

(f) Child care and transportation: Federal financial participation is available as reimbursement or direct payment for expenditures for child care, transportation, and other costs reasonably incurred by participants in meeting the requirements of REACH job search.

10:81-14.11 REACH Work Supplementation Program

(a) Purpose and scope: Under the REACH Work Supplementation Program (WSP), AFDC funds are used to develop and subsidize employment for REACH participants in employment-directed activities, such as on-the-job-training (OJT), as an alternative to aid provided to AFDC recipients.

1. Under REACH WSP participants may choose, on a voluntary basis, to accept an offer of work to the extent such jobs are made available.

(b) Administration: The REACH WSP program shall be administered through the Department of Human Services, Division of Public Welfare, the agency designated to supervise the administration of the AFDC program in New Jersey.

(c) Eligibility: Mandatory and voluntary REACH participants are eligible to participate in the WSP if they are eligible for AFDC.

(d) Types of jobs: Any appropriate job may be provided or subsidized under the WSP, but acceptance of any such position by a REACH participant shall be voluntary. The job position which may be provided for AFDC recipients must be of the following general types:

1. A job position provided to an eligible individual by the Department of Human Services, Division of Public Welfare, CWAs, the Department of Labor or *[JPTA]* *JTPA*^{*}; or

2. A job position provided to an eligible individual by any other employer for which all or part of the wages are paid by the Division of Public Welfare or a CWA, or another entity selected to administer the WSP wage pool.

(e) Providing or subsidizing jobs: The *[agency]* *county designated agency* may use whatever means are appropriate to provide or subsidize jobs for participants in WSP. The *[agency]* *county designated agency* may make whatever arrangements it deems appropriate with regard to the type of work provided, the length of time the position is to be provided or subsidized, the amount of wages to be paid to the recipient receiving the work supplemented job, the amount of subsidy to be provided by the Department of Human Services, Division of Public Welfare, or CWAs, and the conditions of participation.

(f) Conditions of employment: The following provisions apply to conditions of employment under REACH WSP:

1. The *[agency]* *Department of Human Services or Division of Public Welfare* is not required to provide employee status to any eligible individual to whom it provides a job position under the WSP, or with respect to whom it provides all or part of the wages paid to such individual by another entity under this program.

2. The *[agency]* *county designated entity* is not required to provide that eligible individuals filling job positions provided by other entities under WSP be provided employee status by such entity during the first 13 weeks during which they fill such position.

3. Wages: Participants in the REACH WSP will be paid wages which shall be considered to be earned income (see N.J.A.C. 10:82).

(g) Child care and transportation: Federal financial participation is available for child care and transportation costs incurred by participants in the REACH WSP. *Payment may be made directly or through the earned income disregard mechanism (See N.J.A.C. 10:82).*

10:81-14.12 REACH Community Work Experience Program

(a) Purpose and scope: The purpose of the REACH Community Work Experience Program (CWEP) is to provide work experience for AFDC recipients*[*].* ***when and to the extent that such experience is necessary to enable them to adjust to and learn how to function in an employment setting. A participant shall not be placed in a CWEP position simply to give him or her employment when the participant is fully qualified and able to engage in unsubsidized employment but is barred from doing so because of the absence of available jobs.*** The REACH CWEP will operate community work experience programs which serve a useful public purpose.

1. REACH CWEP must meet appropriate standards for health and safety and may not displace persons currently employed nor fill established unfilled vacancies.

2. Subject to the conditions at N.J.A.C. 10:81-14.17 through 14.18 the *[agency]* *county designated entity* must provide necessary transportation, child care and other related services or reimburse REACH CWEP participants for costs directly related to participation in the program.

3. Allowable costs to operate REACH CWEP, are matched by the Federal government at the AFDC administrative match level.

(b) The following categories of AFDC recipients may not be required to participate in REACH CWEP, in accordance with Section 409(b) of the Social Security Act:

1. An individual who is exempt *[or]* *^{*}, temporarily deferred *or excused* from participation in REACH in accordance with N.J.A.C. 10:81-14.3;

2. An individual who is both currently employed for at least 80 hours per month and earning not less than the legally established or defined minimum wage for such employment (for jobs which do not have an established minimum wage, recipients currently employed 80 hours must be exempted from REACH CWEP regardless of wage level);

3. An individual who was denied AFDC solely because the amount of his or her AFDC grant would have been less than \$10.00 per month;

4. An individual who would have been a mandatory participant due to care of a child at least two years old, but appropriate child care cannot be secured to enable participation in the Work Experience project; or

5. An applicant for AFDC.

(c) Participation services and reimbursement: The services of child care and transportation that are necessary to CWEP participation will be provided as part of the REACH Agreement. In cases where the *[agency]* *county designated entity* is unable to provide these necessary services, the *[agency]* *county designated entity* must provide reimbursement for necessary transportation and child care costs that are incurred by the recipient and directly related to participation in CWEP.

1. Transportation costs: Participants shall be reimbursed for transportation costs directly related to their participation in amounts equal to the cost of transportation by the most appropriate means (as determined by the CWA).

2. Child care costs: Participants shall be reimbursed for child care costs in such amounts as are determined by the CWA to be reasonable, necessary, and cost-effective. However, in no event shall the reimbursement

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using CWEP funds exceed \$160.00 per month per child for full-time participation or \$110.00 per month for part-time participation (see N.J.A.C. 10:82-2.8(a)2). REACH vouchers may be used to supplement this amount.

3. Other costs: The CWA must provide reimbursement for costs other than transportation and child care that the CWA determines are necessary and directly related to participation in CWEP incurred by the participant. For purposes of Federal Financial Participation, this amount shall not exceed \$10.00 per month per participant.

4. Participant's AFDC grant, income and resources: Participants may not be required to use their AFDC grant or their income or resources to pay CWEP participation costs which are within the limits specified as allowable in (c)1 through 3 above.

(d) Participant protection: Workers' compensation or other comparable protection shall be provided for CWEP participants. Workers' compensation shall be provided to those participants performing work for Federal offices or agencies to the same extent as is provided to other CWEP participants in the State. The cost of this protection shall be considered an administrative expense and matched accordingly.

(e) Participation requirements: The following additional participation requirements shall apply to CWEP:

1. Part-time participation: Part-time participation in CWEP combined with other REACH employment-directed activities may be required and negotiated in the REACH Agreement. Part-time CWEP participation is defined as less than 30 hours per week.

2. Maximum monthly participation: No eligible family may be required to participate in CWEP more than the number of hours which would result from dividing the family's monthly grant amount by the greater of the Federal or the applicable State minimum wage.

3. Coordination of CWEP with other REACH activities: The county must have procedures under which there is coordination among CWEP, the job search program and other REACH employment-directed activities, to ensure that job placement will have top priority.

4. Nothing in this section shall be construed as authorizing the payment of AFDC as compensation for work performed.

5. CWEP participants who perform work in the public interest for a Federal office or agency shall not be considered for any purpose as Federal employees.

(f) Sponsor requirements: The agency will designate a sponsor to operate each project or, at the agency's option, more than one project. Only public agencies, which include but are not limited to Federal offices or agencies, and nonprofit organizations may be sponsors. For purposes of this provision Federal offices or agencies include agencies of the Executive branches of the Federal government, Congressional offices, and Federal courts.

(g) Project requirements: REACH CWEP projects must satisfy all of the following requirements:

1. Serve a useful purpose;
2. Do not result in the displacement of persons currently employed or the filling of established, unfilled position vacancies. This means that CWEP participants may not perform tasks which would have been undertaken by employees or which have the effect of reducing the work of employees. However, CWEP participants may perform the same type of tasks as performed by employees;
3. Are not in any way related to political, electoral or partisan activities;
4. Are not in violation of applicable Federal, State or local health and safety standards, and provide reasonable work conditions; and
5. Have not been developed in response to, or in any way associated with, the existence of a strike, lockout or other bona fide labor dispute, or violate any existing agreement between employees and employers.

(h) Project assignment criteria: Assignment of participants to REACH CWEP projects must conform to the following:

1. Assignments to REACH CWEP projects will take into consideration to the extent possible the prior training, proficiency, experience and skills of a participant; and

2. Participants will not be assigned without their consent to projects which require that they travel unreasonable distances from their homes or remain away from their homes overnight.

10:81-14.13 Vocational assessment and counselling

(a) Purpose: Vocational assessment and counselling is intended to assist individuals in exploring their employment options.

1. Vocational assessment and counselling services must be provided in the county's REACH plan.

2. Vocational assessment and counselling is available to all REACH participants. It will primarily be provided to REACH participants who do not have a recent work history or marketable job skills.

(b) Parent with a child under age two: A special vocational assessment and counselling component will be required for any parent whose full participation in REACH is temporarily deferred due to care of his or her child under age two.

1. Temporarily deferred REACH participants will be encouraged to participate in employment and/or employment-directed activities and to develop individual plans for economic self-sufficiency. REACH Agreements developed under this component will conform to N.J.A.C. 10:81-14.4.

2. Services available will include:

- i. Basic instruction and counselling in parenting skills and caring for a child's physical and emotional well-being;
- ii. Provision of information on the availability of community resources for protection and development of children; and
- iii. The identification of future educational, training and employment goals of the parent.

10:81-14.14 REACH employment and training services

(a) Purpose and scope: REACH employment and training services are designed to provide job training and other preparatory services for REACH participants. Such services include, but are not limited to, instructional skills training, on-the-job training, work experience and re-training. ***Education or training should be utilized wherever there is potential for upgrading a participant's skills and employment prospects.***

1. Training and employment programs allowable under P.L. 97-300 Job Training Partnership Act sections 204, 205, 251 and 303 are permissible programs for REACH participation.

2. All occupational training programs funded through REACH will be in accordance with guidelines established by the private industry councils established under the Job Training Partnership Act.

3. REACH employment and training programs are intended to supplement, not supplant, existing programs and resources available to the REACH participant.

4. REACH employment and training services will be provided as set forth in the REACH agreement.

(b) On-the-job-training: REACH on-the-job training (OJT) is an employment opportunity which includes training. Under this component, a REACH participant is hired by a private or public employer and provided training which is subsidized under agreement between the employer and the county-designated provider agency.

1. Employers will provide increased supervision and training through agreements with the provider agency, pursuant to which the provider agency will reimburse the employer for the extraordinary costs of such training and supervision.

2. For purposes of AFDC benefits, REACH OJT participants are considered to be employed. However, REACH OJT participants shall be required to complete the OJT agreement period and are considered mandatory REACH participants during the agreement period.

3. Eligibility for REACH OJT is dependent on the participant's previous knowledge and/or experience in the specific job position under consideration.

(c) Vocational training: Vocational training is a component involving institutional or other classroom training conducted by an instructor in either a worksite or non-worksite setting.

10:81-14.15 REACH educational services

(a) Purpose and scope: ***[REACH educational services will be provided based on the need of the participant as determined during assessment.]*** ***REACH offers certain educational services directly. Other educational programs, although not offered directly through REACH, may nevertheless be a component of the REACH Agreement, and as such may satisfy REACH participation requirements. The need for educational services will be determined during assessment.***

(b) The following educational services are available ***[under]*** ***directly through*** the REACH program:

1. Preparatory educational services: Preparatory educational services are those designed to remedy educational deficiencies and to provide a REACH participant with the basic skills for entry to the labor market. A high school diploma, ability to speak and understand the English language, literacy, and minimum competency in basic mathematics and writing skills are desirable for increasing employability potential. Preparatory educational services include the following:

- i. Programs for completion of a high school education or the equivalent, such as a General Educational Development (G.E.D.) certificate, available to individuals who lack a high school education;

ii. English as a Second Language (ESL) programs for participants who are non-English speaking or who have limited competency in the English language and such competency is needed for the participant to obtain employment; and

iii. Adult Basic Education (ABE) programs for individuals who lack basic competency in reading, writing and mathematics necessary for obtaining employment.

[2.]**(c) Postsecondary education: Postsecondary educational opportunities are those programs at colleges, mostly community colleges, that lead to recognized careers for which there is or will be a demand in the job market. Such programs may be of longer duration than six months, including up to one year or longer in certain circumstances, and will often lead to a recognized college credential, such as a certificate or an associate degree.

[i.]*1. Financial aid for postsecondary educational services will not be provided by REACH. However, any scholarships, grants or similar financial aid obtained by the participant in conjunction with REACH postsecondary educational services shall be treated in accordance with N.J.A.C. 10:82-1.7 through 1.9 in determining AFDC eligibility and grant amount.

10:81-14.16 Social services

(a) Social services as related to REACH participation are intended to address problems such as substance abuse (including alcohol and narcotic abuse) or behavioral problems that may prevent or seriously impair an individual's ability to participate in the REACH program. Examples include mental health services, vocational rehabilitation, drug and alcohol treatment programs, and health care.

(b) Participation: Acceptance of social services is optional. For the period the individual is receiving these services or participating in treatment programs, he or she will be deemed to be complying with REACH program requirements.

1. If an individual does not accept these services or stops participating in a treatment program, the individual will not be subject to sanctions at N.J.A.C. 10:81-14.8. In such instances, the individual will be required to participate in the next activity set forth in the REACH Agreement.

10:81-14.17 REACH support services; general provisions

(a) Purpose and scope: The services set forth at N.J.A.C. 10:81-14.18 through 14.20 are available to support REACH participation in employment and employment-directed activities, under the principle of mutual obligation. REACH support services are intended to supplement, not supplant, existing programs and resources available to the REACH participant.

(b) Need for services: In determining need for the services, the participant will be encouraged to use all sources already available to him or her. The case manager will determine the projected need for support services based on the participation requirements in employment and employment-directed activities set forth in the REACH Agreement. The services available through the participant's sources will be compared to the projected service needs. Services will be available for child care, transportation and related expenses, and post-assistance medical coverage where the participant's resources do not provide the support needed for participation in REACH.

(c) Payment for services: In determining source of payment for the support services, the principle of REACH as payor of last resort will apply.

(d) Unavailability of support service: If a support service needed for participation in REACH is not available, the case manager shall proceed according to N.J.A.C. 10:81-14.4(i).

10:81-14.18 REACH support services; child care

(a) The case manager and the participant will mutually arrange for child care for the REACH participants' child(ren) while the individual is employed or participating in an employment-directed activity, as set forth in the REACH Agreement.

1. Child care arrangements should be located within reasonable commuting distance from the participant's home, place of employment or site of employment-directed activity. The hours provided must be sufficient to accommodate the hours required by the employer or employment-directed activity. ***The arrangements, including the site, must be agreeable to the participant, but any objections must be held in good faith.***

(b) The case manager has the responsibility to arrange for child care that will obtain the maximum Federal financial participation for the particular employment-directed activity. In determining payment of the cost of child care, the following sequence will be applied:

1. The participant's own sources of child care;

2. Federally-matched child care costs while an individual is participating in REACH job search, work supplementation, and community work experience programs;

3. Federally-matched child care costs while an individual is participating in training for employment or in a program of vocational rehabilitation (see N.J.A.C. 10:82-5.3); and

4. REACH State-funded child care vouchers.

(c) REACH child care vouchers: REACH child ***care*** vouchers may be used to fund child care when the participant's own sources or federally-matched child care are not available or not sufficient to pay for the ***[entire]*** cost of child care. Vouchers will be issued to the participant, who will then give the voucher to the child care provider as payment of the cost of child care. The provider redeems the voucher at the county welfare agency or Division of Youth and Family Services. ***REACH child care vouchers will be available effective October 1, 1987 for the initial three counties. In other counties, REACH vouchers will be available as the county begins operations of the REACH program, as defined by the Department of Human Services.***

1. REACH vouchers are available for care of an infant, toddler, pre-school child or school-aged child in various types of arrangements, including full day care and after-school care. The value of the vouchers is determined by the Department of Human Services.

2. A maximum of 52 weeks of child care per participant will be funded by REACH child care vouchers.

i. The 52-week period will start with the first week for which the participant uses a voucher to pay for child care.

ii. Any week for which the participant does not use the voucher will not be counted toward the 52-week period.

iii. If a participant becomes ineligible for AFDC for a reason other than employment and returns to the assistance rolls within one year of the effective date of termination of AFDC, payment of child care by REACH voucher will continue for the number of weeks remaining in the original 52-week period.

3. Post-assistance child care: Eligibility for the REACH voucher will continue after the participant becomes ineligible for AFDC due to income from employment. Payment for child care by REACH voucher will continue if needed for the number of weeks remaining in the 52-week period. Before AFDC is terminated, the case manager will evaluate the need for post-assistance child care.

4. Case manager responsibilities: The case manager will be responsible for certifying the need for child care and issuing approval to receive voucher payment for such care. In addition, since REACH child care vouchers will be the payor of last resort, before vouchers may be issued, a REACH participant will be required to certify, and the case manager required to verify, that no other family members or other resources for child care are available. The welfare of the children and the quality of their child care should be considered.

5. If the total amount of the vouchers for a given period is insufficient to secure appropriate and agreed upon child care necessary to support participation in REACH, then the participant shall be under no obligation to participate in REACH for the time period that such child care is unavailable.*

10:81-14.19 REACH support services: transportation and related expenses

(a) In determining the need for transportation to and from the site of employment or employment-directed activity, the participant will be encouraged to make use of his or her available transportation resources.

(b) Transportation: Reimbursement for ***[actual]*** costs of transportation that are reasonably necessary for participation in REACH job search, work supplementation and community work experience programs is available for the duration of participation in such programs. ***[See N.J.A.C. 10:81-14.10(f), 14.11(g) and 14.12(c) for limitations on reimbursement of such transportation costs.]***

(c) Training-related expenses: An allowance for expenses related to training and education shall be provided to REACH participants for the duration of their participation in REACH training programs or education services (see N.J.A.C. 10:81-14.14 ***and 14.15***). Allowable expenses include transportation to and from the training or education site, cost of meals, uniforms, materials and similar expenses.

[1. Up to \$30.00 per week may be provided for such expenses. If actual training-related expenses exceed \$30.00 in a week, a higher amount to cover actual costs may be provided, but only if expenses are required for training, for example, a uniform required by an employer as a condition of accepting an on-the-job-training position. Such amounts must be approved by the supervisor of the case manager.]

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2. Amounts paid to REACH participants for training-related expenses are excluded as income for purposes of the Food Stamp program.]*

***(d)* Up to \$6.00 per day of participation in a REACH activity may be provided for expenses related to training and transportation.**

1. **If actual training-related expenses exceed \$30.00 in a week, a higher amount to cover actual costs may be provided, but only if expenses are required for training, for example, a uniform required by an employer as a condition of accepting an on-the-job-training position. Such amounts must be approved by the supervisor of the case manager.**

2. **Amounts paid to REACH participants for training-related expenses are excluded as income for purposes of the Food Stamp program.***

10:81-14.20 REACH support services: medical assistance

(a) Post-assistance Medicaid coverage: When an AFDC-C, -F or -N family, residing in a county participating in the REACH program, becomes ineligible for AFDC *[and/or Medicaid (as "deemed recipients of AFDC")]* for any of the reasons listed in (b) below, the members of the family shall continue to receive Medicaid for a period of 12 months. The 12-month extension of Medicaid benefits replaces the four-month *[extension]* ***time period*** at N.J.A.C. 10:81-8.22(b)1.

(b) Eligibility: To be eligible for the 12-month Medicaid extension, the family must lose AFDC eligibility for any one of the following reasons:

1. Earnings or increased earnings from employment, including earnings from new employment;

2. Loss of the \$30.00 or one-third disregards of earning income (See N.J.A.C. 10:82-4) because of the time-limited application of those disregards;

3. Increased hours of employment; or

4. Receipt of New Jersey state unemployment or temporary disability insurance benefits.

(c) Additional requirements: The following additional requirements apply to the 12-month Medicaid extension:

[1. The family must have received AFDC and/or Medicaid (as "deemed recipients of AFDC") in any three or more months during the six-month period immediately preceding the month in which the family became ineligible for AFDC and/or Medicaid (as "deemed recipients of AFDC").]

*[2.]****1.*** Eligibility for the 12-month Medicaid extension is not available for any month to any individual who, except for income, resources or hours of employment, is not otherwise eligible to receive AFDC.

*[3.]****2.*** With the exception of a child born to the family during the extension period, only those family members who received AFDC at the time the family became ineligible for AFDC may receive the twelve-month Medicaid extension.

(d) The 12 calendar-month period begins with the month AFDC is terminated, but no later than the payment month corresponding to the first budget month in which the family became ineligible due to the change in circumstances. If the family fails to report the change in circumstances causing ineligibility, the 12-month extension shall begin with the first month in which the family became ineligible for AFDC.

1. Example: A client receives increased earnings in the January budget month and reports the increase timely in the February processing month. The increased earnings render the family ineligible for AFDC; assistance is terminated effective for the March payment month. Extension of Medicaid benefits shall begin with March, the payment month for which assistance was terminated.

2. Example: In January a family receives increased earnings that cause ineligibility for AFDC but fails to report the earnings to the CWA. In May the agency discovers the unreported earnings and terminates assistance for June. The 12-month Medicaid extension shall begin in January, the month in which the earnings causing ineligibility were first received.

10:81-14.21 Need and amount of assistance in REACH

(a) General: Determination of need and amount of assistance for REACH participants shall be made in accordance with established regulations and policy at N.J.A.C. 10:81, N.J.A.C. 10:82, and N.J.A.C. 10:90, with the exceptions set forth below.

(b) Income earned by AFDC parents serving as child care providers: Income earned by AFDC parents from providing child care for children of REACH participants ***and other AFDC recipients*** shall be considered income from self-employment, and shall be treated in accordance with 1 through 4 below.

1. Maximum income eligibility: In determining gross earned income for purposes of the maximum income level at N.J.A.C. 10:82-1.2(d), an amount equal to one-half (50 percent) of the total income earned from providing child care shall be disregarded.

2. Prospective needs test and calculation of AFDC grant: In determining prospective need and computing the amount of the AFDC grant, an amount equal to one-half (50 percent) of the total income earned from providing child care shall be disregarded.

3. Determination of calculated earned income—AFDC-C and -F: In determining the calculated earned income for the AFDC-C and -F segments, from the total gross earnings from providing child care, deduct an amount equal to one-half (50 percent). The remaining income shall be counted in determining eligibility under the prospective needs test and computing the AFDC grant. No additional deductions shall be made for expenses of producing self-employment income set forth at N.J.A.C. 10:82-4.3, for the \$75.00 work expense deduction at N.J.A.C. 10:82-2.8(a)1, or for the first \$30.00 and one-third of the remainder of the earnings from providing child care for children of other REACH participants (see N.J.A.C. 10:82-2.8(a)3).

4. AFDC-N segment: Income earned by AFDC-N segment recipients serving as child care providers shall be disregarded in accordance with N.J.A.C. 10:82-4.5.

(c) Disregard of income earned in a training program (all segments): Earned income received through a training program, regardless of whether the program is through Job Training Partnership Act (JTPA), by an AFDC dependent child ***who is under age 18 or age 19 if attending school*** or by an AFDC parent who is under age 18 or age 19 if attending school, shall be disregarded in the determination of *[initial eligibility,]* maximum income eligibility, ***initial eligibility,*** prospective needs test, and amount of the AFDC grant. However, the exemption of such income shall not exceed six months in any calendar year.

1. This disregard of income is independent of the earned income disregard at N.J.A.C. 10:82-4.7(g). If a full-time student secures employment unrelated to participation in a training program, a second six-month period shall be established in accordance with the provisions of that subsection.

10:81-14.22 Child support enforcement

(a) General: In addition to the activities set forth in N.J.A.C. 10:81-11, the following activities related to child support enforcement shall be conducted by the State and CWAs on behalf of REACH program participants:

1. Prioritization of the child support workload, such that enforcement efforts are directed first toward absent parents of children of REACH participants, followed by the remaining AFDC cases;

2. Upward modification of existing court orders for child support; and

3. ***[Immediate income]* *Income*** withholding, wherein ***[as soon as a]* *for an established*** court order for payment of child support ***[is established]***, the income of the absent parent ***[will be immediately withheld]* *will be subject to withholding***, that is, the amount of the court-ordered child support payment will be deducted from the income and forwarded to the county probation department on behalf of the child.

(b) The activities in (a) above will be conducted in accordance with procedures established by the Division of Public Welfare, Department of Human Services, and the Administrative Office of the Courts.

10:81-14.23 County planning

(a) General: A county planning process, which integrates the local human services system and the local employment and training system, will be used for the REACH program. The purposes of the county planning process are to:

1. Coordinate and ensure the delivery of employment, training, education, case management and support services for REACH recipients;

2. Maximize the use of resources from various Federal, State, county and private funding sources for REACH services; and

3. Establish efficient and effective administration and decision making operations for REACH program management.

(b) Minimum ***county*** requirements: Each county is required to establish a REACH Planning Committee and to submit a REACH County program implementation plan.

1. REACH Planning Committee: The purpose of the county REACH Planning Committee is to determine the most effective way to plan and organize services for REACH participants in that county.

i. Required membership: The planning committee shall, at a minimum, include the following as voting members: the Director of the County Welfare Agency, the Director of the Private Industry Council or Service Delivery Area established pursuant to the Job Training Partnership Act, the Chairperson or a designee of the County Human Services Advisory Council, a representative of the board of Chosen Freeholders or County Executive or a designee. In addition, the planning committee shall include as non-voting ex officio members representatives of the following agen-

cies: the Division of Public Welfare in the Department of Human Services, the Division of Employment Services in the Department of Labor, the Bureau of Adult Education in the Department of Education, and the county representative of the Department of Human Services.

ii. Additional members: The planning committee may also include as voting members other individuals and/or organizations that the county believes would provide a valuable contribution to the REACH program planning and implementation process.

2. REACH County program implementation plan: *[The REACH County program implementation plan shall specify the arrangement and method by which employment, training, education and support services will be selected, integrated and provided to eligible applicants and participants of the REACH program in that county.]* ***The content and submittal of the REACH County program implementation plan shall conform to the requirements of and procedures established by the Department of Human Services. At a minimum, the plan shall:**

i. Contain a needs assessment of the employment related characteristics and problems (including a target population profile), describe the proposed County REACH program structure (including a resource analysis and service delivery system that addresses employment-directed activities and support services), and describe the flow of the REACH participant through the county REACH program;

ii. Specify the arrangement and method by which employment, training, education and support services will be selected, integrated and provided to eligible applicants and participants of the REACH program in that county;*

[i. Each plan shall ensure] ***iii. Ensure*** that the program components reflect local needs and resources and that support services provided to REACH participants use existing local arrangements wherever possible*.[.]* *; and*

[ii. Each plan shall designate] ***iv.* *Designate*** a county REACH Program Coordinator who will manage and coordinate the planning and implementation process.

*[iii. The content and submittal of such plans shall conform to requirements and procedures established by the Department of Human Services.

3. To assure REACH services are productive in terms of reducing welfare dependency and increasing the employment and earnings of the REACH participants, the Department of Human Services will establish performance standards for the REACH program. Such standards shall be stipulated in the contract between the Department of Human Services and the REACH counties.]**

***[c) Planning and program management: Additional requirements for counties will be specified by the Department of Human Services for REACH planning and program management as follows:**

1. REACH Program Coordinator: The Department will contract with the county governing body to provide an amount of funding for REACH program planning and implementation activities, with no county match required. Primarily these funds must be applied toward support of a full time REACH Program Coordinator who will be responsible for centrally managing implementation of the program and coordinating the planning process to the extent possible. Demonstration that a REACH Program Coordinator has been designated will be required for approval of the REACH County program implementation plan (see (b)2iv above).

2. To assure REACH services are productive in terms of reducing welfare dependency and increasing the employment and earnings of the REACH participants, the Department of Human Services will establish performance standards for the REACH program. Such standards shall be stipulated in the contract between the Department of Human Services and the REACH counties.

i. Payments of REACH monies to a county will be linked to achievement of these performance standards. Bonuses for exceeding standards and deferral of payment for failure to meet mutually agreed-upon goals will be proposed for county review and comment prior to adoption.

ii. The performance standards and goals initially negotiated by the county and the Department will be reviewed on the basis of actual experience in the REACH program and may be modified as appropriate for future program years. In the first year of the REACH program, the focus will be on payments for exemplary performance.

(d) Submittal and approval of REACH county implementation plan: Upon completion of the REACH county implementation plan by the county, the following submittal and approval process must occur.

1. County process: At the county, the plan must be submitted in sequence to the Private Industry Council/Service Delivery Area (PIC/SDA), County Welfare Agency (CWA), and County Human Services Advisory Council (CHSAC) for review and endorsement of the plans as consistent with respective agency goals, objectives, and service delivery plans. Signatures of the PIC/SDA Director, CWA Director, and CHSAC Chairperson are required

as evidence of endorsement. The plan must be submitted to the county governing body for review and approval, with signature of the County Freeholder Director or County Executive and freeholder resolution required as evidence of approval. The county must provide for public input on the plan in accordance with existing county public input procedures, with confirmation of input received included in the plan. The REACH County Plan with required endorsements and approvals and required number of copies must be submitted to the Department of Human Services in accordance with deadlines established by the Department for each county.

2. Minimum standards for REACH county implementation plans: A county is required to meet minimum standards for acceptance of its REACH county implementation plan into the review process:

i. Demonstration of both the establishment of a REACH Planning Committee with minimum membership requirements achieved and the designation of a REACH Program Coordinator;

ii. Evidence of endorsement and approval of the plan by the PIC/SDA, CWA, CHSAC and county freeholder director or county executive;

iii. Minimum required information as specified in Section IV of the REACH County Plan Guidelines; and

iv. Evidence that the specified range of employment, training, education, case management and support services will be offered to REACH participants.

3. Department of Human Services process: The review and approval process set forth below will begin upon receipt of the REACH county implementation plan by the Department of Human Services.

i. The Department will convene an interdepartmental REACH Review Committee to review and make recommendations on the REACH county implementation plan.

ii. Within 14 days, the Committee will determine if the REACH County Plan is incomplete or does not contain adequate information for approval. For any plan determined incomplete or inadequate, the Committee may request additional information from the county, conditionally approve the plan, or formally return the plan to the county with specific instructions.

iii. After a review of the complete REACH County Plan, the Committee, will develop a recommendation as to whether approval can be granted and forward that recommendation to the Commissioner of the Department of Human Services.

iv. The Commissioner of the Department of Human Services on behalf of the REACH Review Committee will send formal notification of plan approval to the county.*

OAL NOTE: The preliminary REACH County Plan Guidelines have not been reproduced with the adoption. Copies of these documents can be obtained by contacting the Department of Human Services, Capitol Place 1, Trenton, New Jersey 08625.

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Insurance of Municipal Bonds

Adopted Amendments: N.J.A.C. 11:7-1.2 and 1.3

Proposed: August 3, 1987 at 19 N.J.R. 1409(a).

Adopted: September 25, 1987 by Kenneth D. Merin,

Commissioner, Department of Insurance.

Filed: September 25, 1987 as R.1987 d.426, without change.

Authority: N.J.S.A. 17:1-8.1 and 17:1C-6(e).

Effective Date: October 19, 1987.

Expiration Date: October 19, 1992.

Summary of Public Comments and Agency Responses:

The Department received one comment concerning the proposed amendments to N.J.A.C. 11:7, Insurance of Municipal bonds, from a monoline insurer which specialized in municipal bond insurance. The comments supported uniform, reasonable regulation of the municipal bond insurance business and believed the proposed amendments furthered this goal.

Full text of the adoption follows.

NEW JERSEY REGISTER, MONDAY, OCTOBER 19, 1987

11:7-1.2 Capital, surplus and contingency reserve requirements

(a) (No change.)

(b) In no event shall an insurer have outstanding a cumulative net liability, under policies in force insuring municipal bonds, in an amount which exceeds the sum of its capital and surplus, plus the contingent reserve as defined in (a)2 above. For the purpose of this subsection, the term cumulative net liability shall mean one third of one percent of the insured unpaid principal and insured unpaid interest covered by policies in force insuring municipal bonds. In the event that any such insurer has outstanding a cumulative net liability in excess of the amount as so computed, it shall not transact any new insurance of municipal bonds unless and until its cumulative net liability no longer exceeds such amount.

(c) An insurer transacting the insurance of municipal bonds may invest the contingency reserve in tax and loss bonds purchased pursuant to Section 832(c) of the Internal Revenue Code, only to the extent of the tax savings resulting from the deduction for Federal income tax purposes of a sum equal to the annual contributions to the contingency reserve. The contingency reserve shall otherwise be invested only in classes of securities or types of investments specified in paragraphs (a), (c), (d) and (f) of N.J.S.A. 17:24-1.

17:7-1.3 Limitations and restrictions

(a) (No change.)

(b) For the purpose of complying with the provisions of N.J.S.A. 17:18-9, the total net liability of an insurer in respect to any one issue of municipal bonds insured shall be the average annual amount due for principal and interest on insured securities of such issue, net of appropriate allowance for reinsurance.

(c) (No change.)

LABOR

(a)

DIVISION OF WORKPLACE STANDARDS**Safety and Health for Public Employees
Medical and First Aid****Adopted Amendment: N.J.A.C. 12:100-4.2**

Proposed: February 2, 1987 at 19 N.J.R. 267(a).

Adopted: September 25, 1987 by Charles Serraino,
Commissioner, Department of Labor.Filed: September 25, 1987 as R.1987 d.425, with a portion of the
proposal not adopted but still pending.Authority: N.J.S.A. 34:6A-25 et seq., specifically N.J.S.A.
34:6A-30.

Effective Date: October 19, 1987.

Expiration Date: November 5, 1989.

Summary of Public Comments and Agency Responses:

The New Jersey Department of Labor held a comment period open until March 4, 1987. The Department also solicited comments from a list of interested parties. Those interested parties are listed below:

- New Jersey Association of School Administrators;
- New Jersey Conference of Mayors;
- New Jersey Business and Industry Association;
- New Jersey State Chamber of Commerce;
- American Industrial Hygiene Association, New Jersey Section;
- American Society of Safety Engineers, New Jersey Section;
- New Jersey State Safety Council;
- New Jersey State League of Municipalities;
- New Jersey Association of Counties;
- New Jersey School Boards Association.

No comments were received on amendments to N.J.A.C. 12:100-4.2.

The Department of Labor is adopting the amendment to N.J.A.C. 12:100-4.2 which incorporates by reference Subpart K—Medical and First Aid of 24 CFR Part 1910, General Industry Standards. The remaining portions of the proposal, that is, amendments to N.J.A.C. 12:100-5.2 and 6.2 and new rules at 12:100-7, are being reviewed by the Department in consultation with the Department of Health in light of comments received, and are not being adopted at this time.

Full text of the adoption follows.

12:100-4.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1910, General Industry Standards, are adopted as occupational safety and health standards for the protection of public employees engaged in general operations and shall include:

1.-8. (No change.)

9. Subpart K—Medical and First Aid.

10. Subpart L—Fire Protection.

11. Subpart M—Compressed Gas and Compressed Air Equipment.

12. Subpart N—Materials Handling and Storage.

13. Subpart O—Machinery and Machine Guarding.

14. Subpart P—Hand and Portable Power Tools and Other Hand Held Equipment.

15. Subpart Q—Welding, Cutting, and Brazing.

16. Subpart R—Special Industries.

17. Subpart S—Electrical.

18. Subpart T—Commercial Driving Operations.

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

LAW AND PUBLIC SAFETY**STATE BOARD OF DENTISTRY**

(b)

**Applicants for License to Practice Dental Hygiene;
Standards for Approval of Schools of Oral Hygiene****Adopted Amendments: N.J.A.C. 13:30-2.1, 2.2, 2.7,
2.8, 2.9, 2.13, 2.14, 6.2, 6.5, 6.9****Adopted Repeal: N.J.A.C. 13:30-6.6, 8.2**

Proposed: May 18, 1987 at 19 N.J.R. 849(a).

Adopted: July 1, 1987 by the State Board of Dentistry,
Dr. Joseph A. Galletta, President.Filed: September 22, 1987 as R.1987 d.419, **without change.**

Authority: N.J.S.A. 45:6-50 and 45:6-52.

Effective Date: October 19, 1987.

Expiration Date: April 15, 1990.

Summary of Public Comments and Agency Responses:

The New Jersey Dental Association submitted comments in support of the rules as proposed.

Letters were received from the New Jersey Dental Hygienists Association, The Monmouth County Dental Assistants Society, 27 dental hygienists and one dentist, generally supporting the proposed amendments. All of these commentators stated that the proposed amendment to N.J.A.C. 13:30-2.14, which will permit a dental hygienist who has graduated from an approved dental hygiene program in New Jersey in 1984 or thereafter to perform expanded functions without furnishing proof of qualifications, does not meet the needs of those hygienists who graduated prior to 1984. The comments, which were all substantially identical, suggested that dental hygienists who graduated prior to 1984 should be permitted to perform individual or selected expanded functions after providing the Board with satisfactory proof of qualifications for that particular expanded function as opposed to the current requirement that these hygienists take a course which would qualify them for all expanded functions.

The Board has considered these comments, but is convinced that permitting hygienists to elect to perform particular expanded functions is not in the best interests of the public. As a threshold matter, the Board believes the Legislature, pursuant to N.J.S.A. 45:6-50(g), intended that there should be a single standard of proficiency for all expanded functions prescribed by the Board as necessary to protect the public health and welfare.

The Board is opposed to the development of sub-specialties within the practice of dental hygiene. The Board believes that the hygienist who wishes to perform expanded functions should have a full educational background in all such functions even though the individual may prefer to perform a particular function or is only requested to perform a particular function by the supervising dentist. The Board also is concerned that it would be very difficult to monitor whether a hygienist was performing only the particular expanded function for which he or she chose to qualify.

Finally, the Board is not persuaded that the adopted amendment is oppressive to those hygienists who graduated prior to 1984 in view of the fact that the qualifying courses are readily available and not especially time consuming.

One commentator suggested that N.J.A.C. 13:30-2.3 and 2.4 requiring a certificate demonstrating completion of a high school program as preliminary education also should be repealed as part of the effort to update these rules since accredited dental hygiene programs require a high school diploma. The Board believes that this is a sound suggestion and will act to repeal these sections in a separate proposal.

This commentator also suggested that N.J.A.C. 13:30-6.5(b) is too restrictive in that it requires dental hygiene faculty to be New Jersey licensees. The Board is of the opinion that individuals who are teaching in this state should be accountable to the Board and subject to its jurisdiction.

Full text of the adoption follows.

13:30-2.1 Qualifications of applicants

- (a) (No change.)
- (b) To obtain a license to practice dental hygiene, the candidate must pass the Northeast Regional Board examination in dental hygiene.
- (c)-(d) (No change.)

13:30-2.2 Application procedure

- (a) An applicant shall obtain an application from the Secretary of the Northeast Regional Board.
- (b) The application shall be completed in detail, properly executed, and returned with the required fee to the Secretary of the Northeast Regional Board by the required date.
- (c) The examination fee shall be that which is established by and payable to the Northeast Regional Board.

13:30-2.7 Reexaminations

- (a) Reexamination will be permitted upon application to and approval by the Northeast Regional Board under terms and conditions set forth by the Northeast Regional Board.

13:30-2.8 Schedule of examinations

- (a) A schedule giving the date, place and hour of each examination and instructions will be sent by the Northeast Regional Board prior to the examination or reexamination.
- (b)-(e) (No change.)

13:30-2.9 Licensure of candidates in dental hygiene

- (a)-(b) (No change.)
- (c) A candidate for licensure as a dental hygienist in the State of New Jersey shall present proof of the following:
 1. National Dental Hygiene Board certification.
 2. Northeast Regional Board certification.
 3. Successful completion of the New Jersey jurisprudence examination.
- (d) The New Jersey State Board of Dentistry may, in its discretion, grant a waiver of Northeast Regional Board performance testing, depending upon the record of the candidate. However, the candidate must be a graduate of a hygiene school approved by the Joint Commission on Dental Accreditation.
- (e) (No change in text.)

13:30-2.13 Duties of a registered dental assistant

- (a) A registered dental assistant may perform the following duties under the direct supervision of a licensed dentist:
 - 1.-5. (No change.)
 6. Fabricate and cement temporary crowns and bridges after preparation of tooth (teeth) by a dentist. This does not include intra-oral occlusal adjustments;
 7. Take impressions for diagnostic models and models to be used as counters for fixed or removable prosthesis;
 8. (No change.)
 9. Place and remove retraction cords and medicated pellets;
 - 10.-15. (No change.)
- (b)-(c) (No change.)

13:30-2.14 Qualifications for performance of expanded functions

- (a) (No change.)
- (b) A dental hygienist who has graduated from an approved dental hygiene program in the State of New Jersey in 1984 or thereafter shall be qualified to perform expanded functions as defined in N.J.A.C. 13:30-2.10(c), and shall be exempt from the provisions of (a) above.

13:30-6.2 Administration

- (a) The school shall have an administrator who is a licensed dentist or a licensed dental hygienist in the State of New Jersey, in accordance with the ADA Standards for Accreditation of Dental Hygiene Programs.

(b) The administrator shall be responsible for carrying out the policies of the school and shall have direct supervision of the school.

(c) The administrator shall be a recognized member of the Faculty Council (or similar body).

13:30-6.5 Faculty

(a) The faculty of the school shall consist of the administrator; one full-time teacher the first year and after the first year, when need is manifest, two full-time teachers, capable of directing and teaching the dental phases of dental hygiene; and sufficient other capable, qualified teachers to teach adequately the courses outlined in these standards.

(b) The teaching of the dental clinical subjects may be appropriately divided between qualified New Jersey licensed dentists and qualified New Jersey licensed dental hygienists.

(c) (No change.)

(d) The private practice of dentistry and/or dental hygiene shall not be permitted at the school of dental hygiene.

13:30-6.6 (Reserved)

13:30-6.9 Entrance requirements

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

13:30-8.2 (Reserved)

(a)

Professional Advertising

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

Proposed: June 15, 1987 at 19 N.J.R. 1053(a).

Adopted: September 2, 1987 by the State Board of Dentistry,
Dr. Joseph A. Galletta, President.

Filed: September 18, 1987 as R.1987 d.417, **without change**.

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

Effective Date: October 19, 1987.

Expiration Date: April 15, 1990.

Summary of Public Comments and Agency Responses:

Comments were received from the Federal Trade Commission, Bureau of Consumer Protection, and the New Jersey Dental Association concerning the Board of Dentistry's proposed amendments to its advertising rule. Much of the proposal was a result of the Board's endeavor to address and resolve many of the issues raised by the F.T.C. in its initial letter to the Board in March 1985 concerning advertising rules. The Board has attempted to the greatest extent it deems reasonable to provide dentists with greater freedom to advertise truthful information which will attract potential patients. At the same time, the Board also believes that the selection of a dentist should be an informed and rational decision.

The F.T.C. commented that requiring a representative list of services and their fees as a reference for such discounts in N.J.A.C. 13:30-8.6(g) is unduly burdensome. The Board is very concerned that across-the-board discounts without price references are potentially misleading to the groups who may be most naive and vulnerable (for example, "ten percent discount for senior citizens" may present an inaccurate picture if the dentist's fees are higher than other practitioners). It is the Board's responsibility to assure that the public is sufficiently informed in order to enable it to place advertising in its proper perspective.

The F.T.C. further commented that, although the Board's proposal now will permit fee information for both routine and non-routine services, N.J.A.C. 13:30-8.6(f) will still prohibit advertisements that describe rather than enumerate prices, such as "lowest prices". The Board believes that in the context of dental diagnosis and treatment, such advertisements easily fall into the category of vague or meaningless information. Patients are clearly benefited, not harmed, by prohibiting nondescript advertisements of price which convey no meaningful information to the consumer.

In the area of communication of non-price information, the F.T.C. has commented that N.J.A.C. 13:30-8.6(c)2 which prohibits claims that the service or materials are professionally superior restricts comparative advertising. The Board's application of this rule has been only to those claims which are untruthful and/or misleading. For example, factual claims concerning a dentist's education, experience, or facilities are appropriate. On the other hand, a dentist's comparative claim that his or her treatment is professionally superior to that of another dentist is necessarily subjective, unverifiable, and therefore potentially misleading.

The amendment to N.J.A.C. 13:30-8.6(c)5 were in response to the F.T.C.'s prior comments that the communication of consumer experiences in a dentist's office concerning non-technical information may be useful in attracting new patients. The F.T.C. has pointed out, however, that the proposal still bans dentists or other expert testimonials by those who may be qualified to address technical information. The focus of the Board's rule has always been on patient testimonials, and it has been applied only in those advertisements where the patient is making a testimonial in regard to a dentist's technical competence.

The New Jersey Dental Association submitted comments in support of the amendment as proposed.

Full text of the adoption follows.

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.-4. (No change.)

5. The use of any personal testimonial attesting to the technical quality or technical competence of a service or treatment offered by a licensee. Other testimonials shall be permitted so long as they are not violative of any other section of these regulations.

6.-9. (No change.)

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

(f) Advertising making reference to setting forth a fee shall be limited to that which contains a fixed or a stated range of fees for a specifically described professional service.

1. (No change.)

(g) Offers of discounts or fee reductions or free services shall indicate the advertiser's fixed or stated range of fees against which said discount is to be made and/or the value of the free service.

1. The fixed or stated range of fees or value of free service shall mean and be established on the basis of the advertiser's most commonly charged fee for the stated service within the most recent 60 days prior to, or to be charged in the first 60 days following, the effective date of the advertisement.

2. Offers of across-the-board discounts shall include a representative list of services and the fixed or stated range of fees against which discounts are to be made for these services. The list for general dentistry shall include a sampling of the advertiser's most frequently performed services from the areas of preventive, diagnostic, restorative, endodontic, periodontic, prosthodontic (fixed and removable) dentistry, and oral surgery.

i. "Across-the-board discounts" shall mean the offer of a specified discount on an undefined class of services or the offer of a specified discount to a defined class of patients (for example, "15% discount during April on all dental services" or "15% discount to senior citizens on all dental services").

ii. Example of Representative List of Services:

	Regular Fee	Discount Fee
Prophylaxis	\$	\$
Examination		
Complete X-Rays		
One Surface Filling		
Root Canal		
Crown		
Gingivectomy		
Complete Denture		
Simple Extraction		

3. Licensees who limit their practice to one or more areas of dentistry, as permitted by N.J.A.C. 13:30-8.4, shall in similar manner, as in (g)2 above, include a representative list of the most frequently performed services in the advertiser's office.

(h)-(l) (No change.)

NEW JERSEY RACING COMMISSION

(a)

Open Claiming: Thoroughbred Rules

Adopted New Rule: N.J.A.C. 13:70-12.37

Adopted Amendment: N.J.A.C. 13:70-12.1

Proposed: August 3, 1987 at 19 N.J.R. 1419(a).

Adopted: September 17, 1987 by New Jersey Racing Commission, Bruce H. Garland, Director.

Filed: September 22, 1987 as R.1987 d.420, **without change.**

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

Effective Date: October 19, 1987.

Operative Date: December 26, 1987.

Expiration Date: February 25, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

13:70-12.1 Claiming races on the flat

In claiming races on the flat, other than open claiming pursuant to N.J.A.C. 13:71-14.36, any horse is subject to claim for its entered price by any owner who has started a horse on the flat at the meeting at which the claim is made and who also has been assigned stalls on a permanent basis on the premises of a licensed New Jersey racetrack, or who has been assigned stabling at an approved farm in the State of New Jersey.

13:70-12.37 Open claiming

(a) A new owner who does not have claiming privileges pursuant to N.J.A.C. 13:70-12.1 may claim a horse by obtaining an open claiming license pursuant to (b) below.

1. A new owner is defined as an individual, partnership, corporation, or any other authorized racing interest that has not held an owner's license in any racing jurisdiction during the prior calendar year.

(b) A new owner may obtain an open claiming license by complying with the following procedures:

1. The applicant shall file a completed license application on the form prescribed by the New Jersey Racing Commission and will be required to be fingerprinted and photographed at the discretion of the Commission. The applicant must pay for the cost of the fingerprint card checks consistent with the charge set by the reviewing agency which provides the fingerprint card checks according to the type of investigation requested.

2. The applicant shall deposit, with the horsemen's bookkeeper, an amount no less than the minimum claiming price, plus sales tax and any other application charges required at that race meet. Such amount shall remain on account until a claim is made. In the event the funds are withdrawn or withdrawn prior to completion of a claim, any license issued will be automatically revoked and terminated.

3. The applicant shall declare a trainer, currently licensed by the New Jersey Racing Commission, who will represent the new owner once a claim is made.

(c) Claiming privileges executed under this section shall be limited to one time during a race meet.

(d) Unless approval has been granted by the stewards to the contrary, the claimed horse must race back at that race meet.

(b)

Open Claiming: Harness Rules

Adopted New Rule: N.J.A.C. 13:71-14.36

Adopted Amendment: N.J.A.C. 13:71-14.1

Proposed: August 3, 1987 at 19 N.J.R. 1419(b).

Adopted: September 17, 1987 by Bruce H. Garland, Director, New Jersey Racing Commission.

Filed: September 22, 1987 as R.1987 d.421, **without change.**

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

Effective Date: October 19, 1987.

Operative Date: December 26, 1987.

Expiration Date: February 25, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows:

13:71-14.1 Restrictions: Claiming privileges

Claiming privileges, other than open claiming pursuant to N.J.A.C. 13:70-12.37, are restricted to those owners who have started a horse at the race meeting. Any licensed owner who has an interest in any starter shall thereafter be eligible to claim individually.

13:71-14.36 Open claiming

(a) A new owner who does not have claiming privileges pursuant to N.J.A.C. 13:71-14.1 may claim a horse by obtaining an open claiming license pursuant to (b) below.

1. A new owner is defined as an individual, partnership, corporation, or any other authorized racing interest that has not held an owner's license in any racing jurisdiction during the prior calendar year.

(b) A new owner may obtain an open claiming license by complying with the following procedures:

1. The applicant shall file a completed license application on the form prescribed by the New Jersey Racing Commission and will be required to be fingerprinted and photographed at the discretion of the Commission. The applicant must pay for the cost of the fingerprint card checks consistent with the charge set by the reviewing agency which provides the fingerprint card checks, according to the type of investigation requested.

2. The applicant shall deposit, with the horse men's bookkeeper, an amount no less than the minimum claiming price, plus sales tax and any other application charges required at that race meet. Such amount shall remain on account until a claim is made. In the event the funds are withdrawn or withdrawn prior to completion of a claim, any license issued will be automatically revoked and terminated.

3. The applicant shall declare a trainer, currently licensed by the New Jersey Racing Commission, who will represent the new owner once a claim is made.

(c) Claiming privileges executed under this section shall be limited to one time during a race meet.

(d) Unless approval has been granted by the judges to the contrary, the claimed horse must race back at that race meet.

TRANSPORTATION

TRANSPORTATION OPERATIONS

(a)

Restricted Parking and Stopping Route 17 in Bergen County

Adopted Amendment: N.J.A.C. 16:28A-1.9

Proposed: August 3, 1987, at 19 N.J.R. 1420(a).
Adopted: September 3, 1987 by John F. Dunn, Jr., Assistant
Chief Engineer, Traffic and Local Road Design.

Filed: September 15, 1987 as R.1987 d.414, **without change**.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-138(G),
39:4-199.

Effective Date: October 19, 1987.
Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

16:28A-1.9 Route 17

(a) The certain parts of State highway Route 17 described in this subsection are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-5. (No change.)

6. No stopping or standing in Rutherford Borough and Lyndhurst Township, Bergen County:

i. Along both sides:

(1) From the easterly curb line of Orient Way to the Rutherford Borough/East Rutherford Borough corporate line including all ramps and connections which are under the jurisdiction of the Commissioner of Transportation.

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

(d) The certain parts of State highway Route 17 described in the subsection shall be designated and established as "time limit parking" zones where parking is prohibited at all times except in the areas designated below. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established time limit parking zones:

1. Three hour time limit parking in Rutherford Borough and Lyndhurst Township, Bergen County:

i. Along both sides of Rutherford Avenue: Beginning at the easterly curb line of Ridge Road to the westerly curb line of Orient Way, a three-hour time limit parking, between the hours of 6:00 A.M. to 6:00 P.M. except Sundays and holidays. The area is also designated as a tow-away zone.

(b)

Restricted Parking and Stopping Routes U.S. 30 in Camden County; N.J. 45 in Salem County; and N.J. 93 in Bergen County Adopted Amendments: N.J.A.C. 16:28A-1.21, 1.31 and 1.68

Proposed: August 17, 1987 at 19 N.J.R. 1537(a).
Adopted: September 17, 1987 by John F. Dunn, Jr., Assistant
Chief Engineer, Transportation and Local Road Design.
Filed: September 18, 1987 as R.1987 d.416, **without change**.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.
Effective Date: October 19, 1987.
Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

16:28A-1.21 Route U.S. 30

(a) (No change.)

(b) The certain parts of State highway Route U.S. 30 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-20. (No change.)

21. Along the westbound (northerly) side in Waterford Township, Camden County:

i. Mid-block bus stop:

(1) Cedar Avenue—Beginning 396 feet west of the prolongation of the westerly curb line of Cedar Avenue and extending 135 feet westerly therefrom.

16:28A-1.31 Route 45

(a) (No change.)

(b) The certain parts of State highway Route 45 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-8. (No change.)

9. Along the northbound (easterly) side in Mannington Township, Salem County:

i. Near side bus stop:

(1) Route 540—Beginning at the prolongation of the northerly curb line of Route 540 and extending 135 feet northerly therefrom.

16:28A-1.68 Route 93

(a) The certain parts of State highway Route 93 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1.-2. (No change.)

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3. Along Route 93 (Grand Avenue) southbound on the westerly side in the Borough of Palisades Park, Bergen County:

i. Far side bus stops:

(1) West Edsall Boulevard—Beginning at the southerly curb line of West Edsall Boulevard, extending 110 feet southerly therefrom.

(2) West Ruby Avenue—Beginning at the prolongation of the westerly curb line of West Ruby Avenue, extending 100 feet southerly therefrom.

ii. Near side bus stops:

(1) West Central Boulevard—Beginning at the northerly curb line of West Central Boulevard, extending 110 feet northerly therefrom.

(2) West Ruby Avenue—Beginning at the northerly curb line of West Ruby Avenue, extending 110 feet northerly therefrom.

4.-6. (No change.)

(b) (No change.)

(a)

No Passing Zones

Route U.S. 130 in Salem and Gloucester Counties

Adopted New Rule: N.J.A.C. 16:29-1.67

Proposed: August 3, 1987 at 19 N.J.R. 1420(b).

Adopted: September 3, 1987, by John F. Dunn, Jr., Assistant Chief Engineer, Traffic and Local Road Design.

Filed: September 15, 1987 as R.1987 d.413, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-201.1.

Effective Date: October 19, 1987.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:29-1.67 Route U.S. 130

(a) The following certain part of State highway Route U.S. 130 shall be designated and established as "No Passing" zones.

1. That part within the Townships of Pennsville, Carney's Point, and Oldman's and the Borough of Penns Grove, Salem County and Logan Township, Gloucester County and described in drawing number HNPZ-109 dated October 29, 1986.

OAL NOTE: A copy of the referenced drawing number HNPZ-109 is on file with the Office of Administrative Law and is available for inspection at Quakerbridge Plaza, Building 9, Trenton, New Jersey.

(b)

Mid-Block Crosswalk

Route 29 in Hunterdon County

Adopted New Rule: N.J.A.C. 16:30-10.5

Proposed: August 3, 1987, at 19 N.J.R. 1421(a).

Adopted: September 3, 1987 by John F. Dunn, Jr., Assistant Chief Engineer, Traffic and Local Road Design.

Filed: September 15, 1987 as R.1987 d.412, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-34.

Effective Date: October 19, 1987.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:30-10.5 Route 29

(a) Under the provisions of N.J.S.A. 39:4-34, the certain parts of State highway Route 29 described in this section shall be designated as a mid-block crosswalk.

1. In Stockton Borough, Hunterdon County:

i. From a point 670 feet south of the southerly curb line of Bridge Street to a point 10 feet southerly therefrom.

OTHER AGENCIES

HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

(c)

Revised Fee Schedules

Adopted Amendment: N.J.A.C. 19:3-1.1, 1.2, 1.4 and 1.6

Proposed: August 17, 1987, at 19 N.J.R. 1540(a).

Adopted: September 23, 1987 by the Hackensack Meadowlands Development Commission, Vincent P. Fox, Deputy Executive Director.

Filed: September 24, 1987 as R.1987 d.422, **without change.**

Authority: N.J.S.A. 13:17-6.

Effective Date: October 19, 1987.

Expiration Date: June 19, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

19:3-1.1 Subdivision

(a) The following fees are charged for a minor subdivision:

1. \$3.00 per 100 square feet of lot area up to and including one acre.
2. \$2,000.00 for lot area over one acre up to and including five acres.
3. \$4,000.00 for lot area over five acres up to and including 40 acres.
4. \$7,000.00 for lot area over 40 acres.

(b) (No change.)

(c) Fee for preliminary plat review is charged for a major subdivision equal to:

1. \$600.00 per acre of subdivided property for the first 10 acres.
2. \$300.00 per acre of subdivided property for the next 40 acres.
3. \$150.00 per acre of subdivided property in excess of 50 acres.
4. Plus, a fee of one percent of the value of public improvements as determined by a certified estimate prepared by a New Jersey professional engineer is charged to cover the cost of inspections.

(d) A fee of \$500.00 is charged for final plat approval of any major subdivisions.

(e) A fee of \$1,200.00 is charged for each specific waiver request.

19:3-1.2 Zoning

(a) Zoning fees are as follows:

1. A fee of \$5.00 per 100 square feet of floor area or a minimum fee of \$500.00 is charged for a zoning certificate for a new building and a minimum fee of \$50.00 for additions;
2. A fee of \$50.00 plus \$1.00 per square foot of sign area is charged for sign reviews;
3. A fee of \$200.00 is charged for tank reviews;
4. A fee of \$100.00 is charged for review of fences;
5. A fee of \$200.00 is charged for retail/warehouse sales reviews;
6. A fee of \$500.00 is charged for the review of site improvements;
7. A fee of \$1,200.00 is charged per special exception, \$1,500.00 for each use variance request, and \$1,200.00 for each other variance;
8. A fee of \$3,000.00 is charged for the review of rezoning requests.

(b) Specially planned areas fees are as follows:

1. Initial General plan: \$100,000; each revised general plan: \$25,000.
2. Initial Development plan: \$50,000; each revised development plan: \$10,000.
3. Initial Implementation plan: \$50,000; each revised or individual implementation plan: \$10,000.
4. \$5,000 per variation request.
5. (No change.)

19:3-1.4 Occupancy

(a) No fee is charged in cases where a building permit or Certificate of Compliance fee in excess of the minimum fee imposed for a Certificate of Occupancy or a Certificate of Completion has been paid.

(b) The fee for a Certificate of Occupancy or a Certificate of Completion is \$500.00.

(c) The fee for a Zoning Certificate or Occupancy Certificate for trailers and/or guardhouses is \$500.00.

19:3-1.6 General provisions

(a) This fee schedule shall not be applicable to the Federal, State, county or municipal government, or any instrumentality or agency thereof. Any fee, or portion thereof, provided for herein, may be waived by the Executive Director upon recommendation of the chief engineer upon good cause shown.

(b) (No change.)

(c) A full refund of fees may be made by the Executive Director provided that a written request to withdraw the application is received before the close of the second working day after receipt of the same.

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

(f) This Fee Schedule shall not be applicable to applications for one and two family homes in the District. Such applications shall be reviewed in accordance with the Fee Schedule adopted January 25, 1983.

CASINO CONTROL COMMISSION

(a)

Gaming Schools

Minimum Hours of Training

Adopted Amendment: N.J.A.C. 19:44-8.3

Proposed: November 17, 1986 at 18 N.J.R. 2322(a).

Adopted: September 23, 1987 by the Casino Control

Commission, Walter N. Read, Chairman.

Filed: September 25, 1987 as R.1987 d.424, **without change.**

Authority: N.J.S.A. 5:12-63(c) and 5:12-69.

Effective Date: October 19, 1987.

Expiration Date: October 13, 1988.

Summary of Public Comments and Agency Responses:

COMMENT: Comments were submitted by the Division of Gaming Enforcement, Trump's Castle, Greate Bay Hotel and Casino and the Atlantic City Casino Association. Specifically, the comments address the increase in training hours required to deal the game of Minibaccarat for individuals licensed in both Baccarat and Blackjack. The general consensus is that these individuals should not require five hours of formal training to learn Minibaccarat. It is believed that minimum or alternate training (for example, managerial advisories) would suffice. In addition, Trump's Castle and Greate Bay Hotel and Casino object to the proposed increase in minimum hours throughout the proposed amendment.

RESPONSE: The Commission has rejected the comments because it believes dealing schools, through their unbiased observations and testing methods, can prepare a student to deal the game of Minibaccarat. Minimum or alternate training would not allow for the effective monitoring of each individual's dealing capabilities. Furthermore, Casino Control staff has been informed by the Casino Career Institute that upon review of the class evaluation results, fifty three percent of the first eighty plus Minibaccarat graduating students indicated that the five hours of training was inadequate. It should be noted that an additional increase in training hours is not being proposed since, in order to become licensed in Minibaccarat, an individual must successfully pass his or her exam. If such individual fails said exam, additional training hours determined by the dealing schools will be required.

Full text of the adoption follows.

19:44-8.3 Minimum hours

(a) Any training or instruction designed to prepare a student for employment as a dealer of roulette, blackjack, baccarat, minibaccarat or craps shall satisfy the following minimum requirements:

1. For a student being trained to deal his first game the following minimum hours of training and instruction shall be required:

- i. 160 hours to prepare a student to deal blackjack;
- ii. 208 hours to prepare a student to deal baccarat and minibaccarat;
- iii. 200 hours to prepare a student to deal roulette; and
- iv. 240 hours to prepare a student to deal craps.

2. For a student being trained to deal his second or subsequent game the following minimum hours of training and instruction shall be required:

- i. For a student who has been trained to deal blackjack;
 - (1) 180 hours to prepare him to deal craps;
 - (2) 120 hours to prepare him to deal roulette; and
 - (3) 85 hours to prepare him to deal baccarat and minibaccarat.
- ii. For a student who has been trained to deal roulette:
 - (1) 180 hours to prepare him to deal craps;
 - (2) 80 hours to prepare him to deal blackjack; and
 - (3) 88 hours to prepare him to deal baccarat and minibaccarat.

- iii. For a student who has been trained to deal craps:
 - (1) 120 hours to prepare him to deal roulette;
 - (2) 80 hours to prepare him to deal blackjack; and
 - (3) 88 hours to prepare him to deal baccarat and minibaccarat.

- iv. For a student who has been trained to deal baccarat:
 - (1) 180 hours to prepare him to deal craps;
 - (2) 120 hours to prepare him to deal roulette;
 - (3) 80 hours to prepare him to deal blackjack; and
 - (4) 10 hours to prepare him to deal minibaccarat.

3. For a student who has been trained to deal blackjack and baccarat, five hours shall be required to prepare him to deal minibaccarat.

- (b) (No change.)

(b)

ACCOUNTING AND INTERNAL CONTROL

Gaming Equipment

Rules of the Game

Notice of Correction: N.J.A.C. 19:46-1.12

Take notice that an error appears in the October 5, 1987 issue of the New Jersey Register at 19 N.J.R. 19:46-1.12 concerning Baccarat and minibaccarat tables; physical characteristics. N.J.A.C. 19:46-1.12 should have appeared as follows:

19:46-1.12 Baccarat and minibaccarat tables; physical characteristics

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

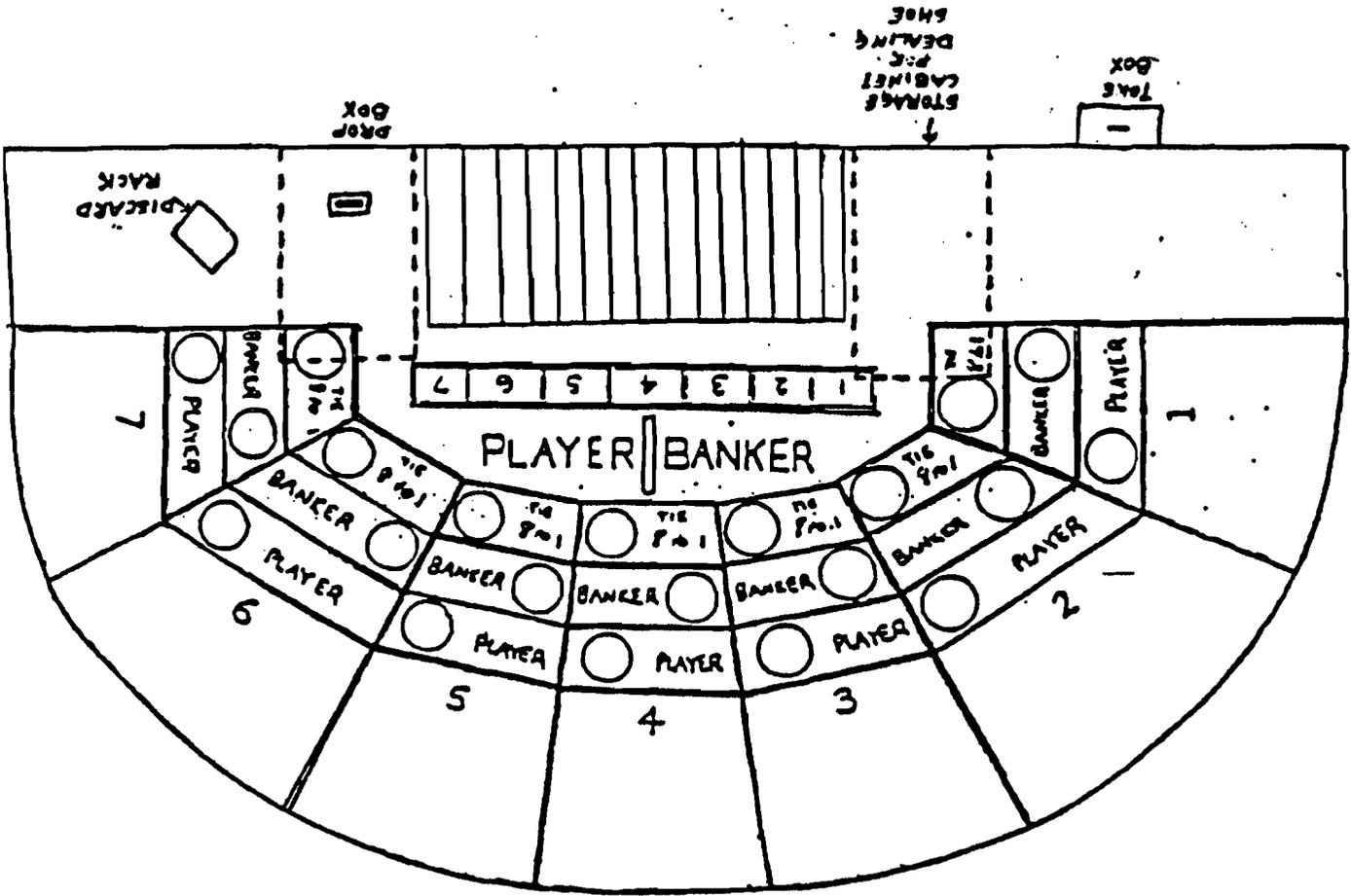
(c) Minibaccarat shall be played at a table having on one side places for the participants, and on the opposite side a place for the dealer.

1.-3. (No change.)

4. 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 proposed new minibaccarat table published as part of the proposal has not been adopted. The current seven player minibaccarat table layout will be retained. The following diagram depicts the current seven player minibaccarat table:

NEW JERSEY REGISTER, MONDAY, OCTOBER 19, 1987



EMERGENCY ADOPTION

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

Food Stamp Program

Increased Income Deductions and Maximum Coupon Allotments

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 10:87-12.1 and 12.2

Emergency Amendment Adopted: September 10, 1987 by

Drew Altman, Commissioner, Department of Human Services.
Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): October 1, 1987.
Emergency Amendment Filed: October 1, 1987 as R.1987 d.431.

Authority: N.J.S.A. 30:4B-2; the Food Stamp Act of 1977 as amended (7 USC 2014); 7 CFR 273.9(d)(6), (7), and (8); 7 CFR 273.10(e)(4); and P.L. 100.77.

Emergency Amendment Effective Date: October 1, 1987.

Emergency Amendment Operative Date: October 1, 1987.

Emergency Amendment Expiration Date: November 30, 1987.

Concurrent Proposal Number: PRN 1987-444.

Submit comments to:

Marion E. Reitz, Acting Director
Division of Public Welfare
CN 716
Trenton, New Jersey 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.5). Concurrently, the provisions of this emergency amendment are being proposed for adoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The re-adopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.5(d)).

The agency emergency adoption and concurrent proposal follows:

Summary

The Department of Human Services is required by the Food Stamp Act of 1977, as amended and Federal regulations to revise maximum coupon allotments (7 CFR 273.10(e)(4)) and increase the standard deduction (7 CFR 273.9(d)(7)) and the shelter deduction (7 CFR 273.9(d)(8)) to reflect the annual Federal adjustment of those amounts which takes into account changes in the cost of living.

The standard deduction is being increased to \$102.00. The maximum shelter deduction is being increased to \$164.00 for new applicants and for households recertified for program participation effective for October 1, 1987 or later. The maximum shelter deduction will increase to \$152.00 on October 1, 1987 for participating households whose certification periods began before October 1 and will remain at that level until the household is recertified at which time their maximum shelter deduction will increase to \$164.00. These changes in the shelter deduction amounts reflect provisions required by P.L. 100-77.

Additionally, the Department is updating the uniform telephone allowance to \$13.80 and adjusting the utility allowances (7 CFR 273.9(d)(6)) to reflect a small increase, over the past 12 months, in the average cost of services, fuel and utilities. The heating utility allowance (HUA), which can be utilized by households who are responsible for their heating costs, is \$169.00. The standard utility allowance (SUA), which is for use by

households that are not responsible for their heating costs but who are responsible for a major utility expense, is \$103.00. These are annualized amounts and will be effective through September 1988.

Social Impact

The increase in the standard deduction, shelter deduction, uniform telephone allowance, utility allowances and maximum coupon allotments will result in an increase in the amount of food stamp benefits households are entitled to receive.

Both the annualized SUA and HUA are being amended to reflect a slight increase in the average cost of services, fuels and utilities. It should, however, be noted that households having utility expenses in excess of the SUA or HUA may elect to have actual expenses used in the eligibility and benefit computation.

Economic Impact

The net effect of the increase in the standard deduction, shelter deduction, uniform telephone allowance, annualized utility allowances and maximum coupon allotments will be an increase in benefits for food stamp recipients.

These changes will not have a significant adverse impact on the Department and local agencies administering the program but will bring additional Federal funds into the State for those households participating in this federally funded program.

Regulatory Flexibility Statement

This rulemaking has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. This action imposes no compliance requirements on small businesses, as the Food Stamp Program is administered by county welfare agencies, therefore, a regulatory flexibility analysis is not required.

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

10:87-12.1 Income deduction table

TABLE I
Income Deductions

Standard Deduction	[\$99.00] \$102.00
Shelter Deduction	[\$149.00] \$152.00
(for households certified prior to October 1, 1987)	
Shelter Deduction	\$164.00
(for households certified or recertified effective October 1, 1987 or later)	
[Dependent Care Deduction (elderly/disabled)]	\$149.00]
Dependent Care Deduction [(nonelderly/nondisabled)]	\$160.00
Uniform Telephone Allowance	[\$13.20] \$13.80
Standard Utility Allowance	[\$101.00] \$103.00
Heating Utility Allowance	[\$168.00] \$169.00

10:87-12.2 Maximum coupon allotment table

TABLE II
Maximum Coupon Allotment (MCA)

Household Size		MCA
1	[\$81]	87
2	[149]	159
3	[214]	228
4	[271]	290
5	[322]	344
6	[387]	413
7	[428]	457
8	[489]	522
9	[550]	587
10	[611]	652
Each Additional Member	[+61]	+65

NEW JERSEY REGISTER, MONDAY, OCTOBER 19, 1987

MISCELLANEOUS NOTICES

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Special Hearing Rules

Department of Community Affairs Council on Affordable Housing Hearings

Notice of Correction: N.J.A.C. 1:5-1.1

Take notice that an error appears in the New Jersey Administrative Code and the October 20, 1986 issue of the New Jersey Register at 18 N.J.R. 2122(a) concerning Department of Community Affairs Council on Affordable Housing Hearings. N.J.A.C. 1:5-1.1, in the Code and New Jersey Register, should read as follows:

1:5-1.1 Applicability

(a) The rules in subchapters 10, 12, 13 and 18 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)-(c) (No change in text.)

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF WATER RESOURCES

Amendment to the Upper Delaware Water Quality Management Plan

Public Notice

Take notice that an amendment to the Upper Delaware Water Quality Management (WQM) Plan has been submitted for approval. This amendment would allow the adoption of a Wastewater Management Plan for Knowlton Township, Warren County. The Wastewater Management Plan allows for the construction of an on-site groundwater disposal wastewater treatment facility to serve the proposed Knowlton Village Greens project and designates on-site groundwater disposal areas to allow for facilities serving other Planned Residential Recreational Developments. The failing septic system of Truckstops of America will be replaced with a wastewater treatment facility. With the exception of the Department of Transportation treatment facility, all remaining areas of the Township will be served by individual on-site septic systems.

This notice is being given to inform the public that a plan amendment has been developed for the Upper Delaware WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Resources Management Planning, 401 East State Street, 3rd Floor, CN-029, Trenton, New Jersey 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 Water Resources Management Planning, 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)

COMMISSION ON RADIATION PROTECTION

Therapeutic Installations

Notice of Correction: N.J.A.C. 7:28-14.3

Take notice that an error appears in the July 6, 1987 New Jersey Register at 19 N.J.R. 1200 concerning 7:28-14.3, Therapeutic x-ray systems with energies less than one MeV. N.J.A.C. 7:28-14.3 as adopted should have appeared as follows:

7:28-14.3 Therapeutic x-ray systems with energies less than one MeV

(a) Equipment requirements for therapeutic x-ray systems with energies less than one MeV are as follows:

i. Leakage radiation shall be measured under conditions which provide maximum leakage radiation, the leakage radiation shall not exceed the value specified at the distance specified for the classification of that x-ray system. Compliance shall be determined by measurements averaged over an area of 100 square centimeters. Measurement shall be performed at installation and whenever the tube is changed. Measurement shall be performed at least once every five years;

i. (No change in text.)

ii. For 0-150 kVp Systems which are installed prior to *[January]* *October* 1, 1987, leakage radiation shall not exceed one roentgen in one hour at one meter from the target;

iv.-vi. (No change.)

2.-11. (No change in text.)

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

HIGHER EDUCATION

(d)

HIGHER EDUCATION ASSISTANCE

Student Loans: Procedures and Policies

Notice of Correction: N.J.A.C. 9:9-7.3

Take notice that an error appears in the New Jersey Administrative Code at N.J.A.C. 9:9-7.3 concerning Eligible limitations, suspension or termination. The adoption of N.J.A.C. 9:9-7.3 became effective upon publication in the October 3, 1983 issue of the New Jersey Register at 15 N.J.R. 1663(b). N.J.A.C. 9:9-7.3 should appear in the Code as follows:

9:9-7.3 Eligible limitations, suspension or termination

(a) The following procedures shall be utilized by the Authority in limiting, suspending or terminating a school's eligibility to act as a school lender pursuant to N.J.A.C. 9:9-7.2:

1. (No change in text.)

2. When guaranteed student loan problems appear sufficient to merit a formal review by the Authority of continuing or modified school eligibility, the director of the Authority may impose a suspension of new loan guarantees against the school or program in question, pending a formal review of the school's eligibility at the next regularly scheduled meeting of the Authority; provided, however, that no period of suspension shall exceed 60 days unless the school and the director of the Authority agree to an extension or unless limitation or termination proceedings are initiated by the Authority within that period of time. The notice of suspension shall be provided by the director of the Authority to the school in written form with the reasons therefor and date of the Authority's formal review of the school's eligibility. Schools must arrange for an appearance before the authority to show cause why the suspension should be lifted.

3. (No change in text.)

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

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 September 8, 1987 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.1987 d.1 means the first rule adopted in 1987.

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: AUGUST 17, 1987.

NEXT UPDATE WILL BE DATED SEPTEMBER 21, 1987.

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
18 N.J.R. 2069 and 2148	October 20, 1986	19 N.J.R. 673 and 794	May 4, 1987
18 N.J.R. 2149 and 2234	November 3, 1986	19 N.J.R. 795 and 898	May 18, 1987
18 N.J.R. 2235 and 2344	November 17, 1986	19 N.J.R. 899 and 1006	June 1, 1987
18 N.J.R. 2345 and 2408	December 1, 1986	19 N.J.R. 1007 and 1120	June 15, 1987
18 N.J.R. 2409 and 2472	December 15, 1986	19 N.J.R. 1121 and 1258	July 6, 1987
19 N.J.R. 1 and 164	January 5, 1987	19 N.J.R. 1259 and 1352	July 20, 1987
19 N.J.R. 165 and 260	January 20, 1987	19 N.J.R. 1353 and 1474	August 3, 1987
19 N.J.R. 261 and 324	February 2, 1987	19 N.J.R. 1475 and 1588	August 17, 1987
19 N.J.R. 325 and 392	February 17, 1987	19 N.J.R. 1589 and 1676	September 8, 1987
19 N.J.R. 393 and 430	March 2, 1987	19 N.J.R. 1677 and 1758	September 21, 1987
19 N.J.R. 431 and 476	March 16, 1987	19 N.J.R. 1759 and 1858	October 5, 1987
19 N.J.R. 477 and 586	April 6, 1987	19 N.J.R. 1859 and 1926	October 19, 1987
19 N.J.R. 587 and 672	April 20, 1987		

J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
:1-8.2	De novo review by OAL and previous hearing record	19 N.J.R. 1761(a)		
:1-9.1	Scheduling of prehearing conferences	19 N.J.R. 1591(a)		
:1-14.4	Failure to appear at proceeding	19 N.J.R. 1591(b)		
:1-14.5	Ex parte communications and agency heads	19 N.J.R. 1761(b)		
:1-14.10	Decision to grant requests for interlocutory review where agency head is board or commission	19 N.J.R. 1591(c)		
:1-14.10, 18.1, 18.4	Interlocutory review of certain issues	19 N.J.R. 1592(a)		
:1-19.1	Settlement terms and consent of agency head	19 N.J.R. 1593(a)		
:1-21.6	Exceptions in uncontested cases	19 N.J.R. 1593(b)		
:5-1.1	Council on Affordable Housing hearings: correction			19 N.J.R. 1917(a)
:30-1.2, 2.8	Use of appendices	19 N.J.R. 675(a)		

(TRANSMITTAL 1987-3, dated August 17, 1987)

AGRICULTURE—TITLE 2				
:71-2.4, 2.5, 2.6	"Jersey Fresh" raspberry standards	19 N.J.R. 1593(c)		
:71-2.28	Fees for grading of fruits and vegetables	19 N.J.R. 901(a)	R.1987 d.354	19 N.J.R. 1641(a)
:76-5.3, 5.8	Cost-share funding of soil and water conservation projects	19 N.J.R. 1123(a)	R.1987 d.427	19 N.J.R. 1892(a)
:76-7	Review of nonagricultural development projects in agricultural areas	19 N.J.R. 1009(a)		

(TRANSMITTAL 1987-5, dated July 20, 1987)

BANKING—TITLE 3				
:1-14	Revolving credit equity loans	19 N.J.R. 1594(a)		
:2-1.1, 1.2, 1.3, 1.4	Advertising by financial institutions	19 N.J.R. 1355(a)		
:6-4	Banks and savings banks: action upon detection or discovery of crime	19 N.J.R. 1595(a)		
:6-9	Capital stock savings bank: change in control	19 N.J.R. 1762(a)		
:10-8, 9	Banks and savings banks: mortgage loan practices	19 N.J.R. 1356(a)		
:11-7.10	Borrowing limitation of director or executive officer	19 N.J.R. 1124(a)	R.1987 d.369	19 N.J.R. 1641(b)
:11-12	Commercial loans by savings banks	19 N.J.R. 1679(b)		
:27-6, 7	Savings and loan associations: mortgage loan practices	19 N.J.R. 1358(a)		
:38	Mortgage bankers and brokers	19 N.J.R. 1261(a)	R.1987 d.396	19 N.J.R. 1791(a)
:38-4, 5, 7	Mortgage bankers and brokers: loan practices	19 N.J.R. 1360(a)		

(TRANSMITTAL 1987-4, dated August 17, 1987)

PERSONNEL (CIVIL SERVICE)—TITLE 4				
:1-1, 2, 3, 4	Repeal (see 4A:1)	19 N.J.R. 1011(a)	R.1987 d.406	19 N.J.R. 1827(a)
:1-5, 13.6, 13.7, 16.7-16.12, 16.14, 23	Repeal (see 4A:2)	19 N.J.R. 1013(a)	R.1987 d.407	19 N.J.R. 1827(a)
:1-10.3	Repeal (see 4A:5)	19 N.J.R. 1018(a)	R.1987 d.404	19 N.J.R. 1827(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
4:1-16.1-16.6, 24.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		
4:1-17, 18, 20, 26	Repeal (see 4A:6-1, 2, 3, 4, 5)	19 N.J.R. 1764(a)		
4:1-19, 21.1, 21.3-21.5	Repeal (see 4A:10)	19 N.J.R. 1366(a)		
4:1-21.2, 21.6	Repeal (see 4A:7)	19 N.J.R. 1020(a)	R.1987 d.403	19 N.J.R. 1827(a)
4:2-16.1, 16.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		
4:2-16.4, 16.5, 23	Repeal (see 4A:2)	19 N.J.R. 1013(a)	R.1987 d.407	19 N.J.R. 1827(a)
4:2-17, 18, 20, 26	Repeal (see 4A:6-1, 2, 3, 4, 5)	19 N.J.R. 1764(a)		
4:2-21.1-21.6	Repeal (see 4A:7)	19 N.J.R. 1020(a)	R.1987 d.403	19 N.J.R. 1827(a)
4:3-16.1, 16.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		
4:3-16.3, 16.4	Repeal (see 4A:2)	19 N.J.R. 1013(a)	R.1987 d.407	19 N.J.R. 1827(a)
4:3-17, 20	Repeal (see 4A:6-1, 2, 3, 4, 5)	19 N.J.R. 1764(a)		
4:3-19	Repeal (see 4A:10)	19 N.J.R. 1366(a)		
4:3-21.1, 21.2	Repeal (see 4A:7)	19 N.J.R. 1020(a)	R.1987 d.403	19 N.J.R. 1827(a)
4:4	Repeal (see 4A:6-6)	19 N.J.R. 1774(a)		
4A:1	General rules and department organization	19 N.J.R. 1011(a)	R.1987 d.406	19 N.J.R. 1827(a)
4A:2	Appeals, discipline and separations	19 N.J.R. 1013(a)	R.1987 d.407	19 N.J.R. 1827(a)
4A:5	Veterans and disabled veterans preference	19 N.J.R. 1018(a)	R.1987 d.404	19 N.J.R. 1827(a)
4A:6-1, 2, 3, 4, 5	Leaves, hours of work, employee development	19 N.J.R. 1764(a)		
4A:6-6	Awards Program	19 N.J.R. 1774(a)		
4A:7	Equal employment opportunity and affirmative action	19 N.J.R. 1020(a)	R.1987 d.403	19 N.J.R. 1827(a)
4A:8	Layoffs	19 N.J.R. 1363(a)		
4A:9-1	Political subdivisions	19 N.J.R. 1022(a)	R.1987 d.405	19 N.J.R. 1827(a)
4A:10	Violations and penalties	19 N.J.R. 1366(a)		

(TRANSMITTAL 1987-2, dated July 20, 1987)

COMMUNITY AFFAIRS—TITLE 5

5:4-2	Debarment and suspension from contracting	19 N.J.R. 1261(b)	R.1987 d.389	19 N.J.R. 1791(b)
5:11-1.2, 2.1	Relocation assistance: lawful occupancy; eligibility	19 N.J.R. 1596(a)		
5:12-1.1, 2.1, 2.4	Homelessness Prevention Program: eligibility for temporary assistance	19 N.J.R. 1777(a)		
5:14-1.1-1.4, 2.1-2.3, 3.1-3.23, 4.1-4.6	Neighborhood Preservation Balanced Housing Programs	19 N.J.R. 589(a)		
5:18-2.4, 2.5, 2.6, 2.8	Uniform Fire Code: life hazard uses; annual registration fees	19 N.J.R. 1680(a)		
5:18-4.1	Fire Safety Code: exemption of one and two family residences	19 N.J.R. 1263(a)	R.1987 d.388	19 N.J.R. 1792(a)
5:18-4.7, 4.9	Fire safety in boarding homes, day nurseries, hotels and motels	19 N.J.R. 1023(a)	R.1987 d.373	19 N.J.R. 1720(a)
5:19	Continuing care retirement communities: disclosure requirements	19 N.J.R. 597(a)		
5:23-1.1, 3.10, 4.40, 5.2, 5.4, 5.18, 5.20, 5.21-5.26	UCC: local agency classification: appeal boards; licensing	19 N.J.R. 1264(a)		
5:23-2.38, 3.11, 7.2, 7.3, 7.100-7.116	Barrier free subcode: recreation standards	19 N.J.R. 1270(a)		
5:23-3.2	Uniform Construction Code: commercial farm buildings	19 N.J.R. 1778(a)		
5:23-3.2, 3.4, 3.8A, 3.14, 3.15, 3.16, 3.17, 3.20, 3.21, 4.16	Uniform Construction Code: subcodes	19 N.J.R. 1024(a)	R.1987 d.374	19 N.J.R. 1720(b)
5:23-3.18, 6.1-6.3	Energy subcode: solar energy property tax exemptions	19 N.J.R. 433(b)	R.1987 d.387	19 N.J.R. 1793(a)
5:23-4.5	UCC enforcement: conflict of interest—withdrawal of proposal	19 N.J.R. 1033(a)		
5:23-4.20, 8.17	Uniform Construction Code: inspection fees	19 N.J.R. 1684(a)		
5:23-8	Asbestos Hazard Abatement Subcode	19 N.J.R. 902(a)		
5:26-2.3, 2.4	Planned real estate development: plan review fees	19 N.J.R. 1684(a)		
5:80-3	Housing and Mortgage Finance: return on equity for housing sponsors	19 N.J.R. 1125(a)	R.1987 d.384	19 N.J.R. 1724(a)
5:80-21	Housing and Mortgage Finance: single family loans	18 N.J.R. 2238(a)		
5:80-22	Affirmative Fair Housing Marketing Plan	19 N.J.R. 798(a)	R.1987 d.385	19 N.J.R. 1725(a)
5:80-26	Housing resale and rental affordability control	19 N.J.R. 802(a)		
5:92-5.14, 12.11	Council on Affordable Housing: low and moderate income split; rental surcharge	19 N.J.R. 1597(a)		
5:100-2.5	Failure to report suspected abuse or exploitation of institutionalized elderly	19 N.J.R. 1686(a)		

(TRANSMITTAL 1987-6, dated August 17, 1987)

DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
EDUCATION—TITLE 6				
6:8-7.1	High school proficiency standards and handicapped pupils	19 N.J.R. 1033(b)	R.1987 d.358	19 N.J.R. 1641(c)
6:20-3.1	Sending and receiving districts: determining tuition rates	19 N.J.R. 1598(a)		
6:28-3.6, 4.4	High school proficiency standards and handicapped pupils	19 N.J.R. 1033(b)	R.1987 d.358	19 N.J.R. 1641(c)
6:31-1	Bilingual education	19 N.J.R. 1126(a)		
6:39-1.5	High school proficiency standards and handicapped pupils	19 N.J.R. 1033(b)	R.1987 d.358	19 N.J.R. 1641(c)
6:46	Area Vocational Technical and Private Schools: waiver of Executive Order No. 66 (1978) sunset provision	18 N.J.R. 1996(b)		
6:46	Local area vocational school districts and private vocational schools	19 N.J.R. 1368(a)		
6:68-1.4	State library aid to municipalities	19 N.J.R. 1128(a)	R.1987 d.398	19 N.J.R. 1796(a)
6:79-1	Child nutrition programs	19 N.J.R. 1599(a)		

(TRANSMITTAL 1987-7, dated August 17, 1987)

ENVIRONMENTAL PROTECTION—TITLE 7				
7:1-3, 4	Environmental Cleanup Responsibility Act rules	19 N.J.R. 681(a)		
7:1A	Water Supply Bond Loan Program: extension of comment period	19 N.J.R. 806(b)		
7:1G-2.1, 2.2, 4.1, 4.2, 5.4	Worker and Community Right to Know: hazardous substances and materials	19 N.J.R. 438(a)		
7:1G-3.2, 5.2, 7	Worker and Community Right to Know: assessment of civil administrative penalties for nondisclosure of information	19 N.J.R. 703(a)		
7:2-11	Natural Areas System	18 N.J.R. 2349(b)		
7:7-2.1, 2.3	Coastal Permit Program: CAFRA exemptions; waterfront development	19 N.J.R. 807(a)		
7:7-2.2	Monmouth County wetlands maps	18 N.J.R. 2162(a)		
7:7E-7.4, 8.11	Coastal resources and development: high rise structures; public access to Hudson River waterfront	19 N.J.R. 1034(a)		
7:8-1.3, 1.7, 2.1, 2.2, 2.6, 3.4, 3.6	Stormwater management	19 N.J.R. 488(a)		
7:9-13	Sewer connection bans	18 N.J.R. 2163(a)		
7:9-13	Sewer connection ban: extension of comment period	19 N.J.R. 263(b)		
7:9-15.6	Phase II lake restoration projects: State funding level	19 N.J.R. 909(a)		
7:10-10.2, 11.2, 15	Safe Drinking Water Program fees	19 N.J.R. 1381(a)		
7:11-1	Use of Water Supply Authority property	19 N.J.R. 1274(a)		
7:12	Classification of shellfish growing waters	19 N.J.R. 1129(a)		
7:13-7.1(d)	Redelineation of Raritan River and Peters Brook: re-proposed	19 N.J.R. 167(b)		
7:13-7.1(d)	Flood plain delineations in Passaic-Hackensack and Raritan basins	19 N.J.R. 489(a)		
7:13-7.1(d)	Flood hazard redelineation of Raritan River	19 N.J.R. 1277(a)	R.1987 d.400	19 N.J.R. 1797(a)
7:13-7.1(d)	Redelineations along Green Brook, Union County	19 N.J.R. 1384(a)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System	18 N.J.R. 2085(a)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System: comment period extended	18 N.J.R. 2411(a)		
7:14A-1.9, 12	Sewer connection bans	18 N.J.R. 2163(a)		
7:14A-1.9, 12	Sewer connection bans: extension of comment period	19 N.J.R. 263(b)		
7:14B	Underground storage tanks	19 N.J.R. 1477(a)		
7:22-3.4, 3.6-3.11, 3.13, 3.32, 4.4, 4.6-4.11, 4.13, 4.32, 5.11	Wastewater Treatment Financing Program	19 N.J.R. 1600(a)		
7:22-9	Wastewater treatment: contract awards to small, female, and minority-owned businesses	19 N.J.R. 1604(a)		
7:25-6	1988-99 Fish Code	19 N.J.R. 1385(a)		
7:25-18.5	Drifting and anchored gill net seasons; netting mesh in staked gill net fishery	19 N.J.R. 1609(a)		
7:26-1.1, 1.4, 1.6, 2.1, 7.5, 8.1, 8.2, 8.13, 8.15, 9.1, 10.7, 11.5, 11.6, 12.1, 12.3	Solid waste defined; hazardous waste recycling	19 N.J.R. 1035(a)		
7:26-1.10	Master performance permits for transfer station facilities	19 N.J.R. 1242(a)	R.1987 d.372	19 N.J.R. 1730(a)
7:26-2.13	Solid waste facilities: recordkeeping	19 N.J.R. 171(a)		
7:26-3.2, 3.4	Compliance with designated truck routes by solid waste registrants and operators	19 N.J.R. 1610(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Hunterdon, Morris, Ocean and Warren counties	19 N.J.R. 1142(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:26-6.5	Interdistrict and intradistrict solid waste flow: Cumberland and Gloucester counties	19 N.J.R. 1481(a)		
7:26-8.13, 8.15, 8.16	Hazardous waste criteria	19 N.J.R. 1278(a)		
7:26-8.19, 10.6	Hazardous waste management: approval of alternate test methods; surface impoundments	19 N.J.R. 1482(a)		
7:26-9.1, 9.3, 10.4, 10.8, 11.4, 12.1, 12.2	Hazardous waste management	18 N.J.R. 2356(a)		
7:26-9.1, 9.3, 10.4, 10.8, 11.4, 12.1, 12.2	Hazardous waste management: extension of comment period	19 N.J.R. 263(c)		
7:26-12.2	Hazardous waste facilities: application signatories	19 N.J.R. 11(b)		
7:26-14.1, 14A	Resource Recovery and Solid Waste Disposal Facility Loans	19 N.J.R. 828(a)		
7:26-15	Recycling Grants and Loans Program	18 N.J.R. 2358(a)		
7:26B	Environmental Cleanup Responsibility Act rules	19 N.J.R. 681(a)		
7:27-16.1, 16.3	Air pollution control: Stage II vapor recovery	18 N.J.R. 1867(a)	Expired	
7:28-3	Registration of ionizing radiation-producing machines and radioactive materials	19 N.J.R. 836(a)		
7:28-4	Naturally-occurring and accelerator-produced radioactive materials: handling and use	19 N.J.R. 1041(a)		
7:28-5	Designation of controlled areas for use of radiation and radioactive materials	19 N.J.R. 839(a)		
7:28-14.3	Therapeutic x-ray systems: correction	_____	_____	19 N.J.R. 1917(c)
7:29B	Determination of noise from stationary sources	19 N.J.R. 1483(a)		
7:31-1, 2, 3, 4	Toxic Catastrophe Prevention Act program	19 N.J.R. 1687(a)		
7:30	Pesticide Control Code	19 N.J.R. 1611(a)		
7:50	Pinelands Comprehensive Management Plan	18 N.J.R. 2239(a)		
7:50	Pinelands Comprehensive Management Plan: public hearings	18 N.J.R. 2411(b)		

(TRANSMITTAL 1987-8, dated August 17, 1987)

HEALTH—TITLE 8

8:2-1	Birth certificates	18 N.J.R. 2278(a)		
8:2-1	Birth certificates: extension of comment period	19 N.J.R. 264(a)		
8:2-1	Birth certificates: proposal withdrawn	19 N.J.R. 1483(b)		
8:13	Processing and handling of shellfish; depuration of soft shell clams	19 N.J.R. 1143(a)	R.1987 d.362	19 N.J.R. 1642(a)
8:20-1.2	Reportable birth defects	19 N.J.R. 909(b)	R.1987 d.361	19 N.J.R. 1642(b)
8:31-26.3, 26.4	Home health agencies: employee physicals; child abuse and neglect	18 N.J.R. 2283(a)		
8:31B-3.7, 3.17, 3.27, 3.51, 3.55, 3.73, 4.42	Hospital reimbursement for existing capital indebtedness	19 N.J.R. 1145(a)		
8:31B-3.22, 3.31, 3.51	Hospital reimbursement: graduate medical education	19 N.J.R. 605(a)	R.1987 d.402	19 N.J.R. 1797(b)
8:31B-3.24, 3.51, 3.71, 3.73	Hospital reimbursement: indirect costs	19 N.J.R. 1147(a)		
8:31B-3.38	Apportionment of full financial elements	19 N.J.R. 1279(a)		
8:31B-3.41, 4.15, 4.38, 4.39	Hospital reimbursement: uncompensated care	18 N.J.R. 2283(b)		
8:31B-3.73, App. IX	Hospital reimbursement: cost/volume methodology	18 N.J.R. 2284(a)		
8:31B-3.73, App. IX	Hospital reimbursement: correction to cost/volume methodology	19 N.J.R. 264(b)		
8:33-1.5, 2.7, 2.8, 4.15	Certificate of Need review process: batching	19 N.J.R. 1280(a)	R.1987 d.415	19 N.J.R. 1892(b)
8:33E-1.1, 1.2, 1.3	Certificate of Need: cardiac diagnostic facilities	19 N.J.R. 1282(a)		
8:33E-2.2, 2.3, 2.4	Certificate of Need: cardiac surgery centers	19 N.J.R. 1283(a)		
8:33G-3.11	Long-term care beds for former psychiatric hospital patients	19 N.J.R. 614(a)		
8:33H-2.1, 3.1, 3.3, 3.5	"Specialized" long-term care; licensure track records; location of residential health care facilities	19 N.J.R. 1149(a)		
8:33L	Home Health Agency Policy Manual: Certificate of Need review	19 N.J.R. 1483(c)		
8:65-7.14	Controlled substances: Schedule III and IV prescription refills	19 N.J.R. 1612(a)		
8:71	Generic drug additions (see 19 N.J.R. 116(c), 217(a), 640(b), 881(a), 1315(a))	18 N.J.R. 1775(a)	R.1987 d.366	19 N.J.R. 1644(c)
8:71	Interchangeable drug products (see 19 N.J.R. 215(a))	18 N.J.R. 2100(a)		
8:71	Interchangeable drug products (see 19 N.J.R. 216(a))	18 N.J.R. 2101(a)		
8:71	Interchangeable drug products (see 19 N.J.R. 641(a), 880(a), 1314(a))	19 N.J.R. 13(a)	R.1987 d.365	19 N.J.R. 1644(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:71	Interchangeable drug products (see 19 N.J.R. 1312(b))	19 N.J.R. 615(a)	R.1987 d.364	19 N.J.R. 1644(a)
8:71	Interchangeable drug products: public hearing	19 N.J.R. 1488(a)		

(TRANSMITTAL 1987-7, dated August 17, 1987)

HIGHER EDUCATION—TITLE 9

9:1-7	Fraudulent academic degrees	19 N.J.R. 1284(a)		
9:2-8	Petitions for rulemaking	19 N.J.R. 913(a)		
9:6A	State college personnel system	19 N.J.R. 1613(a)		
9:7-2.10, 2.11	Tuition Aid Grant benefits	19 N.J.R. 1153(a)		
9:7-9.9, 9.11, 9.12, 9.15	Congressional Teacher Scholarship Program	19 N.J.R. 1154(a)		
9:9-1.12, 1.13, 1.16	Repayment of student loans: nonconverted accounts	19 N.J.R. 1619(a)		
9:9-3.5	Capitalization of PLUS loan interest	19 N.J.R. 498(b)		
9:9-7.3	Eligible limitations: correction			19 N.J.R. 1917(d)
9:11-1.4	Educational Opportunity Fund: student dependency status defined	19 N.J.R. 266(a)		
9:11-1.5	EOF: financial eligibility for undergraduate grants	19 N.J.R. 499(a)		
9:11-1.7	Educational Opportunity Fund: undergraduate grants	19 N.J.R. 399(a)	R.1987 d.418	19 N.J.R. 1893(a)

(TRANSMITTAL 1987-7, dated August 17, 1987)

HUMAN SERVICES—TITLE 10

10:8	Personal needs allowance for indigent persons in State and county institutions	19 N.J.R. 617(a)		
10:49-1.1 and 1.2	Administration Manual: Optional Categorically Needy program	19 N.J.R. 1324(a)	R.1987 d.380	19 N.J.R. 1731(a)
10:49-1.4	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:49-1.12	Medicaid reimbursement: timely submission of claims by service providers	19 N.J.R. 1155(a)	R.1987 d.408	19 N.J.R. 1800(a)
10:50-2 through 10:68-2	Medicaid reimbursement: timely submission of claims by service providers	19 N.J.R. 1155(a)	R.1987 d.408	19 N.J.R. 1800(a)
10:51-1.17	Medicaid and PAAD: legend drug dispensing fee	19 N.J.R. 1711(a)		
10:52-1.6, 1.8	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:53-1.5, 1.7	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:60-2.2	Personal care assistance services	19 N.J.R. 1489(a)		
10:61-2.4, 2.5	Independent laboratories: standardized claim form	19 N.J.R. 1779(a)		
10:64-1.4, 2.1, 2.2, 2.5, 2.6, 3.5	Hearing aid providers: standardized claim form	19 N.J.R. 1779(a)		
10:65-1.5, 1.8	Medical day care centers: recordkeeping	19 N.J.R. 30(a)	R.1987 d.363	19 N.J.R. 1645(a)
10:66-3.2	Personal care assistance services	19 N.J.R. 1489(a)		
10:69C	Statewide Respite Care Program	19 N.J.R. 1712(a)		
10:72	Optional Categorically Needy Eligibility Manual (JerseyCare Manual)	19 N.J.R. 1324(a)	R.1987 d.380	19 N.J.R. 1731(a)
10:81-3.12	PAM: parent-minor and AFDC	19 N.J.R. 31(a)	R.1987 d.379	19 N.J.R. 1738(a)
10:81-7.46	PAM: reporting criminal offenses	19 N.J.R. 1389(a)		
10:81-8.23	Medicaid Special: pregnancy examinations	19 N.J.R. 1490(a)		
10:81-11.4	PAM: recovery of child support overpayments	19 N.J.R. 1171(a)		
10:81-11.18	PAM: child support guidelines	18 N.J.R. 2178(a)		
10:81-12	PAM: Newark/Camden Teen PROGRESS Demonstration	19 N.J.R. 1390(a)	R.1987 d.410	19 N.J.R. 1810(a)
10:81-14	REACH (Realizing Economic Achievement) Program	19 N.J.R. 1491(a)	R.1987 d.423	19 N.J.R. 1894(a)
10:82-1.3, 4.16	ASH: household defined: court-ordered support	19 N.J.R. 31(b)		
10:82-2.6	Initial eligibility in AFDC	19 N.J.R. 1781(a)		
10:82-4.15	Lump sum income and AFDC eligibility	19 N.J.R. 1782(a)		
10:82-5.10	Emergency Assistance in AFDC program	19 N.J.R. 1171(b)		
10:85-2.7	GAM: reporting criminal offenses	19 N.J.R. 1393(a)		
10:85-3.2	GAM: exemption from work requirement and unemployability	18 N.J.R. 2183(a)	R.1987 d.409	19 N.J.R. 1812(a)
10:85-4.6	Emergency Assistance in GA program	19 N.J.R. 1715(a)		
10:85-4.8	GAM: funeral and burial expenses	19 N.J.R. 1619(b)		
10:87-12.1, 12.2	Food Stamp Program: income deductions and maximum coupon allotments	Emergency (expires 11-30-87)	R.1987 d.431	19 N.J.R. 1916(a)
10:87-12.3, 12.4 and 12.7	Food Stamp Program: maximum income eligibility limits	19 N.J.R. 1331(a)	R.1987 d.375	19 N.J.R. 1738(b)
10:90	Monthly Reporting Policy Handbook	19 N.J.R. 1517(a)		
10:121A	Adoption Agencies: Manual of Standards	19 N.J.R. 1519(a)		
10:124	Children's shelter facilities and homes	19 N.J.R. 1394(a)		
10:131	Adoption Assistance and Child Welfare Act of 1980	19 N.J.R. 1285(a)		

(TRANSMITTAL 1987-7, dated August 17, 1987)

CORRECTIONS—TITLE 10A

10A:3-4.1	Off-duty carrying of firearms	19 N.J.R. 1717(a)		
10A:3-5.8, 5.11	Random searches of correctional facilities by canine teams	19 N.J.R. 1175(a)	R.1987 d.397	19 N.J.R. 1813(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10A:4-1.2	Girl's Unit at Skillman: disciplinary process	19 N.J.R. 1531(a)		
10A:4-4.1	Inmate prohibited acts: correction to text			19 N.J.R. 1658(c)
10A:4-9.12	Representation of inmate in disciplinary case	19 N.J.R. 913(b)	R.1987 d.383	19 N.J.R. 1738(c)
10A:4-9.18	Inmate discipline: suspending sanctions	19 N.J.R. 1717(b)		
10A:6	Inmate access to courts	19 N.J.R. 914(a)		
10A:8	Inmate orientation and handbook	19 N.J.R. 1531(b)		
10A:9-2.1	Inmate reception classification process	19 N.J.R. 1395(a)		
10A:9-4.5	Inmate classification: increasing custody status	19 N.J.R. 1782(b)		
10A:10-6.3, 6.6	International transfer of inmates	19 N.J.R. 1620(a)		
10A:16-2.11	Pregnancy testing of new inmates	19 N.J.R. 1396(a)		
10A:71-3.2, 3.4, 3.18-3.23, 3.25-3.28, 3.30, 3.43, 6.9	Parole Board rules	19 N.J.R. 1396(b)		

(TRANSMITTAL 1987-4, dated August 17, 1987)

INSURANCE—TITLE 11

11:1-24	Credit cards and payment of insurance premiums	18 N.J.R. 1999(a)	Expired	
11:1-25	Official department mailing list: address information	19 N.J.R. 1050(b)		
11:4-2	Replacement of life insurance policy	19 N.J.R. 1286(a)		
11:4-18.3, 18.5, 18.10	Individual health policies: loss ratio standards	19 N.J.R. 1620(b)		
11:4-22.2, 22.4, App.	1980 CSO and 1980 CET Smoker and Nonsmoker Mortality Tables	19 N.J.R. 1399(a)	R.1987 d.394	19 N.J.R. 1814(a)
11:4-28	Group coordination of health care benefits	19 N.J.R. 845(a)		
11:5-1.16	Real estate contracts and leases subject to attorney review	19 N.J.R. 503(b)	R.1987 d.359	19 N.J.R. 1646(a)
11:5-1.23	Full cooperation among real estate brokers and waiver of cooperation	19 N.J.R. 1621(a)		
11:5-1.25	Sale of interstate real properties: advertisements	19 N.J.R. 1718(a)		
11:5-1.27	Real estate brokers pre-licensure course	19 N.J.R. 1051(a)		
11:7-1.2, 1.3	Municipal bond insurance	19 N.J.R. 1409(a)	R.1987 d.426	19 N.J.R. 1908(a)
11:13	Commercial lines insurance	19 N.J.R. 1783(a)		

(TRANSMITTAL 1987-6, dated July 20, 1987)

LABOR—TITLE 12

12:15-1.3	Unemployment compensation and temporary disability: 1988 maximum weekly benefits	19 N.J.R. 1622(a)		
12:15-1.4	Unemployment compensation: 1988 taxable wage base	19 N.J.R. 1623(a)		
12:15-1.5	Unemployment compensation: 1988 contribution rate for governmental entities	19 N.J.R. 1624(b)		
12:15-1.6	Base week earnings for claim eligibility	19 N.J.R. 1623(b)		
12:15-1.7	Alternate earnings test	19 N.J.R. 1623(c)		
12:17-2.1	Claims and registration for work: correction			19 N.J.R. 1841(a)
12:60	Prevailing wages for public works	19 N.J.R. 345(b)		
12:100-2.1, 4.2, 5.2, 6.2	Public employees and hazardous waste operations	19 N.J.R. 1533(a)		
12:100-4.2, 5.2, 6.2, 7	Public employees and exposure to toxic and hazardous substances	19 N.J.R. 267(a)	R.1987 d.425	19 N.J.R. 1909(a)
12:235-1.6	Workers' compensation: 1988 maximum weekly benefit	19 N.J.R. 1624(a)		

(TRANSMITTAL 1987-2, dated June 15, 1987)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

12A:11-1	Certification of women and minority-owned businesses	19 N.J.R. 1176(a)	R.1987 d.376	19 N.J.R. 1739(a)
12A:12-1	Grants to local government for development of small, minority and women-owned businesses	19 N.J.R. 1286(b)	R.1987 d.382	19 N.J.R. 1743(a)

(TRANSMITTAL 1987-1, dated March 16, 1987)

LAW AND PUBLIC SAFETY—TITLE 13

13:2-40.1, 40.5, 40.6, 40.7	Uniform ABC identification cards	19 N.J.R. 1410(a)	R.1987 d.399	19 N.J.R. 1823(a)
13:21-21	Auto body repair facilities	19 N.J.R. 1624(c)		
13:27-3, 4	Architectural practice: definitions	19 N.J.R. 1783(b)		
13:27-8.14	Advertising by persons not certified as landscape architects	19 N.J.R. 400(a)		
13:30-2.1, 2.2, 2.7, 2.8, 2.9, 2.13, 2.14, 6.2, 6.5, 6.6, 6.9, 8.2	Licensure of dental hygienists; duties of dental assistants: approval of schools of oral hygiene	19 N.J.R. 849(a)	R.1987 d.419	19 N.J.R. 1909(b)
13:30-8.6	Professional advertising by dentists	19 N.J.R. 1053(a)	R.1987 d.417	19 N.J.R. 1910(a)
13:30-8.17	Designation of dentist of record for patient in multi-dentist facility	19 N.J.R. 1629(a)		
13:32-1	Rules of Board of Examiners of Master Plumbers	19 N.J.R. 1630(a)		
13:35-1.5	Practice by medical school graduates in hospital residency programs	18 N.J.R. 2184(a)		

NEW JERSEY REGISTER, MONDAY, OCTOBER 19, 1987

(CITE 19 N.J.R. 1925)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
3:35-3.6	Licensure of physicians as bioanalytical laboratory directors	19 N.J.R. 1179(a)	R.1987 d.368	19 N.J.R. 1647(a)
3:35-3.11	Post-graduate training of graduates of foreign medical schools	19 N.J.R. 1534(a)		
3:35-6.7	Medical examiners board: prescribing of amphetamines and sympathomimetic amine drugs	19 N.J.R. 1786(a)		
3:35-6.13	Board of Medical Examiners: fee schedule; acupuncturist registration	19 N.J.R. 1054(a)	R.1987 d.371	19 N.J.R. 1648(a)
3:35-8.25	Biennial registration fee for hearing aid dispensers	19 N.J.R. 1055(a)	R.1987 d.370	19 N.J.R. 1649(a)
3:40-2, 3.1, 6.1	Professional engineers and land surveyors: requirements for licensure; client relationships; applicant fees	19 N.J.R. 851(a)	R.1987 d.355	19 N.J.R. 1649(b)
3:40-5.1	Corner markers and ultimate user of land survey	19 N.J.R. 1631(a)		
3:42-1.2	Board of Psychological Examiners: application, examination and licensure fees	19 N.J.R. 1632(a)		
3:44B-1	Compensation of professional and occupational licensing board members	19 N.J.R. 444(a)		
3:44C	Practice of audiology and speech-language pathology	19 N.J.R. 1412(a)		
3:45A-6.2	Unlawful automobile sales practices	18 N.J.R. 2115(a)		
3:45A-12	Sale of dogs and cats	19 N.J.R. 853(a)		
3:45A-21, 22	Sale of Kosher food and food products	19 N.J.R. 1060(a)		
3:45A-24	Sale of gray market merchandise	19 N.J.R. 179(a)		
3:46-8.3, 8.12, 8.13	Boxing rules	19 N.J.R. 1787(a)		
3:46-12.12	Compensation for physicians at boxing and wrestling shows	19 N.J.R. 1179(b)	R.1987 d.386	19 N.J.R. 1745(a)
3:47A-1-8, 11	Bureau of Securities rules	19 N.J.R. 1417(a)	R.1987 d.390	19 N.J.R. 1824(a)
3:47C:2.1	Meat, poultry, fish and shellfish sold by net weight	19 N.J.R. 1787(b)		
3:70-1.30	Thoroughbred racing: horsemen associations	19 N.J.R. 1418(a)		
3:70-12.1, 12.37	Thoroughbred racing: open claiming	19 N.J.R. 1419(a)	R.1987 d.420	19 N.J.R. 1911(a)
3:70-20.11	Thoroughbred racing: entering or starting nerved horses	19 N.J.R. 1788(a)		
3:71-1.25	Harness racing: horsemen associations	19 N.J.R. 856(a)		
3:71-14.1, 14.36	Harness racing: open claiming	19 N.J.R. 1419(b)	R.1987 d.421	19 N.J.R. 1911(b)
3:71-20.23	Harness racing: registration of nerved horses	19 N.J.R. 919(a)		
3:76-1.3, 3.1, 3.2, 5.1	Arson investigation training	19 N.J.R. 1788(b)		
3:77	Equitable distribution of forfeited property to law enforcement agencies	19 N.J.R. 1534(a)		

(TRANSMITTAL 1987-8, dated August 17, 1987)

PUBLIC UTILITIES—TITLE 14

4:1-11	Board of Public Utilities: settlement conferences	19 N.J.R. 919(b)	R.1987 d.360	19 N.J.R. 1650(a)
4:3-7.12A	Residential electric and gas service during heating season	18 N.J.R. 2315(a)		
4:10-1.16	Uniform system of accounts for telephone companies	19 N.J.R. 1789(a)		
4:18-14.5, 14.6	Cable TV: notices of rate and channel line-up changes	19 N.J.R. 505(a)	R.1987 d.367	19 N.J.R. 1651(a)

(TRANSMITTAL 1987-5, dated August 17, 1987)

ENERGY—TITLE 14A

4A:3-4.1-4.6	Energy subcode	19 N.J.R. 433(b)	R.1987 d.387	19 N.J.R. 1793(a)
4A:4-1.1-3.1	Solar energy property tax exemptions	19 N.J.R. 433(b)	R.1987 d.387	19 N.J.R. 1793(a)

(TRANSMITTAL 1987-2, dated April 20, 1987)

STATE—TITLE 15

(TRANSMITTAL 1987-1, dated February 17, 1987)

PUBLIC ADVOCATE—TITLE 15A

(TRANSMITTAL 1987-1, dated April 20, 1987)

TRANSPORTATION—TITLE 16

6:25	Utility accommodation on highway rights-of-way	19 N.J.R. 1064(a)		
6:28-1.76	Speed rate on Route 15 in Morris and Sussex counties	Emergency (expires 11-14-87)	R.1987 d.411	19 N.J.R. 1839(a)
6:28-1.79	School zone on Route 94 in Frelinghuysen Township	19 N.J.R. 1288(a)	R.1987 d.378	19 N.J.R. 1745(b)
6:28A-1.5, 1.36, 1.38, 1.45	Parking restrictions along Routes 5, 57, 71, and 94	19 N.J.R. 1632(b)		
16:28A-1.7, 1.15, 1.18, 1.22, 1.32	Parking restrictions along U.S. 9, Routes 23, 27, 31, and U.S. 46	19 N.J.R. 1633(a)		
16:28A-1.9	No parking zones along Route 17 in Rutherford and Lyndhurst	19 N.J.R. 1420(a)	R.1987 d.414	19 N.J.R. 1912(a)
16:28A-1.10	Bus stop zones along Route 20 in East Rutherford	19 N.J.R. 1074(a)	R.1987 d.356	19 N.J.R. 1652(a)
16:28A-1.21, 1.31, 1.68	Bus stop zones along U.S. 30 in Waterford, N.J. 45 in Mannington, and N.J. 93 in Palisades Park	19 N.J.R. 1537(a)	R.1987 d.416	19 N.J.R. 1912(b)
16:28A-1.32	Bus stop zones along U.S. 46 in Denville	19 N.J.R. 1180(a)	R.1987 d.357	19 N.J.R. 1653(a)

(CITE 19 N.J.R. 1926)

NEW JERSEY REGISTER, MONDAY, OCTOBER 19, 1987

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
16:29-1.67	No passing zones along U.S. 130 in Salem and Gloucester counties	19 N.J.R. 1420(b)	R.1987 d.413	19 N.J.R. 1913(a)
16:30	Pre-proposal: Exclusive bus lane on Routes 3 and 495	19 N.J.R. 1421(b)		
16:30-3.1	Lane usage on Route 35 in Ocean County	19 N.J.R. 1332(a)	R.1987 d.377	19 N.J.R. 1745(c)
16:30-10.5	Midblock crosswalk on Route 29 in Stockton	19 N.J.R. 1421(a)	R.1987 d.412	19 N.J.R. 1913(b)
16:41	Permits for use of or work upon highway rights-of-way	19 N.J.R. 1074(b)	R.1987 d.347	19 N.J.R. 1653(b)
16:44-1.1	Contract administration: composition of Pre-qualification Committee	19 N.J.R. 1634(a)		
16:56-4.1	Airport safety improvement loans: correction to text	_____	_____	19 N.J.R. 1749(a)
16:56-4.1, 11.2	Airport safety improvement aid	19 N.J.R. 1634(b)		
16:73-1.1, 2.1-2.4, 3.2	NJ TRANSIT: Reduced fare program for the elderly and handicapped	19 N.J.R. 1289(a)	R.1987 d.381	19 N.J.R. 1746(a)

(TRANSMITTAL 1987-7, dated August 17, 1987)**TREASURY-GENERAL—TITLE 17**

17:2-3.3	PERS: contributory insurance rate	19 N.J.R. 1636(a)		
17:2-4.4	Public Employees' Retirement System: accrual of loan interest	19 N.J.R. 194(a)		
17:9-6.1	State Health Benefits Program: coverage after retirement	19 N.J.R. 1636(b)		
17:30	Urban Enterprise Zone Authority: comment period reopened	19 N.J.R. 354(a)		
17:32	Municipal and county cross-acceptance of State Development and Redevelopment Plan	19 N.J.R. 509(a)		

(TRANSMITTAL 1987-8, dated August 17, 1987)**TREASURY-TAXATION—TITLE 18**

18:3-2.1	Tax rate on wine produced from New Jersey grapes	19 N.J.R. 1181(a)		
18:5-3.6	Purchase of cigarette revenue stamps	18 N.J.R. 2378(b)		
18:12-7.4	Homestead rebate and residents of continuing care retirement communities	19 N.J.R. 1637(a)		
18:15-1.1	Woodland management plan: correction to proposal	19 N.J.R. 1640(a)		
18:15-1.1, 2.7-2.14	Farmland assessment: woodland in agricultural use	19 N.J.R. 1538(a)		
18:15-1.1, 2.7-2.14	Woodland in agricultural use: operative date	19 N.J.R. 1640(b)		
18:24-7.8	Sales of motor vehicles to military personnel stationed in State	19 N.J.R. 1181(b)		
18:35-1.13	Sale of principal residence	19 N.J.R. 1182(a)		
18:38	Litter control tax	19 N.J.R. 400(b)		
18:39-1	Tax amnesty	19 N.J.R. 1075(a)	R.1987 d.353	19 N.J.R. 1654(a)

(TRANSMITTAL 1987-4, dated August 17, 1987)**TITLE 19—OTHER AGENCIES**

19:3-1.1, 1.2, 1.4, 1.6	Hackensack Meadowlands development: Application review fees	19 N.J.R. 1540(a)	R.1987 d.422	19 N.J.R. 1913(c)
19:4-6.28	Rezoning in Little Ferry	19 N.J.R. 53(b)		
19:8-7.1	Public records of Highway Authority: copy fees	19 N.J.R. 1428(a)	R.1987 d.391	19 N.J.R. 1825(a)
19:8-7.3	State Police accident reports: copy fee	19 N.J.R. 1429(a)	R.1987 d.393	19 N.J.R. 1825(b)
19:8-8.4	Fee for oversize vehicle permit	19 N.J.R. 1429(b)	R.1987 d.392	19 N.J.R. 1826(a)
19:9-1.6	Sleeping in parked vehicles	19 N.J.R. 1637(b)		
19:17-2.1, 3.1-4.5	PERC Appeal Board procedure: rescheduled public hearing	19 N.J.R. 404(a)		
19:25-19.3	Personal financial disclosure: reporting of earned income	19 N.J.R. 1541(a)		

(TRANSMITTAL 1987-5, dated August 17, 1987)**TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY**

19:44-8.3	Minibaccarat training	18 N.J.R. 2322(a)	R.1987 d.424	19 N.J.R. 1914(a)
19:45-1.12	Minibaccarat	19 N.J.R. 54(b)	R.1987 d.395	19 N.J.R. 1826(b)
19:45-1.17	Storage of emergency drop boxes	19 N.J.R. 1290(a)		
19:45-1.32, 1.43	Hard count room procedures: deferral of operative date	18 N.J.R. 1929(a)	R.1987 d.277	19 N.J.R. 1656(a)
19:45-1.33	Accuracy procedures for currency counting machines	19 N.J.R. 923(a)		
19:46-1.12	Minibaccarat	19 N.J.R. 54(b)	R.1987 d.395	19 N.J.R. 1826(b)
19:46-1.12	Minibaccarat: correction	19 N.J.R. 54(b)	R.1987 d.395	19 N.J.R. 1914(b)
19:47-1.11	Rules of the games: craps	19 N.J.R. 1542(a)		
19:47-5.3	Roulette and "no more bets" procedure	19 N.J.R. 1638(a)		
19:47-7.7	Minibaccarat	19 N.J.R. 54(b)	R.1987 d.395	19 N.J.R. 1826(b)
19:47-8.2	Big Six minimum wagers	19 N.J.R. 858(b)		
19:50-1.6	Security of alcoholic beverages	18 N.J.R. 2323(a)		
19:53-1.3, 1.13	Casino licensee's EEO/AA office	19 N.J.R. 1638(b)		
19:53-1.5	Pre-proposal: Affirmative action employment goals for handicapped or disabled persons	19 N.J.R. 1182(a)		

(TRANSMITTAL 1987-5, dated August 17, 1987)