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MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: MARCH 21, 1988

See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT APRIL 18, 1988

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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 **June 15, 1988**. 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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June 20 issue:	
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Adoptions	May 27
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Proposals	June 6
Adoptions	June 13
July 18 issue:	
Proposals	June 20
Adoptions	June 24
August 1 issue:	
Proposals	July 1
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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

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Rule for Agency Rulemaking Use of Appendices

Proposed Amendment: N.J.A.C. 1:30-1.2

Proposed New Rule: N.J.A.C. 1:30-2.8

Authorized By: Ronald I. Parker, Administrative Law Judge,
Acting Director, Office of Administrative Law.

Authority: N.J.S.A. 52:14F-5(f), (h), (i).

Proposal Number: PRN 1987-249.

Submit comments by June 15, 1988 to:
Steven L. Lefelt, Deputy Director
Office of Administrative Law
Quakerbridge Plaza, Building 9
CN 049
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The purpose of this proposal is to make the use of appendices uniform and consistent throughout the New Jersey Administrative Code. A proposal on the use of appendices was previously published in the May 4, 1987 Register at 19 N.J.R. 675(a). This earlier proposal, which provided that appendices could only contain non-regulatory materials, drew critical comments from three agencies. Based on these comments, the OAL now proposed a different rule which defines the contents of appendices; provides for an appendix to be regulatory or non-regulatory; and outlines the OAL's authority to determine whether materials are properly located in an appendix, and whether the appendix will be published.

This proposal clarifies that the text of a rule should be able to stand alone, without the use of the appendix. Appendices contain collateral material which is supplemental, explanatory, or provides background information. Acceptable examples of appendices include technical requirements or specifications, instructions, formulae, forms, hypothetical cases; reprints of regulations, statutes, forms, etc. which originate elsewhere; lists of offices and their addresses and hours of business; and analyses or explanatory material regarding a rule.

The proposal provides that regulatory materials in an appendix are to be incorporated by reference into the text of the rule. Once incorporated by reference, subsequent changes to the appendix must be through rulemaking. Non-regulatory materials in an appendix are simply cross-referenced for clarity purposes in the text of the rule. The distinct treatments of an appendix, depending on whether it is regulatory or non-regulatory, should assist all members of the regulated public in better understanding their responsibilities and obligations.

This proposal also makes clear that the OAL determines whether materials are properly placed in an appendix, the location of the appendix, and whether the appendix is published.

Interested persons should also review N.J.A.C. 1:30-2.2 and comment if they anticipate any regulatory problems in the relationship between N.J.A.C. 1:30-2.2 and the proposed new rule at N.J.A.C. 1:30-2.8.

Social Impact

The beneficial effect of this proposal is centered on its value as a clarification of the regulatory process. Members of the regulated public should be able to more readily locate, interpret and follow a rule's requirements. This clarification may result in less time spent by agency staff in interpreting or explaining rules to the regulated public, and may result in a greater degree of overall compliance with rules.

Economic Impact

Any economic impact of this proposal would derive from the degree to which the attendant structuring of the New Jersey Administrative Code furthers compliance with particular rules. Costs based on contested cases and on time spent by staff in explaining or clarifying rules may decrease, but the extent of the impact is not known.

Regulatory Flexibility Statement

This proposal does not affect small businesses because it does not impose reporting, recordkeeping or other requirements on small businesses. The proposed amendment and new rule primarily affect state agencies in their rulemaking activities by clarifying the use of appendices in the context of administrative rules.

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

1:30-1.2 Definitions

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

"Appendix" means any collateral material which serves to clarify, illustrate, or explain a rule.

1:30-2.8 Appendices

(a) Appendices shall include only material which clarifies, illustrates or explains a rule. An appendix may include, but is not limited to, the following:

1. Technical requirements or specifications;
2. Instructions;
3. Formulae;
4. Forms;
5. Examples of hypothetical cases;
6. Reprints of regulations, statutes, forms, etc., which originate elsewhere;
7. Lists of offices, their addresses and hours of business; and
8. Analyses or explanatory material regarding a rule, which may contain a rationale or derivation of the rule.

(b) Any material, such as but not limited to, that in (a)1 through 8 above which is non-regulatory may be included in an appendix and cross-referenced in the text of a rule.

(c) Any material, such as, but not limited to, that listed in (a)1 through 8 above which is regulatory may be included in an appendix as long as the appendix is incorporated by reference in the text of a rule. Any amendment to the appendix shall therefore be through rulemaking.

(d) The Office of Administrative Law shall, pursuant to N.J.S.A. 52:14F-5 and N.J.S.A. 52:14B-7(c) and (f), determine:

1. Whether any regulatory provisions found in an Appendix shall be integrated and/or codified into the text of a rule; and
2. The location of an Appendix to a rule in the New Jersey Register and the New Jersey Administrative Code; and
3. Whether an Appendix should be published in the New Jersey Register and the New Jersey Administrative Code.

BANKING

DIVISION OF CONSUMER COMPLAINTS, LEGAL AND ECONOMIC RESEARCH

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

Submit comments by June 15, 1988 to:

Robert M. Jaworski
Deputy Commissioner
Department of Banking
CN-040
Trenton, NJ 08625

(b)

Mortgage Loans Fees, Charges, Obligations

Proposed New Rules: N.J.A.C. 3:1-16

Proposed Repeal: N.J.A.C. 3:38-5

Authority: N.J.S.A. 17:1-8.1, 17:11B-5 and 13.

Proposal Number: PRN 1988-243.

The agency proposal follows:

Summary

The Department of Banking proposes to establish new mortgage lending rules applicable to all mortgage lenders and brokers in New Jersey and to repeal the existing rules in this regard applicable only to New Jersey licensed mortgage bankers and mortgage brokers. Following an extensive review of mortgage lending practices in this State, the Department published three essentially coincident regulatory proposals, PRN 1987-302, PRN 1987-303 and PRN 1987-305, affecting banks and savings banks, savings and loan associations, and licensed mortgage bankers and brokers, respectively, in the August 3, 1987 issue of the New Jersey Register (beginning at 19 N.J.R. 1356). Those proposed new rules and amendments received tremendous public comment and have been substantially revised and consolidated herein into a single set of proposed new rules governing all mortgage lenders and mortgage brokers. The prior proposals are hereby withdrawn.

The proposed new rules will affect fees and charges, disclosures, practices and procedures. The Department believes it preferable for there to be, as far as practicable, a uniform body of rules concerning the mortgage application and commitment process with which all mortgage lenders must comply.

N.J.A.C. 3:1-16.1, Definitions, defines mortgage loan, lender, broker, lock-in agreement, receipt, commitment, current market yield, substantial fault of the borrower, trust funds and prompt refund or return.

N.J.A.C. 3:1-16.2, Fees and charges, defines application fee, commitment (and lock-in) fee, warehouse fee, reimbursement for third-party charges and discount points, and provides when each of those fees may be collected.

N.J.A.C. 3:1-16.3, Application process, mandates that particular written disclosures be given to prospective borrowers before any fees may be taken by the lender and within three days after receipt of a written application. Pursuant to the proposed new rule, borrowers will receive from the lender a realistic estimate of the time required to issue a commitment and the name and address of a representative of the lender to whom written questions and complaints may be directed and who will be required to promptly respond to such inquiries. The proposed new rule also delineates circumstances under which the borrower may be entitled to refunds, including where required disclosures have not been made, where a commitment has not been issued within the lender's realistic estimate of the time required to do so through no substantial fault of the borrower and where an application has been denied or a commitment has been issued on substantially different and unacceptable terms than applied for based upon reasons which the lender knew or should have known at application.

N.J.A.C. 3:1-16.4, Lock-in agreements, provides that all lock-in agreements shall be in writing and specifies what information must be contained in such agreements. The rule mandates additional disclosures in cases where a lender's lock-in agreement is executed by the borrower and submitted to the lender either by mail or through a broker, including that the agreement does not become effective until ratified by the lender and is rescindable by the borrower until receipt of notice of such ratification. It also requires lenders to exert good faith efforts to close loans before the expiration date of their lock-in agreements, requires refunds of lock-in fees in all cases where a loan is denied and sets forth special rules where the lender receives lock-in applications by mail or through brokers.

N.J.A.C. 3:1-16.5, Commitment process, requires written disclosure of all relevant terms and conditions of the commitment, including all variable terms, a date by which the commitment must be accepted and a date upon which the commitment expires. The proposed new rule also establishes a set of conditions under which a commitment fee must be refunded.

N.J.A.C. 3:1-16.6, Expiration of lock-in or commitment, specifies options available to borrowers in situations where lock-in agreements and/or commitments expire through no substantial fault of the borrower.

N.J.A.C. 3:1-16.7, Closings, requires lenders to be prepared to close at any time in accordance with the terms of the commitment.

N.J.A.C. 3:1-16.8, Trust funds, sets forth disclosure requirements for establishment of trust funds.

N.J.A.C. 3:1-16.9, No private right of action, states that non-compliance with the rules will not add to the legal rights or remedies available to the parties under contract.

N.J.A.C. 3:1-16.10, Compliance with Federal law, provides that disclosures made in compliance with Federal law will be considered to be in compliance with the rules.

N.J.A.C. 3:1-16.11, Special rules for brokers, prescribes what fees brokers may charge on their own behalf, mandates additional disclosures for brokers when accepting mortgage loan applications, and lock-in agreements, and clarifies that brokers may not execute lock-in agreements or issue commitments on their own behalf or on behalf of any lender and prohibits brokers from accepting from borrowers lenders' lock-in agreements or lock-in fees unless the agreements contain all requisite disclosures.

N.J.A.C. 3:1-16.12, Effective date, specifies that the rules do not become effective for 60 days.

Social Impact

The proposed new rules will affect New Jersey mortgage lenders by requiring them to provide new and more meaningful disclosures to prospective borrowers and establish procedures that previously had not been required and which are intended to reduce complaints by consumers. These disclosures are expected to provide specific information to enable borrowers to better understand the mortgage loan application process and to bring their expectations of that process more in line with the end result. At the same time, the disclosures are not intended to hamper the ability of mortgage lenders and brokers to safely, efficiently and profitably engage in mortgage lending and brokering operations. The additional disclosures will benefit consumers by enabling them to make more meaningful choices and decisions. Consumers will also have the security of knowing that specific contingencies and relative responsibilities between borrowers, brokers and lenders have been defined. It is expected that related complaints and inquiries to lenders, brokers and the Department will decrease as a result of these proposed new rules.

Economic Impact

The economic impact upon lenders and brokers is not expected to be substantial. Disclosures are already required along essentially the same lines as are provided under the proposed new rules. Only the content and extent of such disclosures will be affected. The procedures mandated under these proposed new rules, moreover, by and large conform to industry practice. Consumers are expected to receive the economic benefit of well-defined fees and charges, less "up-front" fees, prompt and sure refunds of fees and charges when fairness so dictates, and the benefit of being able to make informed choices among mortgage providers and programs. Little economic impact upon the Department is expected.

Regulatory Flexibility Statement

Mortgage lenders include both small and large businesses. Mortgage brokers are mostly small businesses. These proposed new rules impose compliance requirements regarding disclosure and business conduct. It is not expected that smaller lenders or brokers will require professional services to fulfill these requirements or will incur initial capital or other costs. The objectives of ensuring that borrowers are provided with sufficient information to make informed mortgage loan decisions and alleviating areas of consumer discontent can only be met by subjecting mortgage lenders and brokers to these compliance requirements.

Full text of the proposal follows.

Full text of the proposed repeal can be found in the New Jersey Administrative Code at N.J.A.C. 3:38-5.

SUBCHAPTER 16. MORTGAGE LOANS, FEES, CHARGES, OBLIGATIONS

3:1-16.1 Definitions

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

"Broker" means any New Jersey licensed mortgage broker, or any New Jersey licensed mortgage banker when accepting and processing a mortgage loan application on behalf of a lender which will issue the commitment or loan denial.

"Current market yield" means the yield being sought by the lender's primary secondary market purchaser during the preceding 12-month period.

"Lender" means a bank, savings bank, savings and loan association, credit union, or New Jersey licensed mortgage banker.

"Loan commitment" or "commitment" means a signed statement by the lender setting forth the terms and conditions upon which the lender is willing to make a particular mortgage loan to a particular borrower.

"Lock-in agreement" means an agreement between the lender and the borrower, executed at any time prior to issuance of a commitment, whereby the lender guarantees for a stated period of time the availability of a specified rate of interest and/or specific number of discount points, provided the loan is approved and closed within that stated period of time. The term "lock-in agreement" does not include an agreement to fix the rate on a prevailing rate loan 12 or fewer days before closing where appropriate disclosures have been made under the provisions of this subchapter.

"Mortgage loan" means any closed-end loan secured by a first mortgage on real property located in New Jersey on which there is a one to six family dwelling, a portion of which may be used for nonresidential purposes.

"Promptly refund" or "return" means to refund or return to the borrower within seven days following receipt of a written request for same from the borrower.

"Receipt" (or "received") means actual receipt (or actually received) at the office designated by the lender as the place where the application or documentation must be submitted or, if no such place is designated, at the lender's principal office or any of its branch offices or, if the lender is acting through a broker, at the broker's office.

"Substantial fault of the borrower" means that:

1. The borrower has failed to provide information or documentation required by the lender in a timely manner;

2. The borrower or the borrower's attorney has failed to close the loan on or before the date specified by the lender;

3. The borrower has failed to produce at or before the closing, all of the documentation specified in the commitment as being required for closing; or

4. The borrower has provided or omitted any information, in the application or subsequently, which upon verification proves to be significantly inaccurate causing the need for review or further investigation by the lender.

5. For purposes of this definition:

i. A borrower provides information or documentation "in a timely manner" if such information and documentation is delivered to and received by the lender within seven calendar days after the borrower receives a request for same; and

ii. Information is "significantly inaccurate" if the information as verified would cause the borrower to be disqualified for the type of loan for which the borrower has applied or would cause the secondary market source for which the loan is being originated to refuse to purchase the loan.

"Trust fund" means funds which are held in accordance with the terms of a written agreement between the lender and the borrower or seller, which provides that upon the occurrence of a specific condition or event the funds or a portion thereof shall be disbursed to the borrower or seller. Trust funds do not include escrows collected or held by the lender for taxes and insurance.

3:1-16.2 Fees and charges

(a) No lender shall charge a borrower any fees incident to the origination, processing or closing of a mortgage loan other than the following, except as otherwise permitted by State and Federal law.

1. Application fee: Defined as any fee imposed by a lender or broker for accepting and processing a mortgage loan application. The application fee shall not be based upon a percentage of the principal amount of the loan or the amount financed;

2. Credit report fee;

3. Appraisal fee;

4. Commitment fee: Defined as a fee, exclusive of third-party charges, imposed by a lender as consideration for binding the lender to make a loan in accordance with the terms and conditions of its commitment and payable on or after acceptance of the commitment, except a lock-in fee charged pursuant to (a)5 below. The amount of any commitment fee shall be reasonably related to its purpose and

may be based upon a percentage of the principal amount of the loan or the amount financed;

5. Lock-in fee: Defined as that portion of the commitment fee charged by a lender as the consideration for execution and fulfillment of the terms of a lock-in agreement. No lock-in fee shall be received by a lender prior to inception of the lock-in period;

6. Warehouse fee: Defined as a fee charged to a lender for the cost associated with holding the mortgage loan pending its sale to a permanent investor and payable at closing;

7. Reimbursement for third party charges paid or actually incurred by a lender for services rendered incident to the processing of a mortgage loan application. Reimbursable third-party charges shall not include costs associated with the lender's overhead, charges incurred by a person or entity other than the lender, or charges for activities undertaken or events occurring after the loan closing; and

8. Discount points or fractions thereof: A discount point is defined as an amount of money equal to one percent of the principal amount of the loan and payable only at closing.

(b) No lender may charge any fee in connection with a mortgage loan not expressly authorized in (a) above or specifically otherwise authorized by State or Federal law.

3:1-16.3 Application process

(a) Before accepting any application fee in whole or in part, any credit report fee, appraisal fee or any fee charged as reimbursement for third party charges, a lender shall make written disclosure to the borrower (which disclosure may be contained in the application) setting forth:

1. An identification of the type, nature and amount of each such fee or charge;

2. Whether all or any part of such fees or charges are refundable;

3. The terms and conditions for the refund, if all or any part of the fees or charges are refundable;

4. A realistic estimate of the time required to issue a commitment; and

5. The name of a person within the lender's organization to whom the borrower may address written questions, comments, or complaints and who will be required to promptly respond to such inquiries.

(b) The disclosures required in (a) above shall be acknowledged in writing by the borrower and maintained by the lender and a copy of such acknowledgment shall be given to the borrower.

(c) Not later than three business days after the lender receives the borrower's written application, or before closing of the loan, whichever is earlier, the lender shall provide the borrower with a good faith estimate as a dollar amount or range of each charge for a settlement service which the borrower is likely to incur.

1. For the purpose of this subsection, "settlement service" shall mean a charge which the lender anticipates the borrower will pay at or before settlement based upon the lender's general experience.

2. With respect to the settlement charges imposed on a borrower by the lender (and not by third parties), the lender shall indicate which, if any, of such fees are refundable in whole or in part and the terms and conditions for such refund.

(d) The borrower may, without penalty or responsibility to pay additional fees or charges, withdraw an application at any time prior to acceptance of a commitment. Upon such withdrawal, the lender shall be responsible to refund to the borrower only those fees and charges to which the borrower may be entitled pursuant to the terms set forth in the written disclosure required by (a) above, except that:

1. Where the lender has failed to provide the borrower with the written disclosure required by (a) above, the lender shall promptly refund to the borrower all funds paid to the lender;

2. Where the lender has failed to issue a commitment and its realistic estimate of the time needed to do so has expired through no substantial fault of the borrower and the borrower has withdrawn his application as a result, the lender shall promptly refund to the borrower all funds paid to the lender except fees paid or actually incurred by the lender to third parties;

3. Where an application is denied, or a commitment is issued on terms and conditions substantially dissimilar to those for which the application was submitted and which are unacceptable to the bor-

rower, for reasons (other than bona fide underwriting considerations) which the lender knew or should have known at the time of application from the facts disclosed on the face of the application, the lender shall promptly refund to the borrower all funds paid to the lender.

3:1-16.4 Lock-in agreements

(a) All lock-in agreements shall be in writing and shall contain at least the following provisions:

1. The expiration date of the lock-in, if any;
2. The interest rate locked in, if any;
3. The discount points locked in, if any;
4. The lock-in fee, if any; and
5. A statement advising of the provisions of (b), (c) and (d) (if applicable) below and of the provisions of N.J.A.C. 3:1-16.6(a).

(b) The lender shall make a good faith effort to process the mortgage loan application and stand ready to fulfill the terms of its commitment before the expiration date of the lock-in agreement.

(c) In the event a lock-in agreement is executed and the loan applied for is denied, the lender shall promptly refund to the borrower the lock-in fee.

(d) Any lock-in agreement received by a lender by mail or through a broker must be ratified in writing by the lender before it will become effective. The borrower may rescind the lock-in agreement at any time until receipt of such ratification by providing the lender with written notification of such rescission. A borrower electing to so rescind shall be entitled to a prompt return of any lock-in fee paid.

3:1-16.5 Commitment process

(a) At or before issuance of a commitment, the lender shall disclose the following:

1. The expiration date of the commitment;
2. The amount financed, which shall mean the amount of credit provided to the borrower or in his or her behalf;
3. In the event the interest rate is not subject to change before expiration of the commitment,
 - i. The finance charge, which shall mean the dollar amount the credit will cost the borrower;
 - ii. The annual percentage rate, which shall mean the cost of the credit to the borrower as a yearly rate; and
 - iii. The payment schedule, which shall mean the number, amounts and timing of payment scheduled to repay the obligation;
4. In the event the interest rate is subject to change before expiration of the commitment,
 - i. The basis, index or method, if any, which will be used to determine the rate at closing. Such basis, index or method shall be established and disclosed with direct reference to the movement of an interest rate index or of a national or regional index that is available to and verifiable by the borrower and beyond the control of the lender; or
 - ii. A statement in at least 10-point bold type that "The rate will be the rate established by the lender in its discretion as its prevailing rate ____ days before closing;" and
 - iii. In addition to the requirements of (a)4i or ii above, the finance charge, annual percentage rate and payment schedule assuming the loan were to close on the date the commitment issued, prefaced by a statement that:

"The figures set forth below reflect the rate now in effect, NOT the rate you will pay at closing, which will be established as indicated in this commitment."
5. The amount of the commitment fee, if any, and whether and under what circumstances the commitment fee shall be refundable;
6. All other charges, including but not limited to, warehousing fees and discount points;
7. In the event the interest rate, annual percentage rate or term may vary after closing:
 - i. An identification and specification of the terms which are variable;
 - ii. The circumstances under which the above terms may change;
 - iii. Any limitation on a change;
 - iv. The effect of a change; and
 - v. An example of the payment terms that would result from an increase;

8. The time, if any, within which the commitment must be accepted by the borrower; and

9. Whether any fees or discount points set forth in the commitment are subject to change before closing and, if so, the circumstances under which such fees or discount points may change.

(b) The provisions of a commitment cannot be changed prior to expiration of the specified period within which the borrower must accept it.

(c) If the interest rate (or initial interest rate in the case of a variable rate loan), discount points or fees set forth in the commitment are subject to change before closing, such terms shall be fixed and redisclosure of such terms made no later than three business days before the loan closes.

(d) A commitment fee shall be refundable when the following occur:

1. The commitment is contingent upon approval by parties to whom the lender seeks to sell the loan;
2. The loan purchaser's requirements are not met; and
3. The borrower is powerless to attain compliance with those requirements.

3:1-16.6 Expiration of lock-in or commitment

(a) In the event a lock-in agreement has been executed, and the loan does not close before the expiration date of either the lock-in agreement or any commitment issued consistent therewith through no substantial fault of the borrower, the borrower may:

1. Withdraw the application or reject or terminate any commitment, whereupon the lender shall promptly refund to the borrower any lock-in fee and any commitment fee paid by the borrower; or
2. Have the lock-in agreement or commitment extended or modified until closing or 14 days following issuance of the commitment, whichever comes earlier, so that the loan is closed at a rate and points which are no higher than that which would provide a current market yield but no gross profit or "spread" to the lender. The borrower shall be responsible for the lock-in fee only if the loan is closed at or below the lock-in rate and points. All other terms and conditions of the loan shall be as specified in the commitment, regardless whether the loan closes before or after the expiration date of the commitment.

(b) In the event a lock-in agreement has not been executed and a commitment has been issued, and the loan does not close before the expiration date of the commitment through no substantial fault of the borrower, the borrower may:

1. Terminate the commitment, whereupon the lender shall promptly refund to the borrower any commitment fee paid by the borrower; or
2. Have the commitment extended for a reasonable period of time, not to exceed 14 days, to permit closing.

3:1-16.7 Closing

Provided that the conditions of its commitment have been met, and upon reasonable notice, the lender shall be ready, willing and able to meet any closing date scheduled in accordance with the terms of its commitment.

3:1-16.8 Trust funds

Before accepting any trust funds, each lender shall disclose in writing to the party or parties depositing such funds the purpose for which the fund is established, the amount of the trust fund, the period for which the trust fund will be held and the conditions upon which the funds will be disbursed or released.

3:1-16.9 No private right of action

A failure to comply with this subchapter shall not be deemed to provide a party to the transaction with any legal rights or remedies he or she would not otherwise enjoy pursuant to the contractual relationship between the parties.

3:1-16.10 Compliance with Federal law

Where any disclosure is required pursuant to this subchapter which is also required by any Federal law or regulation, compliance with such Federal law or regulation shall be deemed to be compliance with this subchapter.

3:1-16.11 Special rules for brokers

(a) No broker shall charge or collect from a borrower on its own behalf any fees other than an application fee and discount points or fractions thereof.

(b) Before accepting any loan application, the broker shall make written disclosure to the borrower in a separate service agreement setting forth:

1. The amount of the broker's application fee, if any;
2. Whether and under what circumstances all or any part of the broker's application fee may be refundable;
3. The amount of any discount points charged by the broker for its services;
4. A statement advising of the provisions of (c) below;
5. A detailed listing of the specific services that will be provided or performed by the broker; and
6. Whether the broker places loans exclusively with any three or fewer lenders and, if so, the name(s) of such lender(s).

(c) No broker may execute a lock-in agreement or issue a commitment on its own behalf or on behalf of any lender or guarantee acceptance into any particular loan program or promise any specific loan terms or conditions.

(d) No broker may accept a lender's lock-in agreement from a borrower or any lock-in fee in connection therewith unless the lock-in agreement contains all of the disclosures required in N.J.A.C. 3:1-16.4(a).

(e) The disclosures required in (b) above shall be acknowledged in writing by the borrower and maintained by the broker and a copy of such acknowledgement shall be given to the borrower.

3:1-16.12 Effective date

This subchapter shall become effective (60 days following the publication of its adoption in the New Jersey Register.).

(a)

DIVISION OF CONSUMER COMPLAINTS, LEGAL AND ECONOMIC RESEARCH

Advertising by Financial Institutions

Reproposed Amendments: N.J.A.C. 3:2-1.1, 1.2, 1.3, and 1.4

Authority: N.J.S.A. 17:16H-3.

Proposal Number: PRN 1988-242.

The agency proposal follows:

Summary

The Department of Banking proposes to amend the financial advertising rules found at N.J.A.C. 3:2. The general purpose of these amendments is to further identify and clarify areas of violation of N.J.S.A. 17:16H-1 et seq. The Department believes that it is essential for consumers to receive accurate and helpful information in a deregulated banking and financial services environment.

N.J.A.C. 3:2-1.1 is being amended for purposes of clarity and understanding. The proposed amendment to N.J.A.C. 3:2-1.2 adds the definitions of "lender", "points" and "mortgage loan" to the rule. The proposed amendment to N.J.A.C. 3:2-1.3 extends the disclosure requirement to loan products. The proposed amendment to N.J.A.C. 3:2-1.4 delineates six advertising practices which are deemed deceptive or misleading and also prohibits the advertising of a loan or savings product unless available to a reasonable number of applicants.

These proposed amendments are the successor to earlier proposed amendments (PRN 1987-304, published in the August 3, 1987 New Jersey Register at 19 N.J.R. 1355(a)), which have been substantially revised following the receipt and consideration of public comments.

Social Impact

These proposed amendments apply to all financial institutions subject to supervision, regulation or licensing by the Department. The proposed amendments will have the beneficial impact of prohibiting particular advertising practices in the area of mortgage lending which the Department believes are misleading or deceptive. Loan applicants and prospective borrowers will be the direct beneficiaries of these amendments.

Economic Impact

The proposed amendments are generally expected to have little discernible economic impact on financial institutions since the amendments merely prohibit certain advertising practices. Additional disclosure requirements may produce an incidental economic impact. Consumers are expected to receive the economic benefit of additional advertising safeguards. There will be no economic impact upon the Department.

Regulatory Flexibility Statement

The financial institutions regulated by these proposed amendments are predominantly small businesses. The only areas of compliance, that is, disclosure and advertising prohibitions, are not expected to necessitate professional services or require initial capital costs. Annual costs are expected to be minimal, if at all discernible. Minimization of any adverse impact upon small businesses is not attainable since the amendments enhance the general welfare of the public.

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

3:2-1.1 Authority, scope and enforcement

(a) This [regulation] **subchapter** is promulgated pursuant to the provisions of chapter 193, Public Laws of 1979. This [regulation] **subchapter** applies to financial institutions subject to supervision, regulation or licensing by the Department of Banking.

(b) Compliance with this [regulation] **subchapter** and chapter 193, Public Laws of 1979 shall be enforced by the Commissioner of Banking of the State of New Jersey.

3:2-1.2 Definitions

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

...
"Financial institution" means any bank, savings bank, state association, credit union, **mortgage banker, mortgage broker**, secondary mortgage lender, small loan company, or any other institution, corporation, partnership, or individual subject to [the] supervision, regulation or licensing by the Department of Banking.

"Lender" means the financial institution which makes the loan or issues the loan commitment.

"Mortgage loan" means a loan made by a financial institution, secured by a mortgage constituting a lien upon real property on which there is erected or to be erected a structure containing one to six dwelling units, a portion of which may be used for nonresidential purposes, or upon a lease of the fee of such real property, in the making of which the financial institution relies primarily upon the value of the mortgaged property. Mortgage loan shall not include a loan made to a corporation.

"Point" means an amount of money equal to one percent of the principal amount of the loan and payable only at closing or commitment.

3:2-1.3 Disclosure of interest rates and loan terms

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

(c) **All advertisements of loan products shall comply with the requirements of the Federal Truth-in-Lending Law and Regulation Z, 15 U.S.C. 1601 et seq. and 12 CFR 226 et seq., respectively.**

3:2-1.4 Violations of the Act

(a) No financial institution shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly[,] to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of banking, lending or being a financial institution or with respect to any person in the conduct of such business, which is inaccurate, untrue, deceptive or misleading, or which negatively affects the public's confidence in such financial institution or financial institutions in general.

(b) **Without limiting (a) above, the following conduct shall be deemed deceptive or misleading:**

1. The advertisement of "immediate approval" of a loan application or "immediate closing" of a loan;
2. The advertisement of a "no-point" mortgage loan when points, as defined herein, are accepted as a condition for commitment or closing, or the advertisement of an incorrect specific number of points;
3. The advertisement of unqualified access to credit without clearly and conspicuously disclosing that material limitations on the availability of such credit may exist;
4. The advertisement of a "prevailing rate" mortgage loan where a specific rate is indicated in the advertisement unless:
 - i. The lender offers lock-in agreements to a reasonable number of qualified applicants at that rate; or
 - ii. The advertiser specifically states in the advertisement that the expressed rate may be changed or not be available at commitment or closing and includes in the advertisement, in type as large as the advertised rate, the rate at which such "prevailing rate" loans offered by the lender are currently being closed or committed (in cases where the lender customarily commits to close at a specific rate);
5. The advertisement of a mortgage loan by a mortgage broker (or a mortgage banker that acts merely as a mortgage broker with regard to the advertised loan) which does not specifically and conspicuously state that the advertiser will not make any mortgage loan commitments or fund any mortgage loans under the advertised program; and
6. The advertisement of a mortgage loan by a mortgage banker or mortgage broker without including in the advertisement or broadcast announcement the words "licensed mortgage banker—N.J. Department of Banking" or "licensed mortgage broker—N.J. Department of Banking," whichever the case may be.
 - (c) No loan or savings product may be advertised by an entity subject to this subchapter unless the entity has the advertised product available to a reasonable number of qualified applicants responding to the advertisement on the date the advertisement appears, or on the next business day if the advertisement appears on a day the advertiser is not open for business.
 - (d) Nothing in this section shall require a lender to offer any loan product to an unqualified applicant.

COMMUNITY AFFAIRS

DIVISION OF HOUSING AND DEVELOPMENT

The proposed amendments to N.J.A.C. 5:23-2.5 and 5:24-2.5 are authorized by Leonard S. Coleman, Jr., Commissioner, Department of Community Affairs.

Submit comments by June 15, 1988 to:
 Michael L. Tickin, Esq.
 Administrative Practice Officer
 Department of Community Affairs
 CN 802
 Trenton, NJ 08625

(a)

Uniform Construction Code Increases in Size

Proposed Amendment: N.J.A.C. 5:23-2.5

Authority: N.J.S.A. 52:27D-124.
 Proposal Number: PRN 1988-240.

The agency proposal follows:

Summary

The proposed amendments to the Uniform Construction Code at N.J.A.C. 5:23-2.5 exclude owner-occupied detached single family homes in which floor area is increased by less than 25 percent from the requirement that the entire structure be brought into conformity with current code requirements for means of egress, fire safety, light and ventilation.

Social Impact

Currently, all buildings to which an addition of at least five percent of floor area is made must be altered to conform in their entirety to current code requirements as indicated above. While the amendment will remove one means of getting older buildings brought up to current

requirements, the alterations that would have to be made are mainly related to fire safety and this exclusion, based as it is on the belief that people will take extra care to protect themselves and their families from fire without being compelled to do so, is consistent with the exclusion of single family, owner-occupied homes from the requirements of the Uniform Fire Safety Act.

Economic Impact

The enlarged exclusion from the requirement to alter the entire building will tend to reduce the cost of doing alterations of under 25 percent of floor area to owner-occupied detached single family homes. The amount of such reduction will be different in each individual case.

Regulatory Flexibility Analysis

This amendment only concerns additions to owner-occupied detached single family homes. As such, it has no impact on small businesses other than possibly to induce more homeowners to have additions built, thereby providing increased sales for home improvement contractors.

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

5:23-2.5 Concerning increase in size

(a) If the structure is increased in floor area or height, the entire structure shall be made to conform with the regulations in respect to means of egress, fire safety, light and ventilation.

1. [Shall] **This requirement shall** not apply to increases of less than five percent of floor area unless the construction official and appropriate subcode officials determine in writing that the application of [(a) above] **this requirement** to such increase is necessary in the public interest.

2. **This requirement shall not apply to increases of less than 25 percent of floor area in any detached owner-occupied single family residence of Use Group R-3.**

(b) (No change.)

(b)

Senior Citizen and Disabled Protected Tenancy Determination of Eligibility

Proposed Amendment: N.J.A.C. 5:24-2.5

Authority: N.J.S.A. 2A:18-61.38.
 Proposal Number: PRN 1988-238.

The agency proposal follows:

Summary

The proposed amendment would establish the right of both owners and tenants to review documents upon which a determination of eligibility or ineligibility for protected tenancy was based, prior to the date by which they would be required to apply for an administrative hearing. Either party is entitled to examine this documentation at a hearing, and allowing access to such documents prior to the hearing application deadline should reduce the number of hearings, as it will no longer be necessary to request a hearing in order to review this documentation.

Social Impact

The proposed amendment, in conjunction with the amendment to N.J.A.C. 5:24-2.7 proposed at 20 N.J.R. 437(a) on March 7, 1988, should reduce the number of unnecessary or frivolous appeals, thereby expediting the processing of legitimate appeals by local administrative agencies.

Economic Impact

If there are fewer hearings, less money will have to be spent by owners, tenants and municipalities to pay the costs incurred as a result of hearings.

Regulatory Flexibility Statement

Both owners who qualify as "small businesses" for purposes of the Regulatory Flexibility Act and those who do not will have the same right to examine documents submitted in support of protected tenancy applications. There is no basis for any preferential treatment for small businesses.

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

5:24-2.5 Determination of eligibility
(a)-(b) (No change.)

(c) Both the owner and the tenant shall have the right to review any documentation upon which a determination by the administrative agency or officer was based within five days of receipt by the owner or tenant, as the case may be, of notice of the determination.

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

Local Finance Board

Proposed Readoption: N.J.A.C. 5:30

Authorized By: Local Finance Board, Barry Skokowski, Sr.,
Chairman.

Authority: N.J.S.A. 52:27BB-10, 52:27BB-32, 52:27D-18,
40A:5-83, 40A:4-38, 40A:11-11, 40A:12-6.

Proposal Number: PRN 1988-255.

Submit comments by June 15, 1988 to:
Barry Skokowski, Sr., Chairman
Local Finance Board
Division of Local Government Services
Department of Community Affairs
Broad and Front Streets
Trenton, NJ 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 5:30 will expire on June 1, 1988.

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. Therefore, N.J.A.C. 5:30 is proposed for re-adoption without change.

P.L. 1947, c. 151, as amended, specifically N.J.S.A. 52:27BB-10, requires that the Local Finance Board promulgate reasonable rules and regulations for the interpretation and administration of State laws included within the jurisdiction of the Division of Local Government Services, Department of Community Affairs. These rules include administrative rules governing local bond activities, annual budgets, capital budgets and capital improvement programs, emergency appropriations, annual audits, accounting, financial administration, municipal port authorities, school bonds, federal grants for library construction and state library aid, local public purchasing procedures, and tenant property tax rebates.

The purpose of these rules, as outlined in N.J.S.A. 52:27BB-6, is to establish standards and procedures which assist local governments to solve and plan and guide needed readjustments for effective self-government.

Social Impact

Readoption of the rules, which includes readoption of the subchapters adopted by reference, will ensure the continued fiscal integrity of local governmental units. Failure to readopt these rules might result in the financial instability of local governments throughout the State.

Economic Impact

N.J.A.C. 5:30 establishes administrative rules for local governments, including annual budgets, capital improvement programs, emergency appropriations, accounting, financial administration, and purchasing. Failure to readopt the rules would remove the controls that now protect New Jersey taxpayers against excessive incurrence of debt by local governments.

Regulatory Flexibility Statement

These rules are required by N.J.S.A. 52:27BB-10. Because these rules affect only the regulation of local governmental units, these rules do not apply to, or affect, small businesses.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 5:30.

EDUCATION

STATE BOARD OF EDUCATION

The following proposals are authorized by the State Board of Education, Saul Cooperman, Secretary and Commissioner, Department of Education.

Submit comments by June 15, 1988 to:
Irene Nigro, Rules Analyst
State Department of Education
225 West State Street, CN 500
Trenton, New Jersey 08625

(b)

School Districts

Proposed Readoption with Amendments: N.J.A.C. 6:3

Authority: N.J.S.A. 18A:4-10, 18A:4-15, 18A:6-10, 18A:6-50, 18A:6-7A.1, 18A:7A1.1, 18A:10-6, 18A:13-14, 18A:16-1, 18A:17-14.1 to 14.3, 18A:17-15, 18A:17-17, 18A:17-20, 18A:17-32, 18A:17-42 to 17-45, 18A:18A-4, 18A:18A-6, 18A:22-1, 18A:22-2, 18A:22-13, 18A:22-14, 18A:22-19, 18A:22-22, 18A:24-11, 18A:28-9 to 28-13, 18A:29-6 to 29-16, 18A:40-12.1, 18A:40-12.2, and 18A:49-1 to 49-8.

Proposal Number: PRN 1988-244.

The agency proposal follows:

Summary

In accordance with the "sunset" provisions of Executive Order No. 66(1978) the State Board of Education proposes to readopt with amendments N.J.A.C. 6:3-1 et seq. The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15 and provisions of N.J.S.A. 18A:1-1 and N.J.S.A. 18A:27-3.1 proposes substantive changes to N.J.A.C. 6:3-1.1, 6:3-1.10, 6:3-1.12(f), 6:3-1.12(j), 6:3-1.14(a), 6:3-1.19(a), 6:3-1.19(d), 6:3-1.19(g), and 6:3-1.22(j). Other technical amendments are also proposed.

The rules in Subchapter 1 pertain to the administration of school districts in general. Sections of this subchapter were amended at time of readoption in June, 1983 and ensuing as follows: N.J.A.C. 6:3-1.1, 1.5, 1.7, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.16, 1.18, 1.19, 1.20, 1.21 and 1.22.

There are no changes being proposed for N.J.A.C. 6:3-1.2 board of school estimates, 1.5 minimum bond requirements for treasurer of school money, 1.7 purchase of food supplies in school cafeterias and in home economics classes, 1.18 school business administrator, N.J.A.C. 6:3-3 withdrawal from limited purpose regional school districts and N.J.A.C. 6:3-4 senior citizen's transportation.

A summary of the proposed amendments to N.J.A.C. 6:3-1 is as follows:

N.J.A.C. 6:3-1.1 is eliminated because the continuation of a noncertified acting administrator beyond 12 months is excessive.

N.J.A.C. 6:3-1.10(e) removes reference to the seniority rights of persons under provisional certificates, since provisional certificates are no longer issued, except to those persons participating in the alternate route training program as defined in N.J.A.C. 6:11-5.1(a)2. There are presently many persons serving under standard certificates who have served under provisional certificates as defined prior to the regulatory certificate changes introduced in 1984 as well as those who serve under the newly defined provisional certificate. These proposed revisions make clear that service under a provisional certificate does accrue toward seniority once standard certification is acquired.

N.J.A.C. 6:3-1.10(f) has the first sentence deleted because it refers to the fact that not more than one year of employment may be counted toward seniority in any one academic or calendar year. Consequently, it is at variance with the rest of this particular subsection. Its removal ensures clarity and avoids confusion over the intent of the rule which accords a full year's seniority in each subject area endorsement or category served to a person employed full time.

N.J.A.C. 6:3-1.10(1)7, 8, 14 and 15 adds the additional categories of adult high school principal and vice principal as well as alternate school principal and vice principal. These categories of seniority have been added in order to ensure that adult and alternate high school administrators

do not assert seniority over day school administrators and vice versa. These additional categories are being created since the nature, scope, experience and complexities of the duties of adult school and alternate school principals are quite different even though the certificate endorsements are the same.

N.J.A.C. 6:3-1.12(f) is a new section requiring a recommendation of the chief school administrator for formal appointment of all teaching staff members. This amendment coincides with the requirement established in N.J.A.C. 6:8-4.3(a)6vii.

N.J.A.C. 6:3-1.12(j) is amended to eliminate differentiated roles of superintendent and administrative principal.

N.J.A.C. 6:3-1.14 is amended to require that eye protective devices be worn during participation in any regular school program, in which exposure to caustic or explosive chemicals might cause damage to the eyes.

N.J.A.C. 6:3-1.19 has been amended to clarify procedures for evaluation of nontenured teaching staff members.

N.J.A.C. 6:3-1.22 is amended to include nontenured chief school administrators.

N.J.A.C. 6:3-1.22(j) is amended to clarify the procedure for evaluation of nontenured chief school administrators.

N.J.A.C. 6:3-2.1 through 6:3-2.8, regulating pupil records, have previously been amended to respond to Senate Bill 818, P.L. 1986 c.160 which is codified as N.J.S.A. 18A:36-19a (see the May 2, 1988 New Jersey Register at 20 N.J.R. 978(b)).

N.J.A.C. 6:3-3.1 through 3.5 are the rules pertaining to a school district's withdrawal from a limited-purpose regional school district, which provide an administrative procedure whereby constituent districts may withdraw. Minor, clarifying and technical amendments are proposed for this subchapter.

N.J.A.C. 6:3-4.1 governs district boards of education permitting the use of school buses owned or leased by the school district for transportation of senior citizens' groups to and from events within the district or in any district contiguous thereto.

No further changes to N.J.A.C. 6:3-2 and 4 are proposed at this time. The Department has evaluated and considered these rules in this chapter to be necessary and proper for the purposes for which they were originally adopted.

Social Impact

The social impact of the amendments to those sections of N.J.A.C. 6:3-1 concerning the position of superintendent and the evaluation of the superintendent, as well as the evaluation of tenured and nontenured teaching staff members, will be positive. These amendments clarify the administrative process necessary to establish administrator positions and to evaluate performance of all teaching staff members. Readoption of this subchapter will serve to assure the general public that district staffing and performance of staff is efficiently and effectively managed.

The proposed amendment to N.J.A.C. 6:3-1.14(a) will have a beneficial social impact in that eye protection in all regular school program areas when dangerous substances are used or in which certain activities could result in eye damage will be required. This provision broadens the protection of pupils, teachers and visitors to schools.

The proposed amendments to N.J.A.C. 6:3-1.10 will be of minimal social impact. The only persons impacted would be alternative school and adult high school principals and vice principals whose seniority rights will be somewhat more limited.

Readoption of N.J.A.C. 6:3-2.1 through 2.8 will have a favorable impact upon the public in that the rules will ensure that local school districts establish procedures that comply with the amended code concerning pupil records.

Readoption of rules N.J.A.C. 6:3-3.1 through 3.5 pertaining to a school district's withdrawal from a limited-purpose regional school district provides an administrative procedure whereby constituent districts may withdraw. The opportunity for withdrawal minimizes the social impact which can occur in a limited-purpose regional district when one or more districts experience growth in enrollment.

The readoption of N.J.A.C. 6:3-4.1 provides a positive social impact by identifying and meeting the needs of the persons aged 60 or older and enables them, by this transportation service, to have access to and participate in civic, social, cultural, educational, nutritional and health activities.

Economic Impact

There will be no additional cost to school districts as a result of the proposed amendments and readoption of those sections of N.J.A.C. 6:3-1 regarding the position of superintendent, his or her duties, and procedures for evaluating the superintendent and tenured and nontenured teaching

staff members. However, the rescission of N.J.A.C. 6:3-1.1 may pose a greater salary cost to districts that continue an administrative vacancy beyond 12 months, since the person appointed to an acting administrative position must then be properly certified. Accordingly, the certified person may then require payment of a greater salary.

The proposed amendment to N.J.A.C. 6:3-1.14 will have a minimal economic impact on districts that need to purchase eye protective devices for use in programs where such devices are not currently provided. The average cost per protective device is \$3.75.

Other changes to sections of this subchapter are administrative and are deemed to have no economic impact on school districts or State and county agencies.

Readoption of N.J.A.C. 6:3-2.1 through 2.8 will have no economic impact on the State, district boards of education, or the pupil.

Readoption of N.J.A.C. 6:3-3.1 through 3.5, concerning withdrawal from a limited-purpose regional school district, poses no economic impact, except as constituent districts may determine through a feasibility study which voters must approve at a special election. Amendments proposed to sections of this subchapter serve to clarify the procedures required to determine the feasibility of withdrawal from a limited-purpose regional school district.

The readoption of N.J.A.C. 6:3-4.1 may have the following economic impact. Since senior citizens' groups using the school buses for transportation may be required to pay the school board all or part of the costs incurred, if the district so designates, costs not paid by senior citizens' groups would then be absorbed by the local district.

Regulatory Flexibility Statement

The proposed readoption with amendments will have no reporting, recording or compliance requirements for small businesses. The provisions of N.J.A.C. 6:3 impact only upon public school districts in New Jersey.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 6:3 and, for recent amendments to N.J.A.C. 6:3-2, in the May 2, 1988 New Jersey Register at 20 N.J.R. 978(b).

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

SUBCHAPTER 1. GENERAL PROVISIONS

6:3-1.1 [Acting administrators; extension of approval]

In accordance with the provisions of N.J.A.C. 6:5-2.1, the Commissioner of Education may recommend to the State Board of Education that permission be granted to extend the acting capacity of an individual beyond a year, upon receipt of written application from the district board of education.] **(Reserved)**

6:3-1.2 through 1.4 (No change.)

6:3-1.5 Minimum bond requirements for treasurer of school moneys

(a) The minimum requirements for the surety bond shall be such percentage of the current year's school budget as is required in the schedule set forth in (b) below.

(b) Total School Board Up to \$100,000.00	Minimum Bond Required 10 percent of budget (Minimum[s] \$5,000)
\$100,000.01 to \$250,000.00	\$10,000 plus eight percent of all over \$100,000
\$250,000.01 to \$500,000.00	\$22,000 plus six percent of all over \$250,000
\$500,000.01 to \$750,000.00	\$37,000 plus four percent of all over \$500,000
\$750,000.01 to \$1,000,000.00	\$47,000 plus two percent of all over \$750,000
\$1,000,000.01 to \$2,000,000.00	\$52,000 plus one percent of all over \$1,000,000
\$2,000,000.01 to \$5,000,000.00	\$62,000 plus 1/2 percent of all over \$2,000,000
\$5,000,000.01 to \$10,000,000.00	\$77,000 plus 1/4 percent of all over \$5,000,000
\$10,000,000.01 and upwards	\$89,500 plus 1/8 percent of all over \$10,000,000

PROPOSALS

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(c) In fixing such minimum bond, the nearest event \$1,000 shall be used.

(d) (No change.)

6:3-1.6 (Reserved)

6:3-1.7 Purchase of food supplies in school cafeterias and in home economics classes

(a) For the purpose of these rules, "food supplies" shall include only those supplies which are to be eaten or drank and those substances which may enter into the composition of a food in the operation of a school cafeteria or in a home economics class.

1. Whenever any district board of education elects to purchase food supplies pursuant to these rules, it shall adopt a policy stating what food supplies will be purchased without advertising for bids, designating a person or persons authorized to purchase food supplies, describing the procedure by which interested vendors may become eligible to submit quotations[,] and outlining the method by which the board will solicit and accept quotations.

2. (No change.)

(b) Rules regarding specifications and quotations are as follows:

1.-2. (No change.)

3. The food supplies on which quotations are obtained shall be purchased from the vendor giving the lowest quotation unless the person or persons designated by the district board of education to purchase food supplies can justify the purchase from one of the other vendors submitting a quotation. Such justification, together with all quotations received, shall be in permanent record form, available to school officials, the district board of education and the State Department of Education for review and/or for audit for a minimum of three years.

4. (No change.)

(c) (No change.)

6:3-1.8 (Reserved)

6:3-1.9 Special meetings of district boards of education

In every school district of the State, it shall be the duty of the secretary of the board of education to call a special meeting of the board whenever requested by the president of the board to do so or whenever there shall be presented to such secretary a petition signed by a majority of the whole number of members of the district board of education requesting the special meeting. Public notice of such meeting shall be made pursuant to law and regulation.

6:3-1.10 Standards for determining seniority

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

(c) In computing length of service for seniority purposes, full recognition shall be given to previous years of service within the district and the time of service in or with the military or naval forces of the United States or this State, pursuant to the provisions of N.J.S.A. 18A:28-12.

(d) (No change.)

(e) [The holder of a provisional certificate shall be entitled to seniority rights but not over the holder of a standard certificate.] The holder of an emergency certificate shall not be entitled to seniority rights but, when he or she becomes the holder of a [provisional or] standard certificate, the years of employment under the emergency certificate shall count toward seniority under the [provisional or] standard certificate[, as the case may be]. **Upon acquisition of a standard certificate, any periods of service under a provisional certificate shall also be counted toward seniority.**

(f) [Not more than one year of employment may be counted toward seniority in any one academic or calendar year.] Whenever a person shall hold employment simultaneously under two or more subject area endorsements or in two or more categories, seniority shall be counted in all subject area endorsements and categories in which he or she is or has been employed. **For purposes of calculating seniority entitlement, there shall be no distinction between academic years and calendar years.**

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

(i) Whenever any person's particular employment shall be abolished in a category, he or she shall be given that employment in the same category to which he or she is entitled by seniority. If

he or she shall have insufficient seniority for employment in the same category, he or she shall revert to the category in which he or she held employment prior to his or her employment in the same category[,] and shall be placed and remain upon the preferred eligible list of the category from which he or she reverted until a vacancy shall occur in such category to which his or her seniority entitles him or her.

(j) If he or she shall have insufficient seniority in the category to which he or she shall revert, he or she shall, in like manner, revert to the next category in which he or she held employment immediately prior to his or her employment in the category to which he or she shall have reverted[,] and shall be placed and remain upon the preferred eligible list of the next preceding category, and so forth, until he or she shall have been employed or placed upon all the preferred eligible lists of the categories in which he or she formerly held employment in the school district.

(k) In the event of his or her employment in some category to which he or she shall revert, he or she shall remain upon all the preferred eligible lists of the categories from which he or she shall have reverted[,] and shall be entitled to employment in any one or more such categories whenever a vacancy occurs to which his or her seniority entitles him or her.

(l) The following shall be deemed to be specific categories, [but] not necessarily numbered in order of precedence:

1. Superintendent of schools;
2. Director of county vocational schools;
3. Assistant director of county vocational schools;
4. Assistant superintendent (each assistant[ce]t superintendency shall be a separate category);
5. Local director of vocational education;
6. High school principal;
7. **Adult high school principal;**
8. **Alternative school principal;**
- [7.]9. Vocational school principal;
- [8.]10. Junior high school principal;
- [9.]11. Elementary principal;
- [10.]12. Supervisors (each approved supervisory title shall be a separate category. District boards of education shall adopt job descriptions for each supervisory position which [shall] set forth the qualifications and specific endorsements required for such position[.]);

- [11.]13. High school vice-principal or assistant principal;
14. **Adult high school vice-principal or assistant principal;**
15. **Alternate school vice-principal or assistant principal;**
- [12.]16. Junior high school vice-principal or assistant principal;
- [13.]17. Elementary school vice-principal or assistant principal;
- [14.]18. Vocational school vice-principal or assistant principal;
- [15.]19. Secondary. The word "secondary" shall include grades [9-]nine through 12 in all high schools, grades [7-8] seven and eight in junior high schools[,] and grades [7-8] seven and eight in elementary schools having departmental instruction.

- i.-iv. (No change.)
- [16.]20. Elementary. The word "elementary" shall include Kindergarten, grades [1-6] one through six and grades [7-8] seven and eight without departmental instruction.

- i.-iii. (No change.)
- iv. Persons serving under elementary endorsements in departmentally organized grades [7] seven and [8] eight prior to September 1, 1983 shall continue to accrue seniority in the elementary category for all such service prior to and subsequent to September 1, 1983. In addition, such persons shall accrue seniority in the secondary category but limited to the district's departmentally organized grades [7] seven and [8] eight and the specific subject area actually taught in such departmentally organized grades, subsequent to September 1, 1983.

- [17.]21. Additional categories of specific educational service endorsements issued by the State Board of Examiners and listed in the State Board rules dealing with teacher certification (N.J.A.C 6:11).

(m) In the event of a restructure of grades levels which results in the elimination of all junior high schools (as defined by N.J.A.C. 6:27-1.2) in the district and the creation of schools with a grade level

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organization which includes grade seven and eight with or without one or more elementary grades, the seniority rights of the junior high principals, vice-principals and assistant principals displaced by such restructuring shall be transferable to the newly reorganized school[s], in the category designated by the district board of education[,] in its classification plan adopted in compliance with N.J.A.C. 6:27-1.2.

6:3-1.11 (No change.)

6:3-1.12 Duties of district superintendent of schools; chief school administrator

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

(c) He or she shall exercise such educational and administrative leadership, supervision, and guidance as may be necessary for producing the best possible educational conditions and outcome.

(d) He or she shall appoint such clerks as may be authorized by the district board(s) of education.

(e) He or she shall nominate to the district board(s) of education such assistant superintendents as shall be authorized by the district board(s) of education.

(f) He or she shall recommend to the district board(s) of education formal appointment of all teaching staff members.

[(f)](g) It shall also be his or her duty to recommend and prepare for the district board(s) of education a list of textbooks and reference and library books, materials of instruction, instructional equipment and school supplies for the approval by the district board(s) of education[, but it is not the duty of the superintendent to purchase or distribute them].

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

[(h)](i) (No change in text.)

[(i)](j) Each chief school administrator who is an administrative principal shall perform all of the duties enumerated in [sub]this section[s (a), (b), (c), (f), (g) and (h) above].

6:3-1.13 (No change.)

6:3-1.14 Eye protection in public schools

(a) Each district board of education shall require each pupil, teacher and visitor in the public schools of the district, including evening adult schools programs, to wear appropriate eye protective devices while participating in [vocational education, industrial arts education, science education and arts education] **any regular school program as defined in N.J.A.C. 6:8-1.1** in which caustic or explosive chemicals or materials, hot liquids or solids, molten materials, welding operations of any type, repairing or servicing of vehicles, heat treatment or tempering of metals, the shaping of solid materials and laser device operation and experimentation or any similar process or activity is engaged in, exposure to which might have a tendency to cause damage to the eyes.

(b) The term "appropriate eye protective device" shall include plano or prescription lenses provided the lenses and other portions of the device meet or exceed the prescribed specifications for the device. Specifications for appropriate eye protection for various activities shall meet or exceed standards described in (b)1 and 2 below. The standards, with all subsequent amendments and supplements, are hereby adopted as rules.

1. American National Standard Practice for Occupational and Educational Eye and Face Protection, ANSI Z87.1-1979.

2. American National Standard Practice for the Safe Use of Lasers, ANSI Z136.1-[1980] **1986** and eye protective procedures recommended by the manufacture of the laser device.

i. These documents are available for review at the Administrative Code Office, Department of Education, 225 West State Street, CN 500, Trenton, New Jersey 08625-0500.

ii. These documents may be purchased from the American National Standards Institute, Incorporated, 1430 Broadway, New York, New York 10018.

(c) Emergency eye wash foundations or similar devices, capable of a minimum 15 minutes continuous flow of eye wash solution shall be provided in classrooms, shops, laboratories or other areas where pupils or instructors are exposed to caustic materials that can cause damage to the eyes.

(d) The following types of eye protective devices shall be used to fit the designated activities or processes:

Potential Eye Hazard—Eye Protective Device(s)

1.-2. (No change.)

3. Electric arc welding—Welding helmet in combination with spectacles with eye cup or semi- or flat-fold side shields;

4. Oxy-acetylene welding—Welding goggle, eye cup type with tinted lenses; welding goggle, coverspec type with tinted lenses or tinted plate lenses;

5.-8. (No change.)

9. Glare operations—Tinted goggles, tinted spectacles with side shields or welding goggles, eye cup or coverspec type with tinted lenses or tinted plate lenses;

10.-13. (No change.)

(e) Each district board of education shall establish and implement a specific eye protective policy and program to assure that:

1.-4. (No change.)

5. All eye protective devices shall meet or exceed the appropriate specifications for the various types of devices and suppliers of eye protective devices shall certify, in writing, that the devices meet[s] or exceed[s] said specifications.

6. (No change.)

7. [Contact lenses] **The use of contact lenses** shall be restricted in learning environments which entail exposure to chemical fumes, vapors or splashes, intense heat, molten metals, or highly particulate atmospheres. Contact lenses, when permitted, shall [not] **only** be worn in conjunction with appropriate eye protective devices and the lens[e] wearer shall be identified for appropriate emergency care in eye hazardous learning environments.

8. All spectacle type eye protective devices shall have side shields of the eye cup, semi- or flat-fold type.

9. Pupils, teachers or visitors wearing personal corrective eyewear shall be required to wear cover goggles or similar devices unless it can be certified, by competent authority, that the personal eyewear meets or exceeds standards identified in [subsection] (b) above.

6:3-1.15 through 1.17 (No change.)

6:3-1.18 School business administrator

(a) Any school district establishing the position of school business administrator shall meet the conditions **established in this section**;

[(a)] (b) School district with more than 25 teachers:

1.-2. (No change.)

3. Upon certification by the county superintendent of schools of the necessity for such a position, the Commissioner and the State Board of Education may approve the establishment of a position of [S]school [B]business [A]administrator.

4. Any person appointed by a district board of education to the position of school business administrator shall hold an appropriate certificate prescribed by the State Board of Education, and he or she shall be considered a member of the professional [and] staff of the school district.

5. The school business administrator shall perform those business functions as outlined in the policy of the district board of education and as approved by the [c]Commissioner and the State Board of Education.

6. (No change.)

[(b)] (c) School districts with 25 teachers or less:

1. (No change.)

2. The major area of the duties and responsibilities which may be considered by the participating district boards of education as functions of the school district administrator are those set forth in [(a)] (b)2 above.

3. Upon certification of the county superintendent of schools of the necessity for position, the Commissioner and State Board of Education may approve the establishment of a position of [S]school [B]business [A]administrator for two or more school districts.

4. (No change.)

5. A school business administrator shall perform those business functions as outlined in the policies of the respective district boards of education and as approved by the [c]Commissioner and the State Board of Education.

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6. The salary shall be equitably apportioned among two or more school districts in accordance with the administrative plan outlined in [(b)] (c) above.

7. (No change.)

[(c)] (d) All changes or modifications in the original plan concerning the position of [S]school [B]business [A]administrator as submitted to the county superintendent of schools, the Commissioner of Education and the State Board of Education must be approved in the same manner as the original plan.

6:3-1.19 Supervision of instruction, observation and evaluation of nontenured teaching staff members

(a) For the purpose of this [S]section, the term "observation" shall be construed to mean a visitation to **an assigned work station** [a classroom by a member of the administrative and supervisory staff of the local school district, who holds an appropriate certificate for the supervision of instruction.] **by a certified supervisor of the local school district for the purpose of [observing] formally collecting data on the performance of a nontenured teaching staff member's assigned duties and responsibilities and of a duration appropriate to those duties and responsibilities.** [performance of the instructional process:]

1. Each of the three observations required [by law] pursuant to N.J.S.A. 18A:27-3.1 shall be conducted for a minimum duration of one class period in a secondary school, and in an elementary school for the duration of one complete subject lesson.

(b) The term "evaluation" shall be construed to mean a written evaluation prepared by the administrative or supervisory staff member who visits the [classroom] **work station** for the purpose of observing a teaching staff member's performance of the instructional process.

(c) Each district board of education shall adopt a policy for the supervision of instruction, setting forth procedures for the observation and evaluation of **all** nontenured teaching staff members[, including those assigned to regular classroom teaching duties and those not assigned to regular classroom teaching duties]. Such policy shall be distributed to each teaching staff member at the beginning of his or her employment.

(d) Each policy for the supervision of instruction shall include, in addition to those observations and evaluations hereinbefore described, a written evaluation of the nontenured teaching staff member's total performance as an employee of the district board of education, **including but not limited to:**

1. **Performance areas of strength;**
2. **Performance areas needing improvement based upon the job description;**
3. **An individual professional improvement plan developed by the supervisor and the teaching staff member; and**
4. **A summary of available indicators of pupil progress and growth, and a statement of how these indicators related to the effectiveness of the overall program and the performance of the individual teaching staff member.**

(e) Each of the three observations required [by law] pursuant to N.J.S.A. 18A:27-3.1 shall be followed within a reasonable period of time, but in no instance more than 15 days, by a conference between the administrative or supervisory staff member who has made the observation and written evaluation, and the nontenured teaching staff member. Both parties to such a conference will sign the written evaluation report and retain a copy for his or her records. The nontenured teaching staff member shall have the right to submit his or her written disclaimer of such evaluation within 10 days following the conference and such disclaimer shall be attached to each party's copy of the evaluation report.

(f) (No change.)

(g) **"Teaching staff member" means a member of the professional staff of any district or regional board of education, or any board of education of a county vocational school, or any educational services commission, holding office, position or employment of such character that the qualifications for such office, position or employment require him or her to hold a valid and effective standard, provisional or emergency certificate, appropriate to his or her office, position or employment, issued by the State Board of Examiners and includes a school**

nurse. The district chief school administrator, however, will not be evaluated pursuant to this subchapter but shall instead be evaluated pursuant to N.J.A.C. 6:3-1.22.

6:3-1.20 (No change.)

6:3-1.21 Evaluation of tenured teaching staff members

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

(h) For the purposes of this section:

1. "Appropriately certified personnel" means personnel qualified to perform duties of supervision which includes the superintendent, assistant superintendent, principals, vice-principals, and the supervisors of instruction who hold the appropriate certificate and who are designated by the board to supervise instruction.

2. "Indicators of pupil progress and growth" means the results of formal and informal assessment of pupils as defined in N.J.A.C. 6:8-[3.4]6.1.

3. "Individual professional improvement plan" is a written statement of actions developed by the supervisor and the teaching staff member to correct deficiencies or to continue professional growth, timelines for their implementation, and the responsibilities of the individual teaching staff member and the district for implementing the plan;

4. "Job description" means a written specification of the function of the position, duties and responsibilities, the extent and limits of authority, and work relationships within and outside the school and district;

5. "Observation conference" means a discussion between supervisor and teaching staff member to review a written report of the performance data collected in a formal observation and its implications for the teaching staff member's annual evaluation;

6. "Observation" means a visitation to an assigned work station by a certified supervisor for the purpose of formally collecting data on the performance of a teaching staff member's assigned duties and responsibilities and of a duration appropriate to same;

7. "Performance report" means a written appraisal of the teaching staff member's performance prepared by an appropriately certified supervisor;

8. "Supervisor" means any appropriately certified individual assigned with the responsibility for the direction and guidance of the work of teaching staff members;

9. "Teaching staff member" means a member of the professional staff of any district or regional board of education, or any board of education of a county vocational school, holding office, position or employment of such character that the qualifications, for such office, position or employment, require him or her to hold a valid and effective standard, provisional or emergency certificate, appropriate to his or her office, position or employment, issued by the State Board of Examiners and includes a school nurse.[: excluding t]The district [superintendent of schools or, if there is no superintendent, excluding the principal] **chief school administrator, however, will not be evaluated pursuant to this section but shall instead be evaluated pursuant to N.J.A.C. 6:3-1.22.**

6:3-1.22 Evaluation of tenured **and nontenured** chief school administrators

(a) Every district board of education shall adopt a policy and implementation procedures requiring the annual evaluation of the [tenured] chief school administrator by the district board of education.

(b) The purpose of the annual evaluation shall be to:

1. Promote professional excellence and improve the skills of the [tenured] chief school administrator;
2. Improve the quality of the education received by the pupils served by the public schools; **and**
3. Provide a basis for the review of the performance of the [tenured] chief school administrator.

(c) Such policy and procedures shall be developed by each district board of education after consultation with the [tenured] chief school administrator and shall include, but not be limited to:

1. (No change.)
2. Development of a job description and evaluation criteria, based upon the district's local goals, program objectives, policies, instruc-

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tional priorities, State goals, statutory requirements, and the functions, duties and responsibilities of the [tenured] chief school administrator[.];

3. (No change.)

4. Provision for the preparation of an individual plan for professional growth and development based in part upon any needs identified in the evaluation, which shall be mutually developed by the district board of education and the [tenured] chief school administrator; **and**

5. Preparation of an annual written performance report by a majority of the full membership of the district board of education and an annual summary conference between the district board of education, with a majority of the total membership of the board and the [tenured] chief school administrator present.

(d) (No change.)

(e) Such policy shall be distributed to the [tenured] chief school administrator upon adoption. Amendments to the policy shall be distributed within 10 working days after adoption.

(f) The annual summary conference between the district board of education, with a majority of the total membership of the board and the [tenured] chief school administrator present, shall be held before the written performance report is filed. The conference shall be held in private, unless the [tenured] chief school administrator requests that it be held in public. The conference shall include, but not be limited to:

1. Review of the performance of the [tenured] chief school administrator based upon the job description;

2. Review of the [tenured] chief school administrator's progress in achieving and/or implementing the district's goals, program objectives, policies, instructional priorities, State goals and statutory requirements; **and**

3. Review of available indicators of pupil progress and growth toward the program objectives.

(g) The annual written performance report shall be prepared by April 30 by a majority of the total membership of the district board of education and shall include, but not be limited to:

1.-3. (No change.)

4. A summary of available indicators of pupil progress and growth and a statement of how these available indicators relate to the effectiveness of the overall program and the performance of the [tenured] chief school administrator; **and**

5. Provision for performance data which have not been included in the report prepared by the board of education to be entered into the record by the [tenured] chief school administrator within 10 working days after the completion of the report.

(h) These provisions are the minimum requirements for the evaluation of [tenured] chief school administrators.

(i) For purposes of this section:

1.-2. (No change.)

3. "Job description" means a written specification of the functions, duties and responsibilities of the [tenured] chief school administrator and the relationship of such functions, duties and responsibilities to those of the district board of education.

(j) [Nothing in this section shall preclude a district board of education from applying these rules to nontenured chief school administrators.] **The evaluation procedure for a nontenured chief school administrator shall be completed by April 30 each year.**

6:3-1.23 (Reserved)

SUBCHAPTER 2. PUPIL RECORDS

6:3-2.1 through 2.8 (No change.)

SUBCHAPTER 3. WITHDRAWAL FROM LIMITED PURPOSE REGIONAL SCHOOL DISTRICTS

6:3-3.1 Application and data for investigation of advisability of withdrawal

(a) Any district board of education constituting part of a limited purpose regional school district or the governing body of such local school district, may apply to the county superintendent of schools

to make an investigation as to the [advisability] **feasibility** of withdrawal of such constituent district from the regional district. Such body shall adopt a resolution by a recorded roll call vote of the majority of the full membership requesting that the county superintendent make such investigation. The resolution request submitted to the county superintendent shall include the following information:

1. (No change.)

2. Enrollment data, including, **but not limited to**, the number of pupils enrolled as reported by grade on the October 1 Application for State School Aid and estimated projected enrollments, by grade level, for the succeeding five school years for both the withdrawing district and the remaining regional district, based on growth factors using average percentages for the last three school years;

3.-5. (No change.)

(b) (No change.)

6:3-3.2 Investigation and report by [c]County superintendent of schools

(a) Upon receipt of the resolution and accompanying data pursuant to N.J.A.C. 6:3-3.1, the county superintendent shall make an investigation and shall within 60 days after receipt of such request issue a report, in accordance with N.J.S.A. 18A:13-52, to governing bodies of the municipalities constituting the regional district, the boards of education of the constituent districts and the board of education of the regional district. When the county superintendent has begun such investigation, no action shall be taken upon a subsequent request from another constituent district of the same regional district until the investigation, report and action thereon have been completed. This report shall **be based on data supplied by the petitioning district(s)** includ[e]ing, but not be limited to, the following:

1. (No change.)

2. Enrollment data, including the number of pupils enrolled as reported by grade on the October 1 Application for State School Aid and estimated projected enrollment, by grade level, for the succeeding five years for both the withdrawing district and the remaining regional district, based on growth factors using average percentages for the last three school years;

3.-12. (No change.)

13. A summary of the advantages of withdrawal to both the withdrawing constituent district and the remaining regional district and the disadvantages to the withdrawing constituent district and the remaining regional district; **and**

14. (No change.)

6:3-3.3 Special school election

(a) **If the application is granted** [Upon] **upon** completion of the procedures contained in N.J.S.A. 18A:13-54 to 56, the county superintendent shall confer with the regional board and the boards of education of the constituent districts and fix a day and time for holding a special school election, in accordance with the provisions of N.J.S.A. 18A:13-57.

(b) (No change.)

6:3-3.4 and 3.5 (No change.)

SUBCHAPTER 4. SENIOR CITIZEN'S TRANSPORTATION

6:3-4.1 (No change.)

(a)

**Facilities Planning; Approval of Land Acquisition
Reproposed Amendment: N.J.A.C. 6:22-1.2**

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:18A-16, 18A:18A-18, 18A:18A-39, 18A:20-36, 18A:33-1 et seq. and 52:27D-130.

Proposal Number: PRN 1988-248.

The agency reproposal follows:

Summary

On September 4, 1985, the State Board of Education adopted new rules pertaining to School Facility Planning Services, N.J.A.C. 6:22. On June 6, 1986, the Board adopted an additional rule, N.J.A.C. 6:22-2.4,

pertaining to pre-manufactured units (trailers and vans) intended for use as instructional spaces. On March 2, 1988 the Board adopted amendments and one new section, N.J.A.C. 6:22-2.5, relating to school space sizes and capacity (see the April 4, 1988 New Jersey Register at 20 N.J.R. 788(a)).

The proposed amendment presented herein was previously published in the January 4, 1988 issue of the New Jersey Register at 20 N.J.R. 3(a). However, a printer's error omitted specific amendments which, if not clear, could have resulted in confusion about the meaning of N.J.A.C. 6:22-1.2. As a result, the amendment is being repropoed.

The proposed amendment to the rule on school site sizes removes specific numbers of required acres and replaces them with required and permissible site criteria for each of which sufficient acreage is required. The amendment also requires local boards of education to resubmit a site plan for approval if it does not have authority to acquire the site by bond referendum, lease-purchase agreement or other statutory means within 18 months of the original approval.

Social Impact

The changes included as N.J.A.C. 6:22-1.2(c), which address school site criteria, will assure that the safety and educational adequacy of school sites is equal in all school districts.

Economic Impact

The new school site criteria could result in the approval of sites with fewer acres. If so, the acquisition cost of sites will be reduced. The cost of the resubmission for school site approval could provide an economic impact if site conditions change from the original submission. Specific cost estimates are not possible since costs will vary according to each site.

Regulatory Flexibility Statement

The proposed amendment will impose no reporting, recordkeeping or compliance requirements on small businesses since the rule only applies to land acquisition by public schools, which are not included within the definition of small business provided by the Regulatory Flexibility Act, P.L. 1986 c.169.

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

6:22-1.2 Approval of land acquisition

(a) No district board of education may conduct a referendum for land acquisition, secure board of school estimate approval, enter into a lease agreement [for] or otherwise acquire land without prior school site approval [of] from the Department of Education, Bureau of Facility Planning Services. [of the Department of Education.]

(b) Before any action is taken to purchase or otherwise acquire or lease land, [the district board of education shall receive] approval of the adequacy of the land from the Department of Education, Bureau of Facility Planning Services is required. To consider the approval of such land, [acquisition by a district board of education] the manager of the Bureau of Facility Planning Services shall be provided with the following:

1. A written request [from the district board of education] for such approval, which includes a statement indicating the immediate and ultimate proposed uses of the land in terms of grade organization and potential maximum enrollment;

2. A statement from the State Department of Environmental Protection or a local or county water/sewerage agency that the land can be adequately provided with the necessary water and an acceptable sewerage disposal system for the proposed ultimate maximum enrollment[,] and that the project has no potential for a substantially adverse environmental impact;

3. A statement from an architect or engineer indicating that the land to be acquired is suitable for the proposed use;

4. A complete plot plan of the land to be acquired, showing topographical and contour lines, all adjacent properties [(on all sides),] and access roads. The acreage and dimensions of the tract proposed for acquisition shall be included [In] as per the application of the [following] standards for minimum acceptable school site sizes[, the bureau shall take into consideration the proximity and extent of non-school open land and availability of nearby athletic fields and parking areas;] in (c) below and on it shall be shown the intended location of the school and a layout of the locations of all other structures, play and recreation areas, athletic fields, walkways, roadways, access roads, buffer and set back zones, and parking areas;

[Standards for Minimum Acceptable School Site Sizes

District Population Density (Per person Square Mile)	Required Acres, Base		
	Elementary School	Middle School	High School
Below 500	10	20	30
500-1000	8	16	24
1001-5000	6	12	18
5001-10,000	4	8	12
Above 10,000	2	4	6

Added Acres/ Each 100 Pupils	Examples (Building Capacity)		
	Elementary School (500)	Middle School (1000)	High School (1500)
1.0	15	30	45
0.8	12	24	36
0.6	9	18	27
0.4	6	12	18
0.2	3	6	9]

5. A map of the school district showing the location of the land and the location of existing schools in the district;

6. Recommendations of the county superintendent of schools based on [criteria contained in the Department of Education's publication entitled "School Sites: Selection, Development and Utilization" and] the requirements specified in this subchapter;

7. A [pupil distribution] map showing [gross distribution of residences;] the attendance area to be served by the school and the number of pupils who reside therein;

8. If existing buildings are located on the land to be acquired, the intended use and/or disposition of these buildings shall be indicated. Any building to be acquired and used must comply with the State Uniform Construction Code and all procedures and rules of the State Board of Education which apply to the construction of a new building;

9. Data regarding the impact of such a facility upon racial balance within the district's public schools; and

10. Recommendations of the local planning board[s] in the municipality which has an approved master plan or portion thereof [(in municipality where the site is located and in adjacent municipality, if proposed school site is along the municipality's boundary line)] as required by N.J.S.A. 40:55D-31, 18A:18-49 and 18A:18A-16.

(c) School site sizes shall be directly related to the acreage required for the structures and activities to be situated thereon. Except where specifically noted, the acres shall be considered for single use. Only where specifically noted can the acres be designated for multiple use, for example, using the same acres for sports which occur at different times of the year. School sites shall include the following:

1. An elementary school site shall have sufficient acreage for:
 - i. The placement of the school building;
 - ii. Expansion of the school building to its maximum capacity;
 - iii. The placement of all other structures such as storage buildings, school bus maintenance buildings or garages and any other structure, above or below ground, which is to be placed thereon;
 - iv. Basic all-purpose play and recreation field(s);
 - v. Walkways and roadways on which people and vehicles traverse the site;
 - vi. Public and service access roads onto the site including, where warranted, a one-way school bus road of 30 feet width or a two-way road of 36 feet width, a school bus drop-off area, and 18 feet wide lanes for fire apparatus;
 - vii. The provision for fire apparatus of a 30 feet wide access around the entire building; and
 - viii. The provision for the building to be set back and for buffer zones as required by local and State codes.

2. An elementary school site may include the following, for which sufficient acreage must be provided:

- i. Parking for faculty, staff and the public;
- ii. Landscaping and aesthetics;

iii. Community-use facilities such as tennis courts, "tot lots" and basketball courts;

iv. Other structures or activities required by the educational program; and

v. A separate kindergarten play area.

3. A junior high or middle school shall have sufficient acreage for the following:

i. The placement of the school building;

ii. Expansion of the building to its maximum capacity;

iii. The placement of all other structures such as storage buildings, school bus maintenance buildings or garages and any other structure, above or below ground which is to be placed thereon;

iv. Basic multi-purpose physical education and recreation field(s);

v. Walkways and roadways on which people and vehicles traverse the site;

vi. Public and service access roads onto the site including, where warranted, a one-way school bus road of 30 feet width and a two-way road of 36 feet width, a school bus drop off area, and 18 feet wide lanes for fire apparatus;

vii. A 30 feet wide access around the entire building; and

viii. The provision for the building to be set back and for buffer zones as required by local and State codes.

4. A junior high or middle school site may include the following for which sufficient acreage must be provided:

i. Parking for faculty, staff and the public;

ii. Landscaping and aesthetics;

iii. Community-use facilities such as tennis courts and basketball courts;

iv. Athletic fields with proper geographical orientation for practice and competition in selected sports such as football, soccer, baseball, softball, field hockey. Multi-use of fields may be possible and are permitted here; and

v. Spectator facilities as related to the sports activities.

5. A senior high or junior-senior high school shall have sufficient acreage for the following:

i. The placement of the school building;

ii. Expansion of the building to its maximum capacity;

iii. The placement of all other structures such as greenhouses, storage buildings, school bus maintenance buildings or garages and any other structure, above or below ground, which is to be placed thereon;

iv. Basic multi-purpose physical education and recreation field(s);

v. Walkways and roadways on which people and vehicles traverse the site;

vi. Public and service access roads onto the site including, where warranted, a one-way school bus road of 30 feet width and a two-way road of 36 feet width, a school bus dropoff area, and 18 feet wide lanes for fire apparatus;

vii. A 30 feet wide access around the entire school; and

viii. The provision for the building to be set back and for buffer zones as required by local and State codes.

6. A senior high or junior-senior high school site may include the following for which sufficient acreage must be provided:

i. Parking for faculty, staff, students and the public;

ii. An area provided for landscaping and aesthetics;

iii. Community-use facilities such as tennis courts and basketball courts;

iv. Athletic fields and facilities for practice and competition in selected sports such as track and field, football, soccer, baseball, softball, and field hockey, and practice and competition related to march band activities. Multi-use fields may be possible and are permitted here; and

v. Spectator facilities as related to the sports activities.

(d) If after 18 months from the date of approval of a school site by the Bureau, a district board of education does not have authority to acquire the site by bond referendum, an approved lease-purchase agreement or other statutory means, the district board of education shall re-submit the information required in (b) above for consideration and approval before any action is taken to conduct a bond referendum, or purchase, lease-purchase or otherwise acquire the site.

(a)

Bilingual Education

Proposed Amendment: N.J.A.C. 6:31-1.10

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:35-15 to 35-26, and 18A:7A-1 et seq.

Proposal Number: PRN 1988-260.

The agency proposal follows:

Summary

As a result of the amendments to the bilingual education rules, N.J.A.C. 6:31, adopted on November 4, 1987, effective December 21, 1987, the criterion for exit from bilingual and English as a second language (ESL) programs is now the passing score on an English language proficiency test.* This change in the exit criterion has made the exit policy congruent with the criterion used for entrance into bilingual and ESL programs. It will also allow pupils to exit programs based on skills closely tied to the primary purpose of these programs, the development of English language proficiency.

During the adoption process, it was recommended that the Department of Education develop a reentry process to specify how exited students who fail to continue to make progress in the regular program could enter the bilingual or ESL program again. The first of the proposed amendments to N.J.A.C. 6:31-1.10 outlines those things that must be considered in making this determination.

Regular classroom teachers, with the approval of the principal, would recommend students for retesting if they were not progressing in the mainstream after a specified period of time due to problems in using English. Testing would occur with a language proficiency test, but with another form of the test or a different language proficiency test than the one used to exit the student. Students would be reentered into the bilingual or ESL program if they scored below the cutoff on the test.

A second proposed amendment to N.J.A.C. 6:31-1.10, also in the area of exit, would require students to be assessed for exit on an annual basis with a language proficiency test. This clarifies that testing for exit must occur each year or at any time a teacher judges that the student may be ready for the mainstream program.

Social Impact

The proposed amendment clarifies that testing for exit must occur on an annual basis and establishes a reentry process for newly exited students who are not progressing in the regular program. The criterion applied to reentry decisions is based on the State cutoff scores on a language proficiency test and is consistent with the operational definition of limited English proficiency. The process would ensure that sufficient time elapses for students to adjust to the mainstream before assessment for reentry occurs. The process would also allow those students who qualify for reentry to receive those educational services that most meet their language and learning needs.

Economic Impact

The proposed amendment would have little economic impact on school district programs. The annual assessment of students for exit would not increase testing costs, since districts are currently required to evaluate the ESL achievement of the students with a language proficiency test each year. Those students who meet the reentry criterion and are placed in bilingual or ESL programs would be eligible to be counted for State bilingual categorical aid on the Application for State School Aid.

Regulatory Flexibility Statement

The proposed amendment would have no reporting, recording or compliance requirements for small businesses. All requirements of the proposal impact New Jersey public schools and students.

*AGENCY NOTE: On March 10, 1988, the Appellate Division of the Superior Court of New Jersey granted a stay of the implementation of the exit policy adopted on November 4, 1987 for bilingual program students at the request of petitioners of the court. The single exit criterion cannot be implemented until a final decision is rendered by the court. School districts have been advised that exit procedures used in the past and based on multiple criteria are to be used when deciding which program students are to be mainstreamed at the end of the 1987-88 school year.

Having been advised of the stay, the State Board of Education decided to propose the reentry process. The process would allow students who are not progressing in the mainstream to reenter the bilingual or ESL

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program. The reentry procedure would operate independently of whatever exit criteria/criterion are in place.

6:31-1.10 Bilingual and ESL program participation

(a) All school age pupils of limited English speaking ability shall be enrolled in the bilingual or ESL education program established by the school district, as prescribed in N.J.A.C. 6:31-1.3(a) and 6:31-1.4(b).

(b) Pupils enrolled in the bilingual or ESL education program shall be placed in a regular program when they have met the exit criterion of a passing score on the English language proficiency test. This shall take effect in the spring of 1988.

(c) Pupils enrolled in the bilingual or ESL education program shall be assessed annually for exit with the English language proficiency test. Pupils may be referred for testing at any time if a program teacher judges that the pupil may be ready for program exit.

(d) Newly exited pupils who are not progressing in the regular program may be considered for reentry as follows:

1. After a minimum of one full semester and within two years of exit, the regular classroom teacher, with the approval of the principal, may recommend retesting. A waiver of the minimum time limitation may be approved by the county superintendent upon request of the chief school administrator if the pupil is experiencing extreme difficulty in adjusting to the mainstream program.

2. The recommendation for retesting would be based on the teacher's judgment that the student is experiencing difficulties due to problems in using English as evidenced by the student's inability to:

- i. Communicate effectively with peers and adults;
- ii. Understand directions given by the teacher; and/or
- iii. Comprehend basic verbal and written materials.

3. The pupil shall be tested using a different form of the test or a different language proficiency test than the one used to exit the pupil.

4. If the pupil scores below the cutoff on the language proficiency test, the pupil shall be reentered into the bilingual or ESL program.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF PARKS AND FORESTRY

State Park Service: Comment Period Extension

Proposed Readoption: N.J.A.C. 7:2

Take notice that the Department of Environmental Protection is extending until June 1, 1988 the period for the submission of written comments on the proposed readoption of the rules concerning the State Park Service, N.J.A.C. 7:2. The proposed readoption was published on April 4, 1988 in the New Jersey Register at 20 N.J.R. 714(a). Please refer to the proposal for further information.

Submit comments by June 1, 1988 to:

Donald J. Stout
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

(b)

DIVISION OF FISH, GAME AND WILDLIFE

Fish and Game Council 1988-89 Game Code

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

Authorized By: Fish and Game Council, George McCloskey, Chairman.

Authority: N.J.S.A. 13:1B-29 et seq. specifically 13:1B-30 and 23:1-1 et seq.

DEP Docket Number: 017-88-04.

Proposal Number: PRN 1988-261.

A public hearing concerning this proposal will be held on:

June 8, 1988 at 8:00 P.M.
Mercer County Community College
West Windsor Campus
1200 Old Trenton Road
Audio Visual Building, Room 110
West Windsor, New Jersey

Submit comments by June 15, 1988 to:
George P. Howard, Director
Division of Fish, Game and Wildlife
Department of Environmental Protection
CN 400
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed 1988-89 Game Code states when, under what circumstances, in what location, by what means, and in what amounts and numbers, game birds, game animals and fur-bearing animals may be pursued, taken, killed or possessed.

N.J.A.C. 7:25-5 has provided a system for the protection, propagation, increase, control, and conservation of game birds, game animals, and fur-bearing animals in this State and for their use and development for public recreation and food supply. The system is based on scientific investigation and research.

The proposed amendments include the following revisions:

1. Most hunting seasonal dates are adjusted to correspond with the 1988-89 calendar.

2. The bobwhite quail season is reopened in an area of Hunterdon County previously closed to quail hunting due to a quail restoration effort by the Division of Fish, Game and Wildlife (N.J.A.C. 7:25-5.3).

3. The bobwhite quail, chukar partridge and ruffed grouse seasons close simultaneously with the squirrel and rabbit seasons on February 20th (N.J.A.C. 7:25-5.3, 5.4 and 5.5).

4. The early season zoning for grouse and squirrel is eliminated. Both early grouse and squirrel seasons will open Statewide on the third Saturday in October which was the traditional opening of the south zone for both species (N.J.A.C. 7:25-5.4 and 5.5).

5. One additional day has been added to the Saturday segment of the turkey hunting season, providing four days of hunting (N.J.A.C. 7:25-5.7).

6. Permit allocations for beaver and otter trappings are adjusted (N.J.A.C. 7:25-5.9 and 5.10).

7. Descriptions of various special waterfowl hunting areas for seasons which, in the future, may be authorized by the U.S. Fish and Wildlife Service are included (N.J.A.C. 7:25-5.13).

8. The designated steel shot area for waterfowl hunting is expanded to include Hudson County and all State owned tidal waters adjacent to those counties included in the steel shot area (N.J.A.C. 7:25-5.13).

9. The use of FF (.230 inch) steel shot for waterfowl hunting has been prohibited and T (.200 inch) shot is now the largest steel shot size permitted for waterfowl hunting. (N.J.A.C. 7:25-5.13 and 5.23).

10. Exercising or training dogs on wildlife management areas on Sundays during the month of November is no longer prohibited (N.J.A.C. 7:25-5.20).

11. The use of deer decoys, electronic calling devices and devices which project a beam of light upon the target are prohibited for deer hunting (N.J.A.C. 7:25-5.23 and 5.24).

12. During the muzzleloader, shotgun and bow permit seasons, one deer may be taken per permit, per day, within the season bag limits (N.J.A.C. 7:25-5.28, 5.29 and 5.30).

13. Four deer management zones are modified to better achieve deer harvest objectives. Two deer management zones are modified to provide a more concise or updated description. Zone descriptions and season information for 13 special hunt areas are included (N.J.A.C. 7:25-5.28 and 5.29).

14. The muzzleloader permit season and winter bow season are increased by four days each. The permit shotgun season, depending on zone, is either one, three, five or seven days in duration. December 5 and 10, 1988 are included as permit shotgun days in Zones 9 and 13 exclusively. Deer permit quotas for all three permit seasons are adjusted according to harvest objectives. Farmers may apply for either a regular muzzleloader or shotgun permit in addition to farmer deer permits (N.J.A.C. 7:25-5.26 through 5.30).

15. Changes are included for clarification and correction of typographical errors.

Social Impact

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

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

The additional hunting areas and times which have been established, including those for deer hunting, should increase hunting opportunity. Adjustments that have been made to deer hunting permit quotas, season lengths, and bag limits should benefit all segments of the of the public in providing for healthier deer populations, long-term enhanced recreational hunting opportunities, and deer population levels compatible with other land uses. Adjustments in the dates of turkey and small game seasons are minor with no social impact anticipated.

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

Economic Impact

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

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

Environmental Impact

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

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

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Department has determined that the proposed amendments would not impose reporting, recordkeeping, or other compliance requirements on small businesses because small businesses are not regulated by N.J.A.C. 7:25-5.

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

SUBCHAPTER 5. [1987-88] **1988-89**

7:25-5.1 General provisions

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

(c) This Code, when adopted and when effective, shall supersede the provisions of [1986-87] **1987-88** Game Code.

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

(f) **For the purpose of this subchapter, "Trenton Office" shall mean the Bureau of Wildlife Management, Division of Fish, Game and Wildlife, New Jersey Department of Environmental Protection, 501 East State Street, 5 Station Plaza, CN 400, Trenton, New Jersey 08625.**

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

(a) The duration for the male pheasant season is November [7] **12**, to December [5, 1987] **3, 1988**, inclusive, and December [14, 1987] **12, 1988** through January [2, 1988] **7, 1989**, excluding December [16, 17 and 18] **14, 15 and 16, 1988** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(b) The duration for the male pheasant season for properly licensed persons engaged in falconry is September 1 to December [5, 1987] **3, 1988**, inclusive, and December [14, 1987] **12, 1988** through March 31, [1988] **1989**, excluding November [6] **11** and December

[16, 17 and 18, 1987] **14, 15 and 16, 1988 and January 27 and 28, 1989** in those management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(c) (No change.)

(d) The duration of the season for pheasants of either sex in the areas described as Warren County north of Route 80, Morris County north of Route 80, Ocean County south of Route 70 and the counties of Sussex, Passaic, Bergen, Hudson, Essex, Camden, Atlantic and Cape May is November [7] **12** to December [5, 1987] **3, 1988**, inclusive, and December [14, 1987] **12, 1988** through February [15, 1988] **20, 1989**, excluding December [16, 17 and 18, 1987] **14, 15 and 16, 1988 January 27 and 28, 1989** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open. Except for those wildlife management areas located within the above described area, the pheasant season on wildlife management areas shall close on January [2, 1988] **14, 1989**.

(e) The hours for hunting pheasants on November [7, 1987] **12, 1988** are 8:00 A.M. to 1/2 hour after sunset. All other days on which the hunting for pheasants is legal, the hours are sunrise to 1/2 hour after sunset.

(f) (No change.)

(g) The opening of the season on semi-wild preserves coincides with the listed [s]Statewide opening of November [7, 1987] **12, 1988**.

(h) (No change.)

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

(a) The duration of the season for the hunting of **cottontail rabbit, black-tailed jack rabbit, white-tailed jack rabbit, European hare, chukar partridge and quail** is November [7] **12** through December [5, 1987] **3, 1988**, inclusive, and December [14, 1987] **12, 1988** to February [6, 1988] **20, 1988**, excluding December [16, 17 and 18, 1987] **14, 15 and 16, 1988 and January 27 and 28, 1989** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

[(b) The duration of the season for the hunting of cottontail rabbit, white-tailed jack rabbit, black-tailed jack rabbit and European hare is November 7 through December 5, 1987, inclusive, and December 14, 1987 to February 15, 1988, excluding December 16, 17 and 18, 1987 in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.]

[(c) (b) The duration of the season for the hunting of the animals enumerated by [this section] (a) **above** for properly licensed persons engaged in falconry is September 1 to December [5, 1987] **3, 1988**, inclusive, and December [14, 1987] **12, 1988** through March 31, [1988] **1989**, excluding November [6] **11** and December [16, 17 and 18, 1987] **14, 15 and 16, 1988 and January 27 and 28, 1989** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(((d))) (c) The bobwhite quail season as described in (a) above is closed within the area described as that portion of [Hunterdon County lying within a continuous line beginning at the intersection of Rt. 519 and Rt. 12; then east on Rt. 12 to its intersection with Rt. 579; then south along Rt. 579 to its intersection with Rt. 523; then southwest along Rt. 523 to its intersection with Rt. 604 at Sergeantsville; then west along Rt. 604 to its intersection with Rt. 519; then north along Rt. 519 to the point of beginning and that portion of] Sussex County lying within a continuous line beginning at the intersection of Rt. 519 and Rt. 618; then south and east along Rt. 618 to its intersection with Rt. 206; then south along Route 206 to its intersection with Rt. 517 at Andover; then south and west along Rt. 517 to its intersection with Rt. 611 at Tranquility; then north and west along Rt. 611 to its intersection with Henry Road; then north and

west along Henry Rd. to its intersection with Hibler Rd.; then west along Hibler Road to its intersection with Rt. 519; then northeast along Rt. 519 to the point of beginning. This closure does not preclude the hunting of bobwhite quail on commercial shooting preserves located within the closed area, provided they are licensed for quail.

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

[(f)] (e) The hunting hours for the animals enumerated in this section are as follows: November [7, 1987] **12, 1988**, 8:00 A.M. to 1/2 hour after sunset. On all other days for which hunting for these animals is legal, the hours are sunrise to 1/2 hour after sunset.

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

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

(a) The duration of the season for the hunting of grouse [in that portion of the State situated north of Rt. 70 from Pt. Pleasant west to Camden] is October [10] **15** through December [5, 1987] **3, 1988**, inclusive, and December [14, 1987] **12, 1988** to February [6, 1988] **20, 1989**, excluding December [16, 17 and 18, 1987] **14, 15 and 16, 1988 and January 27 and 28, 1989** in those deer management zones in which a shotgun permit deer season is authorized and excluding any extra deer permit season day(s) that is declared open.

[(b)] The duration of the season for the hunting of grouse in that portion of the state situated south of Rt. 70 from Pt. Pleasant west to Camden is October 17 through December 5, 1987, inclusive, and December 14, 1987 to February 6, 1988, excluding December 16, 17 and 18, 1987 in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra deer permit season day(s) that is declared open.]

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

[(d)] (c) The hunting hours for ruffed grouse are sunrise to 1/2 hour after sunset, with the exception of November [7, 1987] **12, 1988** when legal hunting hours are 8:00 A.M. to 1/2 hour after sunset.

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

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

(a) The duration of the season for the hunting of squirrels [in that portion of the State situated north of Route 70 from Pt. Pleasant west to Camden] is October [10] **15** through December [5, 1987] **3, 1988**, inclusive, and December [14, 1987] **12, 1988** to February [15, 1988] **20, 1989**, excluding, December [16, 17 and 18, 1987] **14, 15, and 16, 1988 and January 27 and 28, 1989** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit season day(s) if declared open.

[(b)] The duration of the season for hunting squirrels in that portion of the State situated south of Rt. 70 from Pt. Pleasant west to Camden is October 17 through December 5, 1987, inclusive, and December 14, 1987 to February 15, 1988, excluding December 16, 17 and 18, 1987 in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra deer season day(s) that is declared open.]

[(c)] (b) The duration of the season for the hunting of squirrels for properly licensed persons engaged in falconry is September 1 to December [5, 1987] **3, 1988**, inclusive, and December [14, 1987] **12, 1988** through March 31, [1988] **1989**, excluding December [16, 17 and 18, 1987] **14, 15 and 16, 1988 and January 27 and 28, 1989** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

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

[(e)] (d) Hunting hours for squirrels are sunrise to 1/2 hour after sunset, with the exception of November [7, 1987] **12, 1988** when legal hunting hours are 8:00 A.M. to 1/2 hour after sunset.

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

7:25-5.6 (No change.)

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

(a) The duration of the Spring Wild Turkey Gobbler hunting season includes five separate hunting periods of [three] **four**, five or [ten] **10** days each. The hunting periods for all hunting areas shall be:

1. Monday, April [25, 1988] **24, 1989**—Friday, April [29, 1988] **28, 1989**

2. Monday, May [2, 1988] **1, 1989**—Friday, May [6, 1988] **5, 1989**
3. Monday, May [9, 1988] **8, 1989**—Friday, May [13, 1988] **12, 1989**

4. Monday, May [16, 1988] **15, 1989**—Friday, May [20] **19** and Monday, May [23, 1988] **22, 1989**—Friday, May [27, 1988] **26, 1989**

5. Saturday, April [30, 1988] **29, 1989**; Saturday, May [7, 1988] **6, 1989**; Saturday, May [14, 1988] **13, 1989** and Saturday May **20, 1989**

(b)-(g) (No change.)

(h) Wild Turkey Hunting Permits shall be applied for as follows:

1.-2. (No change.)

3. The application form shall be filled in to include: Name, address, [1988] **1989** firearm or archery hunting license number, turkey hunting areas applied for, hunting periods applied for, and any other information requested. Only those applications will be accepted for participation in random selection which are received in the Trenton office during the period of February 1-15, [1988] **1989**, inclusive. Applications received after February 15 will not be considered for the initial drawing. Selection of permits will be by random drawing.

i. If a fall turkey hunting season is authorized for [1988] **1989**, application shall be made in conjunction with the spring season application procedures in a form as prescribed by the Division.

4.-6. (No change.)

(i) Special Farmer Spring Turkey Permits shall be applied for as follows:

1.-2. (No change.)

3. The application form shall be filled in to include: Name, age, address and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of February 1-15, [1988] **1989**. There is no fee required and all qualified applicants will receive a Special Farmer Spring Turkey Permit delivered by mail.

4. (No change.)

(j) (No change.)

(k) Turkey Hunting Area Map is on file at the Office of Administrative Law and is available from that agency or the Division. The [1988] **1989** Spring Turkey Hunting Season Permit Quotas are as follows:

[1988] **1989** SPRING TURKEY HUNTING SEASON PERMIT QUOTAS

Turkey Hunting Area Number	Weekly Permit Quota*	Season Total	Portions of Counties Involved
1	100	500	Sussex
2	120	600	Sussex, Warren
3	80	400	Sussex, Warren
4	100	500	Sussex, Warren, Morris
5	100	500	Sussex
6	150	750	Sussex, Passaic, Bergen
7	150	750	Sussex, Morris, Passaic
8	50	250	Warren, Hunterdon
9	50	250	Warren, Hunterdon, Morris
10	25	125	Essex, Middlesex, Morris, Somerset, Union
11	25	125	Middlesex, Mercer, Hunterdon, Somerset
13	50	250	Burlington, Mercer, Monmouth, Ocean
14	50	250	Burlington, Ocean
15	50	250	Burlington, Camden, Atlantic
16	100	500	Burlington, Atlantic
17	50	250	Burlington, Ocean
18	50	250	Atlantic, Cape May, Cumberland
20	50	250	Cumberland, Salem
21	50	250	Atlantic, Cumberland, Salem
22	100	500	Atlantic, Cape May, Cumberland
	<u>1,500</u>	<u>7,500</u>	

*Applied to each of the five hunting periods (A,B,C,D,E) in all areas:

A. Monday, April [25, 1988] **24, 1989**—Friday, April [29, 1988] **28, 1989**

B. Monday, May [2, 1988] **1, 1989**—Friday, May [6, 1988] **5, 1989**

C. Monday, May [9, 1988] **8, 1989**—Friday, May [13, 1988] **12, 1989**

D. Monday, May [16, 1988] **15, 1989**—Friday, May [20, 1988] **19, 1989** and Monday May [23, 1988] **22, 1989**—Friday, May [27, 1988] **26, 1989**

E. Saturday, April [30, 1988] **29, 1989**; Saturday, May [7, 1988] **6, 1989**; Saturday, May [14, 1988] **13, 1989** and Saturday May 20, **1989**

(l)-(m) (No change.)

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

(a) (No change.)

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

1. Northern Zone: 6:00 A.M. on November 15, [1987] **1988** through March 15, [1988] **1989**, inclusive, except on State Fish and Wildlife Management Areas.

2. Southern Zone: 6:00 A.M. on December 1, [1987] **1988** through March 15, [1988] **1989**, inclusive, except on State Fish and Wildlife Management Areas.

3. (No change.)

4. On State Fish and Wildlife Management Areas: 6:00 A.M. on January 1 through March 15, [1988] **1989**, inclusive.

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

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

(a) (No change.)

(b) The duration of the trapping season for beaver shall be February 1 through February [29, 1988] **28, 1989**, inclusive.

(c) Special Permit: A special \$7.00 permit obtained from the Division of Fish, Game and Wildlife shall be required to trap beaver. (If the number of applications received in the Trenton office exceeds the quotas listed, a random drawing will be held to determine permit holders.) Applications shall be received in the Trenton office during the period December 1, [1987] **1988**—December [25, 1987] **26, 1988**. Applicants may apply for only one beaver trapping permit and shall provide their [1987] **1988** trapping license number. Permits will be allotted on a zone basis as follows: Zone 1—[8] **7**, Zone 2—[9] **12**, Zone 3—[2] **3**, Zone 4—[4] **3**, Zone 5—[4] **4**, Zone 6—[7] **10**, Zone 7—[2] **3**, Zone 8—[5] **4**, Zone 9—[5] **4**, Zone 10—[1] **1**, Zone 11—[5] **5**, Zone 12—[7] **6**, Zone 13—[0] **0**, Zone 14—[1] **1**, Zone 15—[0] **0**. Total [70] **72**. Successful applicants shall provide their [1988] **1989** trapping license numbers to the Division before permit will be issued.

(d) (No change.)

(e) A "beaver transportation tag" provided by the Division shall be affixed to each beaver taken immediately upon removal from trap, and all beaver shall be taken to a designated beaver checking station at the times and dates specified on the beaver permit and, in any case, no later than March [5, 1988] **4, 1989**.

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

7:25-5.10 River [O]tter (*Lutra canadensis*) trapping

(a) (No change.)

(b) The duration of the trapping season for otter shall be February 1 through February [29, 1988] **28, 1989**, inclusive.

(c) Special Permit: A special \$7.00 permit obtained from the Division of Fish, Game and Wildlife shall be required to trap otter. (If the number of applications received in the Trenton office exceeds the quotas listed, a random drawing will be held to determine permit holders). Beaver permit holders will be given first opportunity for otter permits in their respective zones. Applications shall be received in the Trenton office during the period December 1, [1987] **1988**—December [25, 1987] **26, 1988**. Only one application per person may be submitted for trapping otter and applicants shall provide their [1987] **1988** trapping license number. Permits will be allotted on a zone basis as follows: Zone 1—[5] **6**, Zone 2—[5] **6**, Zone 3—[2] **3**, Zone 4—[4] **4**, Zone 5—[4] **5**, Zone 6—[4] **5**, Zone 7—[3] **3**, Zone 8—[6] **6**, Zone 9—[3] **3**, Zone 10—[7] **7**, Zone 11—[5] **5**, Zone 12—[9] **9**, Zone 13—[14] **14**, Zone 14—[5] **7**, Zone 15—[10] **12**. Total [86] **92**. Successful applicants shall provide their [1988] **1989** trapping license numbers to the Division before permit will be issued.

(d) (No change.)

(e) The "otter transportation tag" provided by the Division must be affixed to each otter taken immediately upon removal from the trap. All otter pelts and carcasses shall be taken to a beaver-otter check station at dates specified on the otter permit and, in any case, no later than March [5, 1988] **4, 1989**, where a pelt tag will be affixed and the carcass surrendered.

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

(i) Beaver and Otter Zone Descriptions

1.-14. (No change.)

15. Zone 15: That portion of Salem and Cumberland Counties lying within a continuous line beginning at the intersection of the Delaware River at Rt. 25 at Oakwood Beach, then east on Rt. 25 to its intersection with Rt. 49 at Salem, then southeast on Rt. 49 to its intersection with Rt. 32, then east on Rt. 32 to its intersection with Rt. 540, then east on Rt. 540 to its intersection with Rt. 553, at Centerton, then south on Rt. 553 to its intersection with Rt. 631 near Port Norris, then south on Rt. 631 to the Delaware Bay, then northwest along the Delaware Bay and Delaware River to its intersection with Rt. 25 at Oakwood Beach, the point of beginning.

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

(a) (No change.)

(b) The duration of the regular raccoon, red fox, gray fox, Virginia opossum, striped skunk, long-tailed weasel, short-tailed weasel and coyote trapping season is 6:00 A.M. on November 15, [1987] **1988** to March 15, [1988] **1989**, inclusive, except on State Fish and Wildlife Management Areas.

(c) The duration for trapping on State Fish and Wildlife Management Areas is 6:00 A.M. on January 1, [1987] **1988** to March 15, [1988] **1989**, inclusive.

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

7:25-5.12 (No change.)

7:25-5.13 Migratory birds

(a) Should any open season on migratory game birds, including waterfowl, be set by Federal regulation which would include the date of November [7, 1987] **12, 1989**, the starting time on such date will be 8:00 A.M. to coincide with the opening of the small season on that date. However, this shall not preclude the hunting of migratory game birds, including waterfowl, on the tidal marshes of the State as regularly prescribed throughout the season by Federal regulations.

(b) (No change.)

(c) [No] A person shall **not** take, attempt to take, hunt for or have in possession, any migratory game birds including waterfowl, except at the time and in the manner prescribed in the Code of Federal Regulations by the U.S. Department of the Interior, U.S. Fish and Wildlife Service, for the [1987-88] **1988-89** hunting seasons. The species of migratory game birds, including waterfowl, that may be taken or possessed and unless otherwise provided the daily bag limits shall be the same as those prescribed by the U.S. Department of the Interior, U.S. Fish and Wildlife Service for the [1987-88] **1988-89** hunting season.

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

(i) A special canvasback permit shall be required to hunt canvasback ducks, and a special swan permit shall be required to hunt swans, if the appropriate prescribed special season is established by Federal regulations. **If a special season for canvasback ducks is established by Federal regulations, the special canvasback hunting area shall be that portion of the State south of Routes 287 and 440 (Perth Amboy), east of the Garden State Parkway and north of Rt. 36 (Long Branch) and that portion of the State south of Route 88 (Bay Head), east of the Garden State Parkway and north of Rt. 72 (Ship Bottom). If a special season for swan is established by Federal regulations, the special swan hunting area shall be the counties of Burlington, Cumberland and Salem.**

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

(m) A person shall not take or attempt to take migratory game birds:

1.-10. (No change.)

11. Before 8:00 A.M. on November [7, 1987] **12, 1988**. However this shall not preclude the hunting of migratory game birds on tidal waters or tidal marshes of the State.

12.-13. (No change.)

14. Except at the time and manner prescribed by the State or Federal regulation, or by the [1987-88] **1988-89** Game Code.

15. With shotgun shells loaded with pellets larger than No. 4 fine shot except those persons engaged in hunting waterfowl may use nothing larger than No. 2 lead fine shot or [FF (.230 inch)] **T. (.200 inch)** steel shot.

16.-19. (No change.)

(n) Seasons and Bag Limits are as follows:

1. Mourning dove (*Zenaidura macroura*) are protected. There will be no open season on these birds during [1987-88] **1988-89**.

2. Rail and gallinule season and bag limits are as follows:

i. The duration of the season for hunting clapper rail (*Rallus longirostris*), Virginia rail (*Rallus limicola*), sora rail (*Porzana carolina*) and common gallinule or moorhen (*Gallinula chloropus*) is September 1 through November [7, 1987] **9, 1988**, inclusive.

ii. (No change.)

(o) Woodcock [Z]zones and hunting [areas] hours are as follows: 1.-2. (No change.)

3. Hunting hours for woodcock are sunrise to sunset except on November [7] **12**, when the hunting hours are 8:00 A.M. to sunset.

(p) (No change.)

(q) **The special scaup hunting area for New Jersey is defined as the Delaware Bay, Delaware River and tidal waters east of the Garden State Parkway (tributaries of the Delaware Bay, Delaware River, or the non-tidal section of the Delaware River above Trenton Falls are not included).**

[(q)] (r) (No change in text.)

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

(a) No person shall have in possession or use in hunting waterfowl and coot or any snipe, rail or gallinules after the season for hunting waterfowl commences any shotgun shell containing lead shot or lead pellets or have in possession or use any shotgun containing lead shot in the following designated area of New Jersey.

1. The State designated steel shot area for waterfowl hunting includes the counties and adjacent State-owned tidal waters of Atlantic, Cape May, Cumberland, Middlesex, Monmouth, Ocean, Salem, Hudson and that portion of Burlington County lying to the south and east of the New Jersey Transit Railroad which runs from Atsion to Woodmansie.

2. (No change.)

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

7:25-5.15 Crow (*Corvus* spp.)

(a) Duration for the season for hunting the crow shall be Monday, Thursday, Friday and Saturday from August [17, 1987] **15, 1988** through March [26, 1988] **25, 1989**, inclusive, excluding December [7-12] **5-10** and December [17 and 18, 1987] **14, 15 and 16, 1988 and January 27 and 28, 1989** in those deer management zones in which a shotgun permit deer season is authorized.

(b) (No change.)

(c) The hours for hunting crows shall be sunrise to 1/2 hour after sunset, except on November [7, 1987] **12, 1988** when the hours are 8:00 A.M. to 1/2 hour after sunset.

(d) (No change.)

7:25-5.16 (No change.)

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

(a) The duration for the season of hunting raccoons and Virginia opossum is one hour after sunset on October 1, [1987] **1988** to one hour before sunrise on March 1, [1988] **1989**. The hours for hunting are one hour after sunset to one hour before sunrise.

(b) (No change.)

(c) A person shall not hunt for raccoon or opossum with dogs and firearms or weapons of any kind on December [7-12] **5-10** and on December [16, 17 and 18, 1987] **14, 15 and 16, 1988 and January 27 and 28, 1989** in those deer management zones in which a shotgun permit deer season is authorized and including any extra permit deer season day(s).

(d) A person shall not train a raccoon or opossum dog other than during the period of September 1 to October 1, [1987] **1988** and from March 1 to May 1, [1988] **1989**. The training hours are one hour after sunset to one hour before sunrise.

(e) (No change.)

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

(a) Duration for the hunting of woodchucks with a rifle in this State is March 13-September [23, 1988] **22, 1989**. Licensed hunters may also take woodchuck with shotgun or long bow and arrow or by means of falconry during the regular woodchuck rifle season and during the upland game season established in N.J.A.C. 7:25-5.3.

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

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

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

1. Northern Zone: Bow and Arrow Only—[September 26] **October 1** through November [6, 1987] **11, 1988**; Firearm or Bow and Arrow—November [7, 1987] **12, 1988** through February [27, 1988] **25, 1989**, inclusive, excluding December [7-12] **5-10** and December [16, 17 and 18, 1987] **14, 15 and 16, 1988 and January 27 and 28, 1989** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s), if declared open.

2. Southern Zone: Bow and Arrow Only—[September 26] **October 1** through November [6, 1987] **11, 1988**; Firearm or Bow and Arrow—November [7, 1987] **12, 1988** through February [27, 1988] **25, 1989**, excluding December [7-12, 16, 17 and 18, 1987] **5-10, 14, 15 and 16, 1988 and January 27 and 28, 1989** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s), if declared open.

(b) The use of dogs shall not be allowed for fox hunting during the Statewide bow and arrow only season of [September 26-November 6, 1987] **October 1-November 11, 1988** and during the period of February [8] **6-February [27, 1988] 25, 1989** in the Southern Zone. There shall be no fox hunting during the firearm deer season, except that a person hunting deer during the firearm deer season may kill fox if the fox is encountered before said person kills a deer. However, after a person has killed a deer he must cease all hunting immediately.

(c) (No change.)

(d) The hours for hunting fox are 8:00 A.M. to 1/2 hour after sunset on November [7, 1987] **12, 1988** and on other days from sunrise to 1/2 hour after sunset.

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

7:25-5.20 Dogs

(a) A person shall not exercise or train dogs on State Fish and Wildlife Management Areas May 1 to August 31, inclusive, except on portions of various wildlife management areas designated as dog training areas, and there shall be no exercising or training of dogs on any Wildlife Management Area on November [6] **11, 1988** [and on Clinton, Flatbrook, Black River, Assunpink and Whittingham Wildlife Management Areas on the following Sundays: November 8, 15, 22, 29, 1987].

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

7:25-5.21 (No change.)

7:25-5.22 (No change.)

7:25-5.23 Firearms and missiles, etc.

(a) Except when legally engaged in deer hunting during the prescribed firearm deer seasons no person shall have in his possession in the woods, fields, marshlands or on the water any shell or cartridge with missiles of any kind larger than No. 4 fine shot. This shall not preclude a properly licensed person from hunting woodchuck with

a rifle during the woodchuck season. Also excepted is the use of a muzzleloading rifle, .36 caliber or smaller, loaded with a single projectile during the late squirrel season in designated areas. Waterfowl hunters may possess and use shotgun shells loaded with [FF (.230 inch)] T (.200 inch) steel fine shot or No. 2 or smaller lead fine shot and properly licensed persons hunting for raccoon or opossum with hounds or engaged in trapping for furbearing animals may possess and use a .22 caliber rifle and .22 short caliber cartridge only for the purpose of killing raccoon, or opossum or legally trapped furbearing animals other than muskrat.

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

(e) Within the areas described as portions of Passaic, Mercer, Hunterdon, Warren and Sussex Counties lying within a continuous line beginning at the intersection of Rt. 513 and the New York State line; then south along Rt. 513 to its intersection with the Morris-Passaic County line; then west along the Morris-Passaic County line to the Sussex County line; then south along the Morris-Sussex County line to the Warren County line; then southwest along the Morris-Warren County line to the Hunterdon County line; then southeast along the Morris-Hunterdon County line to the Somerset County line; then south along the Somerset-Hunterdon County line to its intersection with the Mercer County line; then west and south along the Hunterdon-Mercer County line to its intersection with Rt. 31; then south along Rt. 31 to its intersection with Rt. 546; then west along Rt. 546 to the Delaware River; then north along the east bank of the Delaware River to the New York State Line; then east along the New York State Line to the point of beginning at Lakeside; and in that portion of Salem, Gloucester, Camden, Burlington, Mercer, Monmouth, Ocean, Atlantic, Cape May and Cumberland counties lying within a continuous line beginning at the intersection of Rt. 295 and the Delaware River; then east along Rt. 295 to its intersection with the New Jersey Turnpike; then east along the New Jersey Turnpike to its intersection with Rt. 40; then east along Rt. 40 to its intersection with Rt. 47; then north along Rt. 47 to its intersection with Rt. 536; then east along Rt. 536 to its intersection with Rt. 206; then north along Rt. 206 to its intersection with the New Jersey Turnpike; then northeast along the New Jersey Turnpike to its intersection with Rt. 571; then southeast along Rt. 571 to its intersection with the Garden State Parkway; then south along the Garden State Parkway to its intersection with Rt. 9 at Somers Point; then south along Rt. 9 to its intersection with Rt. 83; then west along Rt. 83 to its intersection with Rt. 47; then north along Rt. 47 to its intersection with Dennis Creek; then south along the west bank of Dennis Creek to its intersection with Delaware Bay; then northwest along the east shore of Delaware Bay and the Delaware River to the point of beginning; persons holding a valid and proper rifle permit in addition to their [1987] 1988 firearm hunting license may hunt for squirrels between January [19] 23 and February [15, 1988] 20, 1989 using a .36 caliber or smaller muzzleloading rifle loaded with a single projectile.

(f) Except as specifically provided below for waterfowl hunters, semi-wild and commercial preserves, muzzleloader deer hunters and trappers, from December [7-12, 1987] 5-10, 1988, inclusive, it shall be illegal to use any firearm of any kind other than a shotgun. Nothing herein contained shall prohibit the use of a shotgun not smaller than 20 gauge nor larger than 10 gauge with a rifled bore for deer hunting only. Persons hunting deer shall use a shotgun not smaller than 20 gauge or larger than 10 gauge with the lead or lead alloy rifled slug or slug shotgun shell only or a shotgun not smaller than 12 gauge nor larger than 10 gauge with the buckshot shell. It shall be illegal to have in possession any firearm missile except the 20, 16, 12 or 10 gauge lead or lead alloy rifled slug or hollow base slug shotgun shell or the 12 or 10 gauge buckshot shell. (This does not preclude a person legally engaged in hunting on semi-wild or commercial preserves for the species under license from being possessed solely of a shotgun(s) and nothing larger than No. 4 fine shot, nor a person engaged in hunting waterfowl only from being possessed solely of shotgun and nothing larger than No. 2 lead fine shot or [FF (.230 inch)] T (.200 inch) steel shot.) A legally licensed trapper possessing a valid rifle permit may possess and use a .22 rifle and short rimfire cartridge only while tending his trap line.

1.-3. (No change.)

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

(o) **No person shall hunt for deer with the aid of a deer decoy, an electronic calling device or any device which projects a beam of light upon the target.**

[(o)] (p) (No change in text.)

7:25-5.24 Bow and arrow, general provisions

(a) (No change.)

(b) No person shall use a bow and arrow for hunting, on December [16, 17 and 18, 1987] 14, 15 and 16, 1988 and January 27 and 28, 1989 in those deer management zones in which a permit shotgun deer season is authorized, on any additional permit deer season day(s) if declared open, during the Six-Day Firearm Deer Season, or between 1/2 hour after sunset and sunrise during other seasons. Deer shall not be hunted for or taken on Sunday except on wholly enclosed preserves that are properly licensed for the propagation thereof.

(c) During the season for taking deer or turkey with bow and arrow (as listed elsewhere in this subchapter), all arrows used for taking deer or turkey must be fitted with an edged head of the following specifications:

1.-4. (No change.)

5. All bows, except compounds, must have a minimum draw pull weight of 35 pounds at the archers' draw length. Compound bows must have a minimum peak weight of 35 pounds. [Bow must cast a legal hunting arrow 125 yards to a point of similar elevation.]

(d) (No change.)

(e) **No person shall hunt for deer with the aid of a deer decoy, an electronic calling device or any device which projects a beam of light upon the target.**

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

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

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

(a) Deer of either sex and any age may be taken by bow and arrow exclusively from [September 26-November 6, 1987] **October 1-November 11, 1988**, inclusive. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

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

7:25-5.26 White-tailed deer winter bow season (either sex)

(a) Deer of either sex and any age may be taken by bow and arrow exclusively from 1/2 hour before sunrise on January 2 to 1/2 hour after sunset on January [18, 1988] 21, 1989. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

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

7:25-5.27 White-tailed deer six day firearm season

(a) Duration for this season will be December [7-12, 1987] 5-10, 1988 inclusive with shotgun or muzzleloader rifle, exclusively.

(b) Bag Limit: Two deer, with antler at least three inches long, except in those areas designated as "hunters choice" indicated in (d) below, where the bag limit is two deer of either sex. Only one deer may be taken in a given day[.] **per person on a regular firearm hunting license. Persons awarded Zone 9 or Zone 13 shotgun permits may also take one deer of either sex and any age, per permit, on December 5 and 10, 1988, subject to the provisions of N.J.A.C. 7:25-5.29.** Deer shall be tagged immediately with the "transportation tag" appropriate for the season, completely filled in and shall be transported to a checking station before 7:00 P.M. E.S.T. on the day killed. Upon completion of the registration of the first deer, one valid and proper "New Jersey Second Deer Permit And Transportation Tag" (second tag) will be issued which will allow that person to continue hunting and take one additional deer with antler at least three inches long or one additional deer of either sex in the "hunters choice" area, exclusively, during the current, six-day firearm season. The second tag shall not be valid on the day of issuance and all registration requirements apply. Any legally killed deer which is recovered too late to be brought to a check station by closing time shall be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement regional headquarters. This deer must be brought to a checking station on the next open day to receive a legal "possession tag". If

the season has concluded, this deer must be taken to a regular deer checking station on the following weekday to receive a legal "possession tag".

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

(e) Hunting Hours: December [7-December 12, 1987] **5-10, 1988**, inclusive, 7:00 A.M. E.S.T. to 5:00 P.M. E.S.T., with shotgun or muzzleloader rifle.

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

7:25-5.28 White-tailed deer muzzleloader rifle, permit season (either sex):

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

(c) Bag Limit: Two deer of either sex [per permit.] **and any age per permit, except in Zones 37 and 52 where the limit shall be one deer with antlers at least three inches long during the first season segment which shall be November 12, 13, 14, 15, 16, 17, 18 and 19, 1988 and one deer of either sex and any age during the second season segment which shall be December 12, 13, 14, 15, 16, 17, 26, 27, 28, 29 and 30, 1988.** Only one deer may be taken in a given day per permit. Deer shall be tagged immediately with the muzzleloader rifle permit season permit "transportation tag" completely filled in, and shall be transported to a checking station before 7:00 P.M. E.S.T. on the day killed. Upon completion of the registration of the first deer, one valid and proper "New Jersey Second Deer Permit And Transportation Tag" (second tag) will be issued which will allow the person to continue hunting and take one additional deer of either sex during the current muzzleloader rifle permit season. The second tag shall not be valid on the day of issuance and all registration requirements apply. Any legally killed deer which is recovered too late to be brought to a check station by closing time shall be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement by telephone to the nearest Division of Fish, Game and Wildlife law enforcement regional headquarters. Said deer shall be brought to a checking station on the next open day to receive a legal "possession tag". If the season has concluded, said deer shall be taken to a regular deer checking station on the following weekday to receive a legal "possession tag". It is unlawful to attempt to take or continue to hunt for more than the number of deer permitted.

(d) Duration of the muzzleloader rifle permit season is [from 7:00 A.M. E.S.T. to 5:00 P.M. E.S.T. on December 14, 15, 19, 21, 22, 23, 26, 28, 29, 30, 1987] **December 12, 13, 17, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29 and 30, 1988** or any other time as determined by the Director. **Legal hunting hours shall be 7:00 A.M. E.S.T. to 5:00 P.M. E.S.T.**

(e) No change.)

(f) Method: The taking of two deer of either sex **and any age or the taking of deer as designated for special hunts** is authorized to holders of valid permits for muzzleloader rifle permit season in designated deer management zones. Only one deer may be taken in a given day per permit. The taking of two deer of either sex **and any age or the taking of deer as designated for special hunts** is authorized to holders of valid farmer permits for muzzleloader rifle permit season

only on the farm occupied and designated on the permit application. Only one deer may be taken in a given day **per permit.**

1. (No change.)

(g) (No change.)

(h) Muzzleloader Rifle Permit Season Permits shall be applied for as follows:

1. Only holders of valid and current firearm hunting licenses may apply by detaching from their hunting license the stub marked "Special Deer Season [1987] **1988**", signing as provided on the back, and sending the stub, together with a \$17.00 permit fee per applicant and an application form which has been properly completed in accordance with instructions. Application forms may be obtained from:

i.-iv. (No change.)

2.-3. (No change.)

4. The application form shall be filled in to include: Name, address, current firearm hunting license number, deer management zone applied for, and any other information requested. Only those applications will be accepted for participation in random selection which are received in the Trenton office during the period of August 25-September 10, [1987] **1988** inclusive. Applications postmarked after the September 10 will not be considered for the initial drawing. Selection of permittees will be made by random selection.

5. Unsuccessful applicants will be notified by return of permit fees, less a \$2.00 application fee. Any permit obtained by fraud [is] **shall be void.**

6.-7. (No change.)

(i) Farmer Muzzleloader [r]Rifle Permit Season Permits shall be applied for as follows:

1.-2. (No change.)

3. The application form shall be filled in to include: Name, age, size of farm, address, and any other information requested thereon. **THIS APPLICATION MUST BE NOTARIZED.** Properly completed application forms will be accepted in the Trenton office only during the period of August 1 to 15 [1987] **1988.** There is no fee required, and all qualified applicants will receive a farmer muzzleloader rifle permit season permit, delivered by mail.

4. Qualified farmers may apply for one shotgun permit season permit in any management zone in addition to one muzzleloader rifle permit season permit in any management zone where a muzzleloader rifle permit season is prescribed. Qualified farmers may [not apply for more than one permit for the same season whether as a regular firearm license applicant or as a farmer applicant. Duplicate or multiple permit application made] **also apply for either the muzzleloader rifle permit season permit or shotgun permit season permit as a regular firearm hunting license applicant. Application for more than the allowable number of permits during the initial application period will cause all applications by an individual to be void.**

5. (No change.)

(j) (No change.)

(k) The Deer Management Zone Map is on file at the Office of Administrative Law and is available from that agency or the Division. The [1987] **1988** Muzzleloader Rifle Deer Season Permit Quotas (either sex) are as follows:

[1987] 1988 MUZZLELOADER RIFLE PERMIT SEASON PERMIT QUOTAS [(EITHER SEX)]

Deer Mgt. Zone No.	Season Dates Code	Anticipated Deer Harvest		Permit [1987]	Quota 1988	Portions of Counties Involved
		[1987]	1988			
1		[125]	172	[535]	600	Sussex
2		[142]	122	[420]	450	Sussex
3		[120]	121	[586]	650	Sussex, Passaic, Bergen
4		[367]	209	[1335]	765	Sussex, Warren
5		[296]	417	[1065]	1490	Sussex, Warren
6		[157]	166	[597]	687	Sussex, Morris, Passaic, Essex
7		[197]	192	[704]	685	Warren, Hunterdon
8		[442]	412	[1484]	1425	Warren, Hunterdon, Morris, Somerset
9		[115]	125	[305]	365	Morris, Somerset
10		[268]	256	[829]	820	Warren, Hunterdon
11		[130]	144	[491]	516	Hunterdon
12		[296]	311	[871]	915	Mercer, Hunterdon, Somerset
13		[34]	40	[145]	178	Morris, Somerset
14		[63]	75	[429]	433	Mercer, Somerset, Middlesex, Burlington
15		[56]	89	[285]	374	Mercer, Monmouth, Middlesex
16		[72]	69	[388]	362	Ocean, Monmouth
17		[53]	67	[191]	200	Ocean, Monmouth, Burlington
18		[27]	42	[187]	237	Ocean
19		[31]	50	[180]	250	Camden, Burlington
20		[38]	58	[177]	250	Burlington
21		[80]	114	[398]	452	Burlington, Ocean
22		[12]	14	[60]	81	Burlington, Ocean
23		[120]	125	[560]	610	Burlington, Camden, Atlantic
24		[108]	124	[387]	380	Burlington, Ocean
25		[60]	77	[301]	408	Gloucester, Camden, Atlantic, Salem
26		[124]	137	[432]	496	Atlantic
27		[104]	142	[362]	407	Salem, Cumberland
28		[56]	84	[220]	288	Salem, Cumberland, Gloucester
29		[121]	119	[448]	456	Salem, Cumberland
30		[13]	18	[57]	80	Cumberland
31		[4]	10	40		Cumberland
32		[11]	6	[44]	20	Cumberland
33		[29]	21	[91]	114	Cape May, Atlantic
34		[96]	93	[350]	390	Cape May, Cumberland
35		[67]	76	[329]	300	Gloucester, Salem
36			23		100	Bergen, Hudson, Essex, Morris, Union, Somerset, Middlesex
37	1		64		180	Burlington (Fort Dix Military Reservation)
38			0		0	Morris (Great Swamp National Wildlife Refuge)
39	2		26		40	Monmouth (Earle Naval Weapons Station)
40			16		72	Warren (Allamuchy State Park)
41		[132]	128	[361]	325	Mercer, Hunterdon
42		[7]	12	[46]	40	Atlantic
43		[21]	15	[80]	90	Cumberland
44		[6]	8	[36]	30	Cumberland
45		[31]	38	[136]	161	Cumberland, Atlantic, Cape May
46		[38]	31	[150]	96	Atlantic
47		[10]	14	[100]	47	Atlantic, Cumberland, Gloucester
48		[22]	23	[161]	197	Burlington
49		[0]	10	[0]	40	Burlington, Camden, Gloucester
50		[16]	12	[101]	103	Middlesex, Monmouth
51		[13]	33	[127]	120	Monmouth, Ocean
52	1		29		100	Ocean (Fort Dix Military Reservation)
53	3		4		40	Ocean (Lakehurst Naval Engineering Center)
54	3		2		4	Morris (Picatinny Arsenal-ARRAD Com)
55			0		0	Atlantic (Federal Aviation Administration Technical Center)
56			0		0	Atlantic (Forsythe National Wildlife Refuge)
57			25		50	Atlantic (Forsythe National Wildlife Refuge)
58			12		60	Burlington, Ocean (Forsythe National Wildlife Refuge)
59			0		0	Salem (Supawna National Wildlife Refuge)
61			24		105	Atlantic (Atlantic County Parks)
Total		[4,330]	4,846	[16,581]	18,174	

(l) The Season Dates Code referenced in the table in (k) above is as follows:

1. Indicates the season dates will be November 12-19, 1988 (first segment) and December 12-17, 26-30, 1988 (second segment).

2. Indicates the season dates will be December 12-16, 19-24 and 26-31, 1988.

3. Indicates the season dates will be December 12, 13, 15, 16, 20-24, 26-31, 1988.

(m) Permit quotas in Zones 37, 38, 39, 40, 52-59 and 61 are contingent upon approval by appropriate land management agencies for those zones.

[(l)] (n) Muzzleloader, rifle permit season permits not applied for by September 10, [1987] 1988 will be reallocated to shotgun and bow permit season applicants.

7:25-5.29 White-tailed deer shotgun permit season, (either sex)

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

(c) [One] The season bag limit shall be one deer of either sex and any age [may be taken] with a shotgun permit season permit [except in deer management zones where the limit will be three deer of either sex and any age] in Zones 1, 3, 4, 18, 20-24, 26, 28, 30-34, 40, 43-47, 52, 54 and 61; three deer of either sex and any age with a shotgun permit season permit in Zones 2, 5-17, 19, 25, 27, 29, 35-37, 39, 41, 42, 48, 51-53, and 55-59; and six deer of either sex and any age in Zone 38. Only one deer may be taken in a given day[.] per permit. Persons awarded Zone 9 and 13 shotgun permits may also take a deer with antler at least three inches long on December 5 or 10, 1988 with a regular firearm license, subject to the provisions of N.J.A.C. 7:25-5.27. It is unlawful to attempt to take or hunt for more than the number of deer permitted.

(d) Duration of the shotgun permit [shotgun] deer season is from 7:00 A.M. E.S.T. to 5:00 P.M. E.S.T. on the following dates [Wednesday, December 16, 1987 except that in zones 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 41, 48, 50 and 51 the shotgun permit season also includes December 17 and 18, 1987.]:

1. December 14, 1988 in Zones 1, 3, 4, 18, 20-24, 26, 28, 30-34, 40, 43-47 and 61;

2. December 14, 15 and 16, 1988 in Zones 6, 15-17, 19-25, 27, 29, 35, 42 and 56-59;

3. December 14, 15 and 16, 1988 and January 27 and 29, 1989 in Zones 2, 5, 7, 8, 10, 11, 12, 14, 36, 41 and 48-51;

4. December 5, 10, 14, 15, and 16, 1988 and January 27 and 28, 1989 in Zones 9 and 13 only; or

5. At other times as determined by the Director (see (m) below).

(e) (No change.)

(f) Method: The taking of deer of either sex and any age with a shotgun under a shotgun permit season permit or a farmer shotgun permit season permit is permitted in designated deer management zones by holders of a shotgun permit season permit and, on their own property, by holders of a farmer shotgun permit season permit.

1. (No change.)

(g) Permits for shotgun permit season consist of back display which includes a "deer transportation tag" or proper and valid second tag. The back display portion of the permit will be conspicuously displayed on the outer clothing in addition to the valid firearm license in the case of a shotgun permit season permit, and without the license in the case of the farmer shotgun permit season permit. The "deer transportation tag" portion of the permit must be completely filled out, and affixed to the deer immediately upon killing. This completely filled in "deer transportation tag" allows legal transportation of the deer of either sex to an authorized checking station only. Personnel at the checking station will issue a "possession tag." Any permit holder killing a deer of either sex during this season must transport this deer to an authorized checking station by 7:00 P.M. E.S.T. on the date killed to secure the legal "possession tag." The possession of a deer of either sex after 7:00 P.M. E.S.T. on the date killed without a legal "possession tag" shall be deemed illegal possession. Any legally killed deer which is recovered too late to be brought to

the checking station by closing time must be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement regional headquarters. Said deer must be brought to a checking station on the next open day to receive a legal "possession tag". If the season has been concluded said deer must be taken to a regular deer checking station on the following weekday to receive a legal "possession tag". For deer management zones where the shotgun permit season is three days or more and the bag limit is three deer, a second valid and proper "New Jersey Second Deer Permit and Transportation Tag" (second tag) will be issued upon registration of the first deer. This permit will allow this person to continue hunting and take one additional legal deer during the shotgun permit season, provided the season is open the following day(s) or on any additional days that shotgun permit season hunting is authorized. A third "New Jersey Permit and Transportation Tag" will be issued upon registration of the second deer. This permit will allow this hunter to continue hunting and take one additional legal deer during the shotgun permit season, provided the season is open [the following day] or on any additional days that shotgun permit season hunting is authorized. The second and third permits are not valid on the day of issuance, and will only be available from checking stations designated to be open for the extended shotgun permit deer season.

(h) Shotgun Permit Season Permits shall be applied for as follows:

1. Only holders of valid and current firearm hunting licenses including juvenile firearm license holders may apply by detaching from their hunting license the stub marked "Special Deer Season [1987] 1988", signing as provided on the back, and sending the stub, together with a \$17.00 permit fee per applicant and an application form properly completed in accordance with instructions. Application forms may be obtained from:

i.-iv. (No change.)

2. (No change.)

3. The application form shall be filled in to include: Name, address, current firearm hunting license number, deer management zone applied for, and any other information requested. Only those applications will be accepted for participation in random selection which are received in the Trenton office during the period of August 25-September 10, [1987] 1988. Applications postmarked after September 10 will not be considered for the initial drawing. Selection of permittees will be made by random selection.

4.-6. (No change.)

(i) Farmer Shotgun Permit Season Permits shall be applied for as follows:

1.-2. (No change.)

3. The application form shall be filled in to include: Name, age, size of farm, address, and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of August 1 to 15, 1988. There is no fee required, and all qualified applicants will receive a farmer shotgun permit season permit, delivered by mail.

4. Qualified farmers may apply for one shotgun permit season permit in any management zone in addition to one muzzleloader rifle permit season permit in any management zone where a muzzleloader rifle permit season is prescribed. Qualified farmers may [not apply for more than one permit for the same season whether as a regular firearm license applicant or as a farmer applicant. Duplicate or multiple permit application made] also apply for either the permit shotgun or permit muzzleloader season permit as a regular firearm hunting license applicant. Application for more than the allowable number of permits during the initial application period will cause all applications by an individual to be void.

(j) (No change.)

(k) The Deer Management Zone Map is on file at the Office of Administrative Law and is available from that agency or the Division. The [1987] 1988 Shotgun Permit Season Permit Quotas (Either Sex) are as follows:

[1987] 1988 SHOTGUN PERMIT SEASON PERMIT QUOTAS (EITHER SEX)

Deer Mgt. Zone No.	Season Dates Code	Anticipated Deer Harvest [1987]	Anticipated Deer Harvest 1988	Permit [1987]	Quota 1988	Portion of Counties Involved
1	1	[204]	363	[1200]	1450	Sussex
2[†]	3	[444]	534	[1480]	1190	Sussex
3	1	[98]	96	[780]	768	Sussex, Passaic, Bergen
4	1	[354]	55	[1893]	482	Sussex, Warren
5[†]	3	[1633]	2232	[4082]	3720	Sussex, Warren
6[†]	2	[315]	330	[1369]	1255	Sussex, Morris, Passaic, Essex
7[†]	3	[478]	755	[1448]	1324	Warren, Hunterdon
8[†]	3	[1757]	2214	[5020]	3486	Warren, Hunterdon, Morris, Somerset
9[†]	4	[292]	413	[97]	826	Morris, Somerset
10[†]	3	[813]	1171	[2032]	1945	Warren, Hunterdon
11[†]	3	[421]	729	[1403]	1429	Hunterdon
12[†]	3	[896]	1738	[2240]	2355	Mercer, Hunterdon, Somerset
13[†]	4	[220]	458	[1023]	460	Morris, Somerset
14[†]	3	[465]	774	[1550]	1653	Mercer, Somerset, Middlesex, Burlington
15	2	[135]	218	[710]	726	Mercer, Monmouth, Middlesex
16[†]	2	[102]	154	[680]	684	Ocean, Monmouth
17	2	[154]	250	[513]	508	Ocean, Monmouth, Burlington
18	1	[32]	35	[320]	280	Ocean
19	2	[33]	121	[300]	403	Camden, Burlington
20	1	[47]	32	[361]	275	Burlington
21	1	0		0		Burlington, Ocean
22	1	[20]	38	[200]	200	Burlington, Ocean
23	1	[0]	20	[0]	200	Burlington, Camden, Atlantic
24	1	0		0		Burlington, Ocean
25	2	[90]	82	[600]	431	Gloucester, Camden, Atlantic, Salem
26	1	0		0		Atlantic
27	2	[130]	283	[600]	600	Salem, Cumberland
28	1	[51]	31	[227]	146	Salem, Cumberland, Gloucester
29	2	[182]	398	[810]	894	Salem, Cumberland
30	1	[0]	21	[0]	90	Cumberland
31	1	0		0		Cumberland
32	1	0		0		Cumberland
33	1	[34]	47	[202]	200	Cape May, Atlantic
34	1	[0]	61	[0]	244	Cape May, Cumberland
35	2	[60]	191	[500]	478	Gloucester, Salem
36	3		47		100	Bergen, Hudson, Essex, Morris, Union, Somerset, Middlesex
37	5		42		168	Burlington (Fort Dix Military Reservation)
38	6		194		600	Morris (Great Swamp National Wildlife Refuge)
39	7		85		84	Monmouth (Earle Naval Weapons Station)
40	1		6		60	Warren (Allamuchy State Park)
41[†]	3	[381]	595	[952]	846	Mercer, Hunterdon
42	2	[10]	18	[50]	52	Atlantic
43	1	0		0		Cumberland
44	1	[0]	8	[0]	50	Cumberland
45	1	[0]	18	[0]	90	Cumberland, Atlantic, Cape May
46	1	[0]	35	[0]	165	Atlantic
47	1	[0]	11	[0]	92	Atlantic, Cumberland, Gloucester
48[†]	3	[144]	173	[369]	404	Burlington
49	3	[0]	13	[0]	40	Burlington, Camden, Gloucester
50[†]	3	[52]	119	[322]	400	Middlesex, Monmouth
51[†]	3	[35]	52	[300]	200	Monmouth, Ocean
52	8		16		64	Ocean (Fort Dix Military Reservation)
53	9		36		90	Ocean (Lakehurst Naval Engineering Center)
54	10		20		35	Morris (Picatinny Arsenal-ARRAD Com)
55	11		15		40	Atlantic (Federal Aviation Administration Technical Center)
56	2		22		20	Atlantic (Forsythe National Wildlife Refuge)
57	2		55		50	Atlantic (Forsythe National Wildlife Refuge)
58	2		20		60	Burlington, Ocean (Forsythe National Wildlife Refuge)
59	2		10		20	Salem (Supawna National Wildlife Refuge)
61	1		21		105	Atlantic (Atlantic County Parks)
Total		[10,082]	15,475	[34,509]	32,538	

[†Indicates three day zones (December 16, 17 and 18, 1987) with provision for three deer (one deer per day).]

PROPOSALS

Interested Persons see Inside Front Cover

ENVIRONMENTAL PROTECTION

(l) Shotgun permit season permit not applied for by September 10, [1987] 1988 may be reallocated to muzzleloader rifle, permit season applicants.

(m) The Season Dates Code referenced in the table in (k) above is as follows:

1. Indicates one day shotgun permit season—December 14, 1988.
2. Indicates three-day shotgun permit season—December 14, 15 and 16, 1988.
3. Indicates five-day shotgun permit season—December 14, 15, and 16, 1988 and January 27 and 28, 1989.
4. Indicates seven-day shotgun permit season—December 5, 10, 14, 15 and 16, 1988 and January 27 and 28, 1989.
5. Indicates a two-day shotgun permit season—December 21 and 22, 1988.
6. Indicates a six-day shotgun permit season—December 8, 9, 10, 1988 and January 5, 6 and 7, 1989.
7. Indicates a three-day shotgun permit season—December 17, 1988 and January 14, 28, 1989.
8. Indicates a one-day shotgun permit season—December 21, 1988.
9. Indicates a two-day shotgun permit season—December 17 and 19, 1988.
10. Indicates a one-day shotgun permit season—December 17, 1988.
11. Indicates a three-day shotgun permit season—December 17, 1988 and January 7 and 14, 1989.

[(m)] (n) (No change in text.)

(o) Permit quotas for Zones 37, 38, 39, 40, 52-59 and 61 are contingent upon approval by appropriate land management agencies for those zones.

[(n)] (p) Deer management zones are located as follows:

- 1.-3. (No change.)
4. Zone No. 4: That portion of Sussex and Warren Counties lying within a continuous line beginning at the intersection of Route 521 and the Delaware River at Dingman's Ferry; then southeast along Route 521 to its intersection with Route 206; then southeast along Route 206 to its intersection with Route 521 at Culvers Inlet; then south along Route 521 to its intersection with Route 617 (Mountain Road); then south along Route 617 to its intersection with [Route 521 at Stillwater; then south along Route 521 to its intersection with Route 94 at Blairstown; then southwest along Route 94 to the Delaware River at Columbia;] Old Schoolhouse Road; then southwest on Old Schoolhouse Road to Sand Pond Road; then south on Millbrook Road to Gaisler Road; then west on Gaisler Road to Corner Road; then north on Corner Road to the base of the Kittatinny Ridge; then southwest along the base of the Kittatinny Ridge to the Delaware River at the Delaware Water Gap north of Quarry Road; then north along the east bank of the Delaware to the point of beginning at Dingman's Ferry. Depew, Tocks, Poxono and Labar Islands in the Delaware River are included in this zone.
5. Zone No. 5: That portion of Warren and Sussex Counties lying within a continuous line beginning at the intersection of Rt. 521 and Rt. 206 at Culvers Inlet; then southeast along Rt. 206 to its intersection with Rt. 519 at Branchville; then south along Rt. 519 to its intersection with Rt. 206 at Newton; then south along Rt. 206 to its intersection with Rt. 517 at Andover; then south along Rt. 517 to its intersection with Rt. 46 at Hackettstown; then west along Rt. 46 to its intersection with [Rt. 94 at Columbia; then northeast along Rt. 94 to its intersection with Rt. 521 at Blairstown; then north along Rt. 521 to its intersection with Rt. 617 at Stillwater;] the Zone 4 boundary at the Delaware Water Gap north of Quarry Road; then northeast along the base of the Kittatinny Ridge to Corner Road; then south on Corner Road to Gaisler Road; then east on Gaisler Road to Millbrook Road; then north on Millbrook Road to Sand Pond Road; then east on Sand Pond Road to Old Schoolhouse Road; then northeast on Old Schoolhouse Road to Route 617 at Wintermute's Foundry; then north along Rt. 617 to its intersection with Rt. 521; then north along Rt. 521 to the point of beginning at Culvers Inlet.
- 6.-18. (No change.)
19. Zone No. 19: That portion of Burlington and Camden Counties lying within a continuous line beginning at the intersection of Rt. 530 and Rt. 206 near Birmingham; then south along Rt. 206 to its intersection with [Rt. 534 at Indian Mills;] Rt. 532, Chatsworth

Road; then east along Rt. 532 to its intersection with Buttersworth Bogs Road; then south and west along Buttersworth Bogs Road to its intersection with Bozartown Road; then southwest along Bozartown Road to its intersection with Dingtletown Road; then southwest along Dingtletown Road to its intersection with Forked Neck Road; then west along Forked Neck Road to its intersection with Rt. 206; then south along Rt. 206 to its intersection with Rt. 541, Stokes Road; then northwest along Rt. 541 to its intersection with Rt. 534, Jackson Road; then west along Rt. 534 to its intersection with Rt. 73; then north along Rt. 73 to its intersection with the New Jersey Turnpike; then northeast along the New Jersey Turnpike to its intersection with Rt. 38; then east along Rt. 38 to its intersection with Rt. 530; then east along Rt. 530 to its intersection with Rt. 206 near Birmingham, the point of beginning.

20.-22. (No change.)

23. Zone No. 23: That portion of Burlington, Atlantic and Camden Counties lying within a continuous line beginning at the intersection of Rts. 542 and 563 at Green Bank; then west along Rt. 542 to its intersection with Rt. 30 near Hammonton; then northwest along Rt. 30 to its intersection with Rt. 73; then north on Rt. 73 to its intersection with Rt. 534, Jackson Road; then east along Rt. 534 to its intersection with [Rt. 206 at Indian Mills; then north along Rt. 206 to its intersection with Rt. 532;] Rt. 541, Stokes Road; then southeast along Rt. 541 to its intersection with Rt. 206; then north along Rt. 206 to its intersection with Forked Neck Road; then east along Forked Neck Road to its intersection with Dingtletown Road; then northeast along Dingtletown Road to its intersection with Bozartown Road; then northeast along Bozartown Road to its intersection with Buttersworth Bogs Road; then east and north along Buttersworth Bogs Road to its intersection with Rt. 532, Chatsworth Road; then east along Rt. 532 to its intersection with Rt. 563 at Chatsworth; then south along Rt. 563 to Rt. 542 the point of beginning at Green Bank.

24.-32. (No change.)

33. Zone No. 33: That portion of Atlantic and Cape May Counties lying within a continuous line beginning at the intersection of Rts. 40 and 50 at Mays Landing; then south on Rt. 50 to its intersection with [Rt. 31 (585) near Petersburg; then east on Rt. 31 to Rt. U.S. 9; then south on Rt. 9 to its intersection with Rt. 23 at Marmora; then east on Rt. 23] Rt. 631, Tuckahoe Road; then east along Rt. 631 to its intersection with Rt. 9 at Marmora; then north along Rt. 9 to its intersection with Rt. 623; then east along Rt. 623 to the Atlantic Ocean at Ocean City; then northeast along the Atlantic Ocean to Atlantic City; then northwest along Rt. 322 (40) to McKee City; then west on Rt. 40 to its intersection with Rt. 50 at Mays Landing, the point of beginning.

34. Zone No. 34: That portion of Cumberland and Cape May Counties lying within a continuous line beginning at Port Elizabeth; then east on Rt. 548 to its intersection with Rt. 49; then continuing east on Rt. 49 to its intersection with Rt. 50 at Tuckahoe; then south on Rt. 50 to its intersection with Rt. [31 (585) near Petersburg, then east on Rt. 31 to Rt. U.S. 9; then south on Rt. 9 to its intersection with Rt. 23 at Marmora; then east on Rt. 23] 631, Tuckahoe Road; then east along Rt. 631 to its intersection with Rt. 9 at Marmora; then north along Rt. 9 to its intersection with Rt. 623; then east along Rt. 623 to the Atlantic Ocean at Ocean City; then southeast along the Atlantic Ocean to Delaware Bay; then north and west along the east bank of Delaware Bay to the Maurice River; then north along the east bank of the Maurice River to Port Elizabeth and Rt. 548[;], the point of beginning.

35.-36. (No change.)

37. Zone No. 37: That portion of Fort Dix Military Reservation, U.S. Department of the Army, designated as open for deer hunting, lying within Burlington County.

38. Zone No. 38: That portion of Great Swamp National Wildlife Refuge, U.S. Department of the Interior, designated as open for deer hunting, lying within Morris County.

39. Zone No. 39: That portion of Naval Weapons Station Earle, U.S. Department of the Navy and Fort Monmouth, U.S. Department of the Army, designated as open for deer hunting, lying within Monmouth County.

40. (Reserved.)

Re-number existing 37. to 47. as 41. to 51. (No change in text.)

ENVIRONMENTAL PROTECTION

PROPOSALS

52. Zone No. 52: That portion of Fort Dix Military Reservation, U.S. Department of the Army, designated as open for deer hunting, lying within Ocean County.

53. Zone No. 53: That portion of Lakehurst Naval Air Engineering Center, U.S. Department of the Navy, designated as open for deer hunting, lying within Ocean County.

54. Zone No. 54: That portion of U.S. Army Armament Research and Development Command (ARRADCOM), U.S. Department of the Army, designated as open for deer hunting, lying within Morris County.

55. Zone No. 55: That portion of the Federal Aviation Administration Technical Center (FAATC), U.S. Department of Transportation, designated as open for deer hunting, lying within Atlantic County.

56. Zone No. 56: That portion of Edwin B. Forsythe National Wildlife Refuge, U.S. Department of the Interior, located south of Stoney Hill Road, designated as open for deer hunting, lying within Atlantic County.

57. Zone No. 57: That portion of Edwin B. Forsythe National Wildlife Refuge, U.S. Department of the Interior, located north of Stoney Hill Road and south of the Mullica River, designated as open for deer hunting, lying within Atlantic County.

58. Zone No. 58: Those portions of Edwin B. Forsythe National Wildlife Refuge, including the Barnegat Division, U.S. Department of the Interior, located north of the Mullica River, designated as open for deer hunting, lying within Burlington and Ocean Counties.

59. Zone 59: That portion of Supauna Meadows National Wildlife Refuge, U.S. Department of the Interior, designated as open for deer hunting, lying within Salem County.

60. Zone No. 61: Those portions of the Atlantic County Park System, County of Atlantic, designated as open for deer hunting, lying within Atlantic County.

7:25-5.30 White-tailed deer bow [and arrow] permit season, either sex

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

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

(c) Bag Limit: Two deer of either-sex and any age per permit. Only one deer may be taken in a given day per permit. Deer shall be tagged immediately with the bow [and arrow] permit "transportation tag" completely filled in and shall be transported to a checking station before 7:00 P.M. E.S.T. on the day killed. Upon completion of the registration of the first deer, one valid and proper "New Jersey Second Deer Permit And Transportation Tag" (Second Tag) will be issued which will allow the person to continue hunting and take one additional deer of either sex during bow [and arrow] permit season, provided the season is open on the following day. The second tag shall not be valid on the day of issuance, and all registration requirements apply.

(d) Duration of the bow [and arrow] permit season is from November [7 to December 5, 1987] **12 to December 3, 1988**, [excluding November 26, 1987] in designated deer management zones, or any other time as determined by the Director. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

(e) Bow [and arrow] permit season permits are valid only in the designated deer management zones or other designated areas and are not transferable.

(f) Method: The taking of two deer of either sex and any age with a bow [and arrow] under a bow [and arrow] permit season permit or a farmer bow [and arrow] permit season permit, is permitted in designated deer management zones by holders of a bow [and arrow] permit season permit and on the farm occupied and designated in the application by holders of a farmer bow [and arrow] permit season permit.

1. Bow [and arrow] permit season permits will be issued on an individual basis to holders of valid and current bow [and arrow] licenses and qualified farmers. [Only one application per person may be submitted for the bow and arrow permit season whether as a

farmer or a license holder during the initial application period. Farmer bow and arrow permit season permits will be issued on an individual basis to owners or lessees of farms who reside thereon, or the immediate members of their families 10 years of age or older who also reside thereon, upon receipt of a notarized application form and only in zones where the season has been prescribed.]

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

(h) Bow [and Arrow] Permit Season Permits shall be applied for as follows:

1. Only holders of valid bow [and arrow] licenses including juvenile bow [and arrow] license holders may apply by [sending] **detaching from their bow hunting license the stub marked special deer season 1988, signing as provided on the back, and sending the stub together with a \$17.00 permit fee per applicant and an application form which has been properly completed in accordance with instructions. Application forms may be obtained from:**

i-iv. (No change.)

2. Application for a bow [and arrow] permit season permit shall not preclude an individual from applying for either the muzzleloader rifle or shotgun season permits.

3. Only one application may be submitted [by any one individual] **per regular bow license holder** during the initial application period. [Duplicate application] **Application for more than the allowable number of permits** during the initial application period will cause all applications by an individual to be void.

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

5.-8. (No change.)

(i) Farmer Bow [and Arrow] Permit Season Permits shall be applied for as follows:

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

2. (No change.)

3. The application form shall be filled in to include: name, age, size of farm, address, and any other information requested thereon. **THIS APPLICATION MUST BE NOTARIZED.** Properly completed application forms will be accepted in the Trenton office only during the period of August 1 to 15. There is no fee required, and

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all qualified applications will receive a farmer bow [and arrow] permit season permit, delivered by mail.

4. Only one **farmer** application may be submitted per individual. Application for a **farmer** bow [and arrow] permit season permit shall not preclude an individual from applying for either the **farmer** muzzleloader rifle or shotgun permit seasons permits, **or from applying for one regular bow permit season permit as a bow hunting license applicant. Application for more than the allowable number of permits during the initial application period will cause all applications by the individual to be void.**

(j) Bow [and Arrow] and Farmer Bow [and Arrow] Permit Season Permits shall be used as follows:

1. The bow [and arrow] permit season permit is valid only in the deer management zone (DMZ) designated and is not transferable. The farmer bow [and arrow] permit season permit is valid only on

the farm occupied and designated in the application and is not transferable. The DMZ quota follows below at (k). The DMZ map is on file at the Office of Administrative Law. The bow and arrow permit season permit hunter is responsible for hunting in the correct DMZ or farm as indicated and in ascertaining the boundaries.

2. Neither the bow [and arrow] permit season permit nor the farmer bow [and arrow] permit season permit is transferable from DMZ to DMZ, or from farm to farm, or from individual to individual. The permit must be used on the farm, in the DMZ, and by the individual to whom it was issued.

(k) The Deer Management Zone Map is on file at the Office of Administrative Law and is available from that agency or the Division. The [1987] **1988** Bow [and Arrow Deer Season] Permit Season Quotas (Either Sex) are as follows:

[1987] 1988 BOW [AND ARROW] PERMIT SEASON PERMIT QUOTAS (EITHER SEX)

Deer Mgt. Zone No.	Season Dates Code	Anticipated		Permit [1987]	Quota 1988	Portions of Counties Involved
		Deer [1987]	Harvest 1988			
1		[85]	79	[850]	700	Sussex
2		[133]	78	[1144]	800	Sussex
3		[67]	53	[670]	750	Sussex, Passaic, Bergen
4		0		0		Sussex, Warren
5		[294]	231	[2935]	2430	Sussex, Warren
6		[157]	93	[1570]	1000	Sussex, Morris, Passaic, Essex
7		[162]	136	[1452]	1150	Warren, Hunterdon
8		[404]	270	[3364]	2500	Warren, Hunterdon, Morris, Somerset
9		[144]	98	[1042]	800	Morris, Somerset
10		[191]	162	[1855]	1300	Warren, Hunterdon
11		[131]	105	[1146]	950	Hunterdon
12		[282]	224	[2415]	1900	Mercer, Hunterdon, Somerset
13		[84]	56	[733]	575	Morris, Somerset
14		[177]	90	[1770]	1200	Mercer, Somerset, Middlesex, Burlington
15		[0]	80	[0]	800	Mercer, Monmouth, Middlesex
16		[104]	67	[999]	750	Ocean, Monmouth
17		[56]	56	[485]	450	Ocean, Monmouth, Burlington
18		[0]	35	[0]	403	Ocean
19		[29]	40	[290]	400	Camden, Burlington
20		[0]	37	[0]	370	Burlington
21		0		0		Burlington, Ocean
22		[0]	16	[0]	161	Burlington, Ocean
23		[0]	26	[0]	419	Burlington, Camden, Atlantic
24		0		0		Burlington, Ocean
25		[37]	43	[370]	500	Gloucester, Camden, Atlantic, Salem
26		0		0		Atlantic
27		[55]	52	[550]	550	Salem, Cumberland
28		0		0		Salem, Cumberland, Gloucester
29		[111]	74	[1110]	650	Salem, Cumberland
30		[0]	10	[0]	90	Cumberland
31		0		0		Cumberland
32		0		0		Cumberland
33		[0]	27	[0]	274	Cape May, Atlantic
34		0		0		Cape May, Cumberland
35		[58]	63	[580]	550	Gloucester, Salem
36		[20]	18	[200]	140	Bergen, Hudson, Essex, Morris, Union, Somerset and Middlesex
37	1		17		150	Burlington (Fort Dix Military Reservation)
38			0		0	Morris (Great Swamp National Wildlife Refuge)
39			17		58	Monmouth (Earle Naval Weapons Station)
40			6		65	Warren (Allamuchy State Park)
41		[78]	67	[780]	650	Mercer, Hunterdon
42		[12]	16	[120]	130	Atlantic
43		0		0		Cumberland
44		0		0		Cumberland
45		0		0		Cumberland, Atlantic, Cape May
46		0		0		Atlantic
47		[0]	8	[0]	80	Atlantic, Cumberland, Gloucester
48		[50]	32	[501]	400	Burlington

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49	[10]	4	[100]	40	Burlington, Camden, Gloucester
50	[31]	39	[305]	400	Middlesex, Monmouth
51	[33]	24	[375]	304	Monmouth, Ocean
52	1	2		48	Ocean (Fort Dix Military Reservation)
53		12		60	Ocean (Lakehurst Naval Engineering Center)
54		4		22	Morris (Picatinny Arsenal-ARRAD Com)
55		5		40	Atlantic (Federal Aviation Administration Technical Center)
56		0		0	Atlantic (Forsythe National Wildlife Refuge)
57		0		0	Atlantic (Forsythe National Wildlife Refuge)
58		6		60	Burlington, Ocean (Forsythe National Wildlife Refuge)
59		6		30	Salem (Supawna National Wildlife Refuge)
61		14		135	Atlantic (Atlantic County Parks)
Total	[2,995]	2,598	[27,711]	25,234	

(l) The Season Dates Code referenced in the table in (k) above is as follows:

1. Indicates the season dates will be November 21 through December 3, 1988 in zones 37 and 52.

(m) Permit quotas in Zones 37, 38, 39, 40, 51-59 and 61 are contingent upon approval by appropriate land management agencies for those zones.

[(l)] (n) (No change in text.)

7:25-5.31 White-tailed deer permit shotgun season permit (either sex), Great Swamp National Wildlife Refuge (Zone 38).

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

(c) Duration of the Great Swamp Permit Shotgun [Permit] Season shall be from 7:00 A.M. E.S.T. to 5:00 P.M. E.S.T. on the following dates: December [10, 11, 12, 1987 and January 8 and 9, 1988] 8, 9, 10, 1988 and January 5, 6, 7, 1989 or as may otherwise be designated by the U.S. Fish and Wildlife Service.

(d) Bag Limit: [Three deer] Six deer of either sex[,] and any age[,] may be taken with a Great Swamp permit shotgun [permit] season permit. Only one deer may be taken in a given day.

(e) Great Swamp permit shotgun [permit] season permits are valid only in designated portions of the Great Swamp National Wildlife Refuge and are not transferable.

(f) Method: The taking of six deer of either sex and any age with a [shotgun under a Great Swamp shotgun permit season, in addition to the legal antlered deer allowed under statewide antlered deer season and either sex deer allowed under the statewide long bow and arrow season and either sex deer allowed under the winter bow season.] Great Swamp (Zone 38), permit shotgun season permit will be permitted in designated areas of the Great Swamp National Wildlife Refuge [by holders of a Great Swamp shotgun permit season permit]. A total of 600 Great Swamp shotgun permit season permits will be issued. Daily hunter quotas, hunt procedures and hunting methods in this area shall be provided by the U.S. Fish and Wildlife Service.

(g) Procedures for applying for a Great Swamp permit shotgun [permit] season permit will be the same as outlined for the permit shotgun [permit] season permit. (see N.J.A.C. 7:25-5.25 (h)), with the exception that applicants for the Great Swamp permit shotgun [permit] season permit must indicate Zone 38 on the application [card] in the space reserved for deer management zone number.

(h)-(i) (No change.)

7:25-5.32-5.33 (No change.)

7:25-5.34 Controlled hunting—hunting restrictions on wildlife management areas

(a) No wildlife management areas have been selected for limited hunter density for the [1987-88] 1988-89 season. [however] However, hunting with firearms shall be prohibited on November [6, 1987] 11, 1988 on those wildlife management areas designated as pheasant and quail stamp areas in N.J.A.C. 7:25-5.33.

(b) (No change.)

7:25-5.35 to 5.38 (No change.)

(a)

**DIVISION OF SOLID WASTE MANAGEMENT
BOARD OF PUBLIC UTILITIES**

**Interdistrict and Intradistrict
Solid Waste Flow: Essex County**

Joint Proposed Amendment: N.J.A.C. 7:26-6.5

Authorized By: Richard T. Dewling, Commissioner, Department of Environmental Protection, and, the Board of Public Utilities, Christine Todd Whitman, President.

Authority: N.J.S.A. 13:1E-6, 13:1E-23, and 48:13A-1 et seq.
DEP Docket Number: 016-88-04

Proposal Number: PRN 1988-262.

A public hearing concerning this proposal will be held on:

June 6, 1988 at 1:00 P.M.

Office of the Board of Public Utilities

10th floor

2 Gateway Center

Newark, New Jersey 07002

Submit comments on or before June 15, 1988 to:

Marlen Dooley

Office of Regulatory Services

Department of Environmental Protection

CN 402

Trenton, New Jersey 08625

The joint agency proposal follows:

Summary

The Department of Environmental Protection ("Department") and the Board of Public Utilities ("Board") are proposing to amend the district waste flow planning requirements and disposal facility designations, N.J.A.C. 7:26-6.5, to redirect the disposal of solid waste generated in Essex County, New Jersey, from the Hackensack Meadowlands Development Commission ("HMDC") I-C landfill to three transfer stations for processing and transport to out-of-state disposal facilities.

On May 2, 1983, the Department, Essex County and the HMDC entered into an amended Consent Judgment in the Superior Court of New Jersey, Chancery Division, which provided that disposal of solid waste in the HMDC I-C landfill would cease by July 31, 1987. On June 3, 1987, Essex County amended its solid waste management plan to include three transfer stations and to designate the waste flow for each proposed transfer station. On June 8, 1987, the plan amendment was certified by the Department.

The proposed amendment will replace the July 27, 1987 Essex County Emergency Waste Redirection Order issued jointly by the Department and the Board pursuant to N.J.A.C. 7:26-6.7. The proposed amendment affects all solid waste types 10, 13, 23, 25 and 27 generated within the Essex County municipalities of Belleville, Bloomfield, Caldwell, Cedar Grove, East Orange, Essex Fells, Fairfield, Glen Ridge, Irvington, Livingston, Maplewood, Millburn, Montclair, Newark, North Caldwell, Nutley, Orange, Roseland, South Orange, Verona, West Caldwell, and West Orange. This waste is to be taken to transfer stations in Essex County.

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Social Impact

The proposed amendment will have a positive social impact. The HMDC I-C landfill ceased operations on July 31, 1987 pursuant to a May 2, 1983 amended Consent Judgment. This necessitated the identification of alternative disposal areas for the municipalities that had been utilizing the HMDC I-C landfill for their solid waste disposal activities. The county has designated transfer stations for the processing of the solid waste generated within Essex County and for the transport of that waste to out-of-state landfills until the long term solid waste disposal facilities are operational. The use of transfer stations with long term disposal contracts will ensure guaranteed disposal privileges.

Economic Impact

The proposed amendment will have an adverse economic impact because it will result in a substantial increase in tipping fees. The increase in tipping fees at the transfer stations is due to the increased cost associated with long distance hauling to out-of-state landfills and the securing of long term contracts for guaranteed disposal privileges. This economic impact is unavoidable since the HMDC I-C landfill ceased operation. This negative economic impact was balanced against the long term economic detriment of not having guaranteed disposal privileges.

Environmental Impact

The proposed amendment will have a positive environmental impact, because it ensures that the county has waste disposal facilities available to handle the solid waste generated within Essex County which is no longer able to utilize landfills in the HMDC. The proposed amendment will also have a positive environmental impact because the HMDC I-C Landfill had approached its legal capacity and continued disposal would have created an environmentally hazardous condition.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Department and the Board have determined that this proposed amendment will not impose reporting, recordkeeping or other compliance requirements on small businesses. Existing waste flow rules had directed solid waste from Essex County to specific disposal sites in the HMDC and this rule amendment merely redirects the solid waste in question to certain transfer stations for processing prior to out-of-state disposal. Inasmuch as collector/hauler tipping fees are regulated by the Board to ensure a reasonable rate of return, any potential increase in tipping fees as a result of this proposed amendment may be alleviated by increases in collector/hauler tariffs.

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

7:26-6.5 District waste flow planning requirements and disposal facility designations

Due to the lack of adequate disposal capacity within certain solid waste districts, and pursuant to a finding by the BPU that the public interest will be best served by designated specific disposal facilities as the ultimate destination of specific waste streams, it is necessary to direct waste flows described in this section.

(a)-(f) (No change.)

(g) Waste flows within, into and out of the Essex County District:

[1. According to the March 2, 1982 Consent Judgment issued by the Honorable John A. Murzulli, J.S.C., all waste types 10, 13, 23, 25, and 27 generated from within all of Essex County's municipalities shall be disposed of at facilities located in the Hackensack Meadowlands Development Commission for a period not to exceed six and one-half years from the date of issuance of the judgment. At the end of this six and one-half year period, Essex County will have completed the construction of and have its operational resource recovery facility. The HMDC will assume no responsibility for the acceptance of Essex County's waste beyond the six and one-half year period except for resource recovery residuals, non-processible wastes, and backup capacity for the resource recovery facility.

i. The Essex County waste flow will be handled principally by a new Baler/Balefill facility to be constructed by the HMDC and expected to be operating between September 1983 and December 31, 1983. The location of the Baler/Balefill has not yet been announced by the HMDC. However, it will be located in the Hackensack Meadowlands District. In the interim, all Essex County waste will continue to be disposed of at the MSLA 1-C site, facility number 0907B, located in Kearny, which has recently reopened upon the

closure of the MSLA 1-D, facility number 0907C, also located in Kearny. The MSLA 1-C site is expected to close before the end of 1982 at which time the HMDC plans to reopen the MSLA 1-A site, facility number 0907A, located in Kearny.

ii. In addition to the above consent judgment, other modification, directives, and/or resolutions approved and issued by the Department and/or the HMDC may affect the Essex County waste flow. (See (i) below, Waste flow within, into and out of the Hackensack Meadowlands District.)]

1. All solid waste types 10, 13, 23, 25, and 27 generated from within the Essex County municipalities of Irvington, Livingston, Maplewood, Millburn, and South Orange are hereby directed to the Waste Management of New Jersey Transfer Station, located at 100 Avenue A, in the City of Newark, Essex County, New Jersey.

2. All solid waste types 10, 23, 25, and 27 generated from within the Essex County municipality of Newark are hereby directed to the Waste Management of New Jersey Transfer Station, located at 100 Avenue A, in the City of Newark, Essex County, New Jersey.

3. All solid waste types 10, 13, 23, 25, and 27 generated from within the Essex County municipalities of Belleville, Bloomfield, Caldwell, Cedar Grove, East Orange, Essex Fells, Fairfield, Glen Ridge, Montclair, North Caldwell, Nutley, Orange, Roseland, Verona, West Caldwell and West Orange are hereby directed to the Solid Waste Transfer and Recycling, Inc. Transfer Station, located at 442 Frelinghuysen Avenue, in the City of Newark, Essex County, New Jersey.

4. All solid waste type 13 generated from within the Essex County municipality of Newark is hereby directed to the Solid Waste Transfer and Recycling, Inc. Transfer Station, located at 442 Frelinghuysen Avenue, in the City of Newark, Essex County, New Jersey.

5. Upon commencement of operations of the Solid Waste Transfer and Recycling, Inc. Transfer Station, located at Hill Street, in the City of Orange, Essex County, New Jersey, all solid waste types 10, 23, 25, and 27 generated from within the Essex County municipalities of Belleville, Bloomfield, Caldwell, Cedar Grove, East Orange, Essex Fells, Fairfield, Glen Ridge, Montclair, North Caldwell, Nutley, Orange, Roseland, Verona, West Caldwell and West Orange shall be directed to this facility.

(h) (No change.)

(i) Waste flows within, into and out of the Hackensack Meadowlands District:

1. (No change.)

2. In addition to these approved waste flows, the following inter-district waste flow changes that have been made as a result of modifications, directives, and/or resolutions approved and issued by the Department and/or the HMDC shall be incorporated into the affected district plans:

i.-ix. (No change.)

x. According to the May 2, 1983 amended Consent Judgment issued by the Honorable John A. Murzulli, J.S.C., all waste types 10, 13, 23, 25, and 27 generated from within all of Essex County's municipalities shall be disposed of at facilities located in the Hackensack Meadowlands District until July 31, 1987. Under the amended Consent Judgment, the HMDC will assume no responsibility for the acceptance of Essex County's waste beyond July 31, 1987 except insofar as residual, non-processible and backup capacity is required upon completion of the Essex County resource recovery facility.

(j)-(v) (No change.)

HEALTH/LABOR**(a)**

**Asbestos Control Service
Division of Workplace Standards
Asbestos Licenses and Permits
Definition of Removal**

Joint Proposed Amendment: 8:60-2.1 and 12:120-2.1

Authorized By: Molly Joel Coye, M.D., M.P.H., Commissioner,
Department of Health, and Charles Serraino, Commissioner,
Department of Labor.

HEALTH/LABOR

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Authority: N.J.S.A. 34:5A-39.
Proposal Number: PRN 1988-265.

Submit comments by June 15, 1988 to:
Michael F. Lakat
Special Assistant to the Director
Asbestos Control Service
Department of Health
CN 360
Trenton, New Jersey 08625-0360

The agencies' proposal follows:

Summary

The Asbestos Control and Licensing Act (N.J.S.A. 34:5A-32 et seq.) was enacted on October 31, 1984. Its purpose was to ensure that the application, enclosure, removal and encapsulation of asbestos be properly performed so that health and safety hazards which are detrimental to the State's interests be avoided.

Pursuant to N.J.S.A. 34:5A-32 et seq., the Department of Health and the Department of Labor jointly adopted rules regarding asbestos licenses and permits (N.J.A.C. 8:60 and 12:120), which provide reasonable standards for the licensing of employers, the permitting of workers, and the certification of the required training courses. As such, every employer and employee engaged in the application, enclosure, removal and encapsulation of asbestos-containing material must be licensed and permitted, respectively.

Historically, there has been some question regarding the use of licensed contractors and permitted workers for the removal of asbestos-containing material from roofs and exterior sidings. Admittedly, the existing rule is unclear in this regard and has been interpreted variously by State agencies. The purpose of the proposed amendment will be to exempt exterior portions of buildings from the provisions of N.J.A.C. 8:60 and 12:120.

Currently, little scientific data exists which demonstrates an increased risk associated with the removal and replacement of asbestos-containing roofing and siding materials to building occupants. However, there is no question that occupational exposure to asbestos has resulted in an increased risk of disease and disability in the workforce. It is the Department of Health's position that this deregulation will not place the affected tradespersons at risk insofar as those individuals are afforded training and protection under provision of the revised General Industry Standard and Construction Standard, 29 CFR 1910, Subpart 7 and 29 CFR 1926, Subpart D, respectively.

The Department of Health reserves the right to reevaluate its position and require licensing and training should future studies show a significant risk to this type of environmental exposure.

Social Impact

The proposed amendment recognizes the fact that, in the absence of significant health risk data, deregulating the removal of asbestos-containing roofing and siding material will have the positive effect of not over-regulating an already tightly controlled industry. Adoption of this amendment will also benefit the various regulatory agencies, the trades involved in asbestos remediation, and the general public by allowing for a period of data collection and evaluation to determine whether a health risk is indeed associated with this type of removal activity.

Economic Impact

Those entities needing roofing and siding removal will be affected in a positive way by the adoption of the proposed amendment. If the amendment is not adopted, the increased salaries and overhead costs incurred will inevitably be passed on to the consumer, creating further negative economic impact.

Regulatory Flexibility Statement

The proposed amendment will significantly decrease the amount of paperwork required of small businesses, by deregulating the removal of exterior materials from buildings. The proposal is expected to have a beneficial effect on small businesses through a reduction in expenses.

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

8:60-2.1 and 12:120-2.1 Definitions

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

...
"Removal" means the taking out or the stripping of asbestos-containing surfacing, thermal, or miscellaneous material from a building or structure. Specifically excluded from this definition are roofing and exterior siding materials in all but demolition projects.
...

HUMAN SERVICES

The following proposals are authorized by Drew Altman, Commissioner, Department of Human Services.

(a)

OFFICE OF LEGAL AND REGULATORY LIAISON

**Department of Human Services
Organization and Public Notice
Proposed New Rule: N.J.A.C. 10:1-2.**

Authority: N.J.S.A. 30:1-12, 52:14B-4(f).
Proposal Number: PRN 1988-263.

Submit comments by June 15, 1988 to:
Barbara G. Rapkin, Esq., Director
Office of Legal and Regulatory Liaison
Department of Human Services
CN 700
222 So. Warren Street
Trenton, New Jersey 08065

The agency proposal follows:

Summary

The New Jersey Administrative Procedure Act (at N.J.S.A. 52:14B-4(f)) permits interested persons to petition an agency to promulgate, amend or repeal any rule. The Act also requires that State agencies prescribe the form for the petition and the procedure for the submission, consideration and disposition of the petition. The text of N.J.A.C. 10:1-2, which expired May 6, 1988, fulfills this statutory mandate. In accordance with the requirements of Executive Order No. 66, the Department of Human Services has reviewed the text of N.J.A.C. 10:1-2 and has determined that it continues to be necessary and proper for the purposes for which it was originally promulgated.

The Department thus proposes to readopt, as new, N.J.A.C. 10:1-2 with minor technical changes.

Social Impact

The rules outline procedures for interested parties to follow in submitting comments on Department of Human Services rules and also outlines procedures for interested parties to submit petitions for rulemaking. Thus continuity of the rule will insure availability of this information to the public, since it merely continues in effect existing procedural rules.

Economic Impact

The proposed rulemaking will have no economic impact on the Department or the public.

Regulatory Flexibility Statement

The proposed rules impose no recordkeeping, reporting or compliance requirements on small businesses, therefore a regulatory flexibility analysis is not required.

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

CHAPTER 1
DEPARTMENT OF HUMAN SERVICES [ORGANIZATION
AND PUBLIC NOTICE] ADMINISTRATION

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. PUBLIC COMMENTS AND PETITIONS
REGARDING DEPARTMENT RULES

10:1-2.1 Public comments regarding existing rules

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

(c) Public comments regarding existing rules should be submitted in writing and addressed to:

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HUMAN SERVICES

[Office of Intergovernmental Relations]
Office of Legal and Regulatory Liaison
 Department of Human Services
 CN 700
 Trenton, NJ 08625

10:1-2.3 Public petitions regarding Department rulemaking

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

(c) Petitions for the promulgation, amendment or repeal of a rule by the Department of Human Services shall be addressed to:

[Office of Intergovernmental Relations]
Office of Legal and Regulatory Liaison
 Department of Human Services
 CN 700
 Trenton, NJ 08625

(d) (No change.)

(a)

**OFFICE OF LEGAL AND REGULATORY LIAISON
 Statewide Respite Care Program**

Proposed Amendments: N.J.A.C. 10:14-1.4, 4.1, 6.3

Authority: N.J.S.A. 30:4F-7 et seq., specifically N.J.S.A. 30:4F-12 (P.L. 1987, c. 119 (effective September 11, 1987.))
 Proposal Number: PRN 1988-264.

Submit comments by June 15, 1988 to:
 Barbara G. Rapkin, Esq., Director
 Office of Legal and Regulatory Liaison
 Department of Human Services
 CN 700
 222 South Warren Street
 Trenton, N.J. 08625

The agency proposal follows:

Summary

The following amendments are being proposed to insure the conformity of the Statewide Respite Care Program with the mandates of the Federal Omnibus Budget Reconciliation Act of 1987, Section 9414(c)(C), and to insure appropriate co-payment by individuals receiving program services. This proposal includes an additional standard to be met by an individual when eligibility for services is determined, changes to the co-payment fee schedule used for individuals who access program services and criteria for waiver of the co-payment fee.

The amendment at N.J.A.C. 10:14-1.4 adds a liquid resources test to the criteria presently delineated in the newly adopted rules, appearing elsewhere in this issue of the New Jersey Register. Determination of eligibility will now include a declaration by the eligible individual that liquid resources do not exceed \$40,000 (See amendment to N.J.A.C. 10:14-4.1). Liquid resources include any checking accounts, savings accounts, individual retirement accounts, certificates of deposits, stocks, or bonds, that can be converted into cash within 20 working days. Conformity with the federal statute will qualify the New Jersey Statewide Respite Care Program for federal matching funds under the name of the New Jersey Respite Care Pilot Project and will enable program expansion to serve a larger population of elderly and disabled citizens.

The amendment at N.J.A.C. 10:14-6.3 adjusts the co-payment amount to individuals obtaining program services. This amendment will decrease co-payment fees to all recipients of program services required to share in the cost of program services.

The amendment at N.J.A.C. 10:14-6.3(c) delineates the criteria for waiver of the co-payment fee. This amendment establishes criteria to be used when making a determination to waive co-payment fees.

Social Impact

The proposed amendments will have a positive impact on the lives of elderly and functionally disabled individuals in New Jersey and their caregivers. The amendments will insure that those individuals eligible for program services will be the target population served by the Statewide Respite Care Program. Furthermore, they will insure that those individuals with the greatest financial need will receive services first and at the least cost possible. Though the requirement to include a liquid resources test may disallow provision of services to some individuals previously

eligible, the availability of federal matching funds will enable an increase in, and expansion of, program services to more elderly and disabled New Jersey residents.

Economic Impact

Since the proposed amendments are financial in nature, it is expected that the inclusion of the amendment requiring a declaration of liquid resources may change eligibility status for some elderly and disabled individuals seeking program services. However, the concept of provision of services to individuals with the greatest financial need is basic to the program. Because of limited funding, the proposed amendments will insure that the most financially needy individuals receive program services first. Also, a reduction in personal expenditures by the targeted population is expected.

Additionally, implementation of the liquid resources test will conform the New Jersey Statewide Respite Care Program with federal requirements, enabling the Department to apply for federal matching funds. This will double the amount of money available for program services, allowing provision of services to a larger population.

Regulatory Flexibility Statement

The proposed amendments do not have an impact 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)):

10:14-1.4 Definitions

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

...
"Liquid resources" means any checking accounts, savings accounts, individual retirement accounts, certificates of deposits, stocks, or bonds, that can be converted into cash within 20 working days.
 ...

10:14-4.1 Eligibility standards

(a) For the purposes of the Statewide Respite Care Program, an eligible person shall meet the following eligibility standards:

1.-3. (No change.)

4. An eligible individual means an individual whose liquid resources (as declared by the individual) do not exceed \$40,000.

10:14-6.3 Sliding fee scale for co-payments

[(a) The Department of Human Services shall establish a sliding fee schedule for co-payments by eligible persons. This fee scale shall be based on the eligible person's income and on other resources available to the eligible person to pay for respite services. The sliding fee scale shall be reviewed on an annual basis by the Department of Human Services. If any changes to the fee scale are deemed necessary, the Department shall publish the proposed changes in the New Jersey Register.

(b) The sliding fee schedule shall be as follows:

Monthly income	Percent of service costs to be paid by the eligible person
below \$371.00	0%
371.00-459.99	1%
460.00-499.99	5%
500.00-539.99	10%
540.00-579.99	15%
580.00-619.99	20%
620.00-659.99	25%
660.00-699.99	31%
700.00-739.99	37%
740.00-779.99	43%
780.00-819.99	50%
820.00-859.99	55%
860.00-899.99	60%
900.00-939.99	65%
940.00-979.99	70%
980.00-1020.00	75%
over 1020.00	100%]

(a) Co-payment fees shall apply to individuals rendered respite care services in accordance with the co-payment fee scale set forth in (b) below. In all cases the point at which cost-sharing shall be initiated will be based upon the most current Federal Poverty Income Guidelines at 42 U.S.C. 9902(2). The co-payment fee scale is based upon the most current Supplemental Security Program Income (SSI) guidelines in effect under section 1611(c)(1)(A) of the Social Security Act (as increased pursuant to section 1617 of such Act). The threshold beyond which an individual becomes ineligible for program services, is 300 percent of the SSI guidelines.

(b) The sliding fee scale shall be as follows:

Income as a percentage of the Monthly SSI Level	Percent of Costs To Be Paid By Eligible Person
Less than 100%	0%
100%—Federal Poverty Level	0%
Federal Poverty Level to 145%†	1%
146%-160%	5%
161%-175%	10%
176%-191%	15%
192%-207%	20%
208%-222%	25%
223%-238%	30%
239%-253%	35%
254%-269%	40%
270%-285%	45%
286%-300%††	50%

†For one person in the community.

††Institutional SSI level.

(c) (No Change.)

(d) Sponsor agencies may seek a waiver of co-payment through submission of a written request to the Department Program Director. Requests for waiver of co-payment shall only be considered for the following reasons:

1. Death of the client;
2. Demonstrated extreme financial hardship as a result of extraordinary and catastrophic financial burden;
3. Dual participation of the client in both the Statewide Respite Care Program and the Community Care Program for the Elderly and Disabled (CCPED) or the Home and Community Based Services Waivers for Blind or Disabled Children and Adults (Model Waiver) Program.

(e) No waiver of co-payment may be made without written Departmental approval.

Summary

The proposed amendments pertain to the definition of the postpartum period for the services certified nurse-midwives. The current time period for postpartum services contained in the rules is six weeks (42 days). The proposed amendments will change this figure to 60 days. The amended time period will apply to all certified nurse-midwives (C.N.M.), whether they have a private practice or whether they are employed by a physician or independent clinic. The amended time period pertains to a C.N.M. providing postpartum services to Medicaid eligible pregnant women.

The change in the time period is necessary to conform with a change in federal law. Section 1902(e)(5) of the Social Security Act (codified as 42 U.S.C. 1396a) requires states to provide services to pregnant women who are found eligible for Medicaid during pregnancy and the postpartum period. The federal law cited above defined the postpartum period as beginning on the last day of pregnancy and lasting for 60 days.

Therefore, the Division is changing its references to remain in compliance with the federal statutory standard. The Division needs to amend the three manuals listed above (Physician's, Nurse-Midwifery and Independent Clinic) because these three Medicaid providers use the HCPCS Procedure Codes when they submit a claim for Medicaid reimbursement.

The additional time allowed for the postpartum period allows pregnant women (who are covered by Medicaid) more time to receive postpartum services. Medicaid providers will be reimbursed for services provided by a C.N.M. during the 60-day postpartum period.

Social Impact

The proposed amendments will impact on Medicaid eligible pregnant women who need postpartum services following delivery. Medicaid coverage will be provided to pregnant women for postpartum services rendered during this period.

The proposed amendments also impact on Medicaid providers, including physicians that employ nurse-midwives, independent clinics, and nurse-midwives that participate as individual Medicaid providers. Nurse-midwives will be allowed 60 days in which to render their postpartum services.

Economic Impact

There is no economic impact on Medicaid patients. Pregnant women are not required to contribute towards the cost of delivery and/or postpartum services.

There should be virtually no economic impact on the Division of Medical Assistance and Health Services. The Division currently reimburses for postpartum services rendered during the 42-day time period. The Division will continue to reimburse for postpartum services in the 60-day period. The Division does not anticipate an increased number of patients requesting additional services. The Division believes the proposed amendments will allow more time to cover an existing service.

There is no change in reimbursement for Medicaid providers, who will continue to be reimbursed for postpartum services. There will be some benefit to providers who will now have 60 days in which to render these services.

Regulatory Flexibility Analysis

The rules impact on small businesses, such as physicians employing nurse-midwives, clinics, and independent nurse-midwife practitioners. However, the rules do not impose any additional recordkeeping, reporting, or other compliance requirements. Medicaid providers are already required to maintain sufficient records to fully disclose the name of the recipient to whom the service was rendered, the date of the service, and the nature and extent of the service. The Division believes that compliance with the existing recordkeeping requirements is necessary for the health of the patient and to insure appropriate expenditures of Medicaid funds.

There is no initial capital cost associated with these rules. The Division does not believe a regulatory flexibility analysis is required for the reasons indicated above.

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

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

For the following proposals, submit comments by June 15, 1988 to:
 Henry W. Hardy, Esq.
 Administrative Practice Officer
 Division of Medical Assistance and Health Services
 CN-712
 Trenton, NJ 08625

(a)

Manual for Physicians' Services, Nurse-Midwifery Services Manual, Independent Clinical Services Manual

Postpartum Period

Proposed Amendments: N.J.A.C. 10:54-4; 10:58-1.2, 3; 10:66-1.6, 3

Authority: N.J.S.A. 30:4D-6a(5)b(3)(17), 7 and 7a, b, and c; 30:4D-12; 1902(e), 1905(a)(17) and 1905(m) of the Social Security Act.

Proposal Number: PRN 1988-252.

The agency proposal follows:

PROPOSALS

Interested Persons see Inside Front Cover

HUMAN SERVICES

10:54-4 HCFA COMMON PROCEDURE CODING SYSTEM (HCPCS)

**APPENDIX B
(SURGERY)
QUALIFIERS
Appendix B/Surgery 4**

HCPCS
CODE

PROCEDURE

58300 Includes cost of device and post insertion visit. Service provided by certified nurse midwife use code 58300 with modifier WM also limited to within [6 weeks] the 60 days postpartum period.
58301 Limited to within [6 weeks] the 60 day postpartum period. Service provided by certified nurse midwife use code 58301 with modifier WM.

10:58-1.2 Definitions

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

The "maternity cycle" means a time period limited to pregnancy, labor, birth and the immediate [six week] 60 day postpartum period.

10:58-3 HCFA COMMON PROCEDURE CODING SYSTEM (HCPCS)

**APPENDIX B/1
(Nurse-Midwifery Services)
QUALIFIERS**

HCPCS
CODE

PROCEDURE

58300WM Includes cost of device and post insertion visit and limited to within the [6 week] 60 day postpartum period.
58301WM Limited to within the [6 week] 60 day postpartum period.
58301WM Ante partum care consisting of initial ante partum visit and seven subsequent ante partum visits. Specific dates of all visits are to be listed on the HCFA-1500/NJ claim form.
Reimbursement will be decreased by the fee for the initial ante partum visit (59420WM22) if patient not seen for this visit. The total fee will also be decreased by the reimbursement sum for each subsequent ante partum visit (59420WM) which is less than seven.
Obstetrical delivery per vagina when performed by a certified nurse midwife with in-hospital, home, or birthing center postpartum care, whichever applies. This applies to a vaginal delivery at full term or premature following completion of at least 28 weeks of gestation or if baby lives over 24 hours. This shall also include one visit between the 15th and [42nd] 60th postpartum day following delivery and out of the hospital. Include delivery date on the HCFA-1500/NJ claim form.
59410WM This applies to a vaginal delivery at full term or premature following completion of at least 28 weeks of gestation or if baby lives over 24 hours. This shall also include one visit between the 15th and [42nd] 60th postpartum day following delivery and out of the hospital. Include delivery date on the HCFA-1500/NJ claim form.
59420WM Indicate specific dates of services on HCFA-1500/NJ claim form.
59420WM22 Initial ante partum care by a certified nurse midwife (separate procedure).

59430WM By other than the delivering physician or certified nurse midwife. One visit between the 15th and [42nd] 60th postpartum day following delivery, out of hospital.

10:66-1.6 Scope of Service

(a)-(i) (No change.)

(j) Obstetrical services (maternity) rules are as follows:

1. Obstetrical services, which may include obstetrical delivery, may be reimbursed when performed by a licensed physician and/or certified nurse-midwife [by] in a licensed ambulatory care facility[,] which is specifically approved to perform such services by the New Jersey Medicaid Program[.];
2. See N.J.A.C. 10:66-3 for procedure codes and reimbursement schedule.

(k)-(n) (No change.)

10:66-3 HCFA COMMON PROCEDURE CODING SYSTEM (HCPCS)

**APPENDIX B
Qualifiers
Appendix B9**

FAMILY PLANNING SERVICES BY CERTIFIED NURSE-MIDWIFE

INSERTION/REMOVAL OF IUD

58300WM Insertion of intracervical or intrauterine device for contraception by the certified nurse-midwife (includes cost of device and post insertion visit). Include delivery date on the Independent Outpatient Health Facility Claim Form (MC-14).

Note: Limited to within the [six-week] 60 day postpartum period.

Appendix B10

58301WM Removal of an IUD by a certified nurse-midwife. Include delivery date on the Independent Outpatient Health Facility Claim Form (MC-14).

Note: Limited to within the [6 weeks] 60 day postpartum period.

ROUTINE OR FOLLOW-UP VISIT BY A NURSE-MIDWIFE

90060WMWF Routine or follow-up visit, prolonged—provided by a certified nurse-midwife and limited to within the [6 weeks] 60 day postpartum period: may involve pelvic examination, changes in method or instructions. Involves 20 or more minutes of personal time in patient contact, including documentation of the time as well as adequate significant progress notes on the clinic record. This code includes cost of birth control drugs dispensed. A prescription cannot be substituted. Include delivery date on the Independent Outpatient Health Facility Claim Form (MC-14).

Appendix B13

OBSTETRICAL SERVICES (MATERNITY) BY A NURSE-MIDWIFE

TOTAL OBSTETRICAL CARE

59400WM Total obstetrical care when given by a certified nurse-midwife and includes:

i. Ante partum care consisting of initial ante partum visit and seven subsequent ante partum visits. Specific dates of all visits are to be listed on the Independent Outpatient Health Facility Claim Form (MC-14).

Note: Reimbursement will be decreased by the fee for the initial ante partum visit (5942022WM) if patient not seen for this visit. The total fee will also be decreased by the reimbursement sum for each subsequent ante partum visit (59420WM) which is less than seven.

Note: If medical necessity dictates, corroborated by the record, additional visits above seven ante partum may be reimbursed under procedure code 90050WM (routine or follow-up visit). The claim form should clearly indicate the reason for the medical necessity and date for each code 90050WM listed.

ii. Obstetrical delivery per vagina with or without episiotomy including postpartum care when provided by the certified nurse-midwife in the home, birthing center or in the hospital (inpatient setting). This applies to a vaginal delivery at full term or premature following completion of at least 28 weeks of gestation or if baby lives over 24 hours. This shall also include one visit between the 15th and [42nd] 60th postpartum day following delivery and out of the hospital. Include delivery date on the Independent Outpatient Health Facility Claim Form (MC-14).

VAGINAL DELIVERY

59410WM Obstetrical delivery per vagina with or without episiotomy including postpartum care when provided by the certified nurse-midwife in the home, birthing center or in the hospital (inpatient setting). This applies to a vaginal delivery at full term or premature following completion of at least 28 weeks of gestation or if baby lives over 24 hours. This shall also include one visit between the 14th and [42nd] 60th postpartum day following delivery and out of hospital.

Appendix B14

POSTPARTUM CARE

59430WM Postpartum care provided by a certified nurse-midwife who is other than the individual who performed the delivery and who is not related to this individual by any financial or contractual arrangement, e.g. group, clinic, employee, etc. One visit between the 15th and [42nd] 60th postpartum day following delivery. Include delivery date on the Independent Outpatient Health Facility Claim Form (MC-14). (separate procedure)

(a)

**Independent Clinic Services Manual
Partial Care**

**Proposed Amendment: N.J.A.C. 10:66-1.6 and
10:66-3**

Authority: N.J.S.A. 30:4D-2, 6b(3)(12), 7a, b, c, 30:4D-12; 42
CFR 440.90, 440.130.

Proposal Number: PRN 1988-254.

The agency proposal follows:

Summary

This proposal pertains to the HCPCS (Health Care Financing Administration Common Procedure Coding System) codes for Independent Clinics, which are referenced, but not reproduced, at N.J.A.C. 10:66-3 and to N.J.A.C. 10:66-1.6, Scope of service.

The particular amendments pertain to partial care, which is described in Appendix A5 of N.J.A.C. 10:66-3 as a mental health service and whose primary purpose is to maximize the client's independence and community living skills in order to reduce unnecessary hospitalization. Partial care programs provide a package of services necessary to meet the comprehensive needs of the individual client.

The Division is amending the definition of the partial care service package by deleting education, legal, housing, employment and transportation. These five services are not medical services, are not eligible for Title XIX funding, and have never been reimbursed by the Medicaid program. These services are required by the Division of Mental Health and Hospitals in order for a facility to be certified as a provider of partial care services. Although the provider will still be required to provide all the services required by the Division of Mental Health and Hospitals, the Health Care Financing Administration requires that the definition

that appears in the Medicaid provider manual clearly indicate that Medicaid reimburses only for the medical services and the medical-related services of the partial care package.

Transportation is not included as part of partial care package; however, a provider can continue to bill the Medicaid program for approved van services as a separate, unique service which is not part of the partial care reimbursement.

Those partial care services which are still included in the Medicaid definition are: assessment and evaluation, service procurement, therapy and counseling, community organization, and health related services.

Social Impact

The proposal should not impact on Medicaid patients who are currently receiving partial care services. These patients will continue to receive partial care services and Medicaid will continue to pay for these services which qualify for federal funding. The services that are being deleted from the Medicaid definition will continue to be provided by ambulatory mental health clinics. This proposal will therefore have no impact on the "medical" services that are included in the partial care definition.

The proposal should not have an impact on those independent clinics that provide ambulatory mental health services. This proposal clearly indicates in the Medicaid provider manual which services the provider is receiving Medicaid reimbursement for when the clinic provides partial care services. The clinic providers will continue to receive Medicaid reimbursement for providing the services they are currently providing, and will continue not to receive reimbursement for those services for which they were not receiving Medicaid reimbursement in the past.

Economic Impact

There is no cost to the Medicaid patient for partial care services. Medicaid patients who are eligible medically needy individuals may have to meet spend down requirements in order to qualify for partial care programs (N.J.S.A. 30:4D-6g).

Those independent clinics who provide partial care services will continue to be reimbursed by Medicaid. There is no change in the fee schedule associated with this proposal.

Since there is no change in the fee schedule, there should be no increase in governmental expenditures for this service.

Regulatory Flexibility Analysis

This proposal impacts on small businesses, who are required to keep sufficient records to fully disclose the name of the recipient to whom the service was rendered, the date of the service, the nature and extent of the service, and such additional information as may be required by regulation (N.J.S.A. 30:4D-12(d)). Therefore, small businesses should not be exempt from the recordkeeping provisions of this rule. However, it should be noted that providers are already required to keep sufficient records to document whether the patient received partial care for a half day or full day, and the nature of the services provided during the partial care session.

There is no capital cost associated with this proposal.

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

10:66-1.6 Scope of services

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

(h) Mental health services rules are as follows:

1. [Approved mental health clinics may provided individual and group therapy, by and/or under the direction of a psychiatrist.]

Mental health clinics shall provide the following mental health services by, or under the direction of, a psychiatrist.

i. Individual therapy;

ii. Group therapy;

[i.]iii. Partial care: [Approved] A Partial Care program[s may] **shall** provide a full system of services including:

(1) Assessment and evaluation;

(2) Service procurement;

(3) Therapy and counseling;

(4) Information and referral;

(5) Daily living education;

(6) Community organization;

(7) [Employment] **Pre-vocational therapy**

[(8) Housing/placement;]

[(9) Legal;]

[(10)](8) **Recreational therapy;**

PROPOSALS

Interested Persons see Inside Front Cover

HUMAN SERVICES

- [(11) Education (for children's partial care);]
- [(12) Transportation;]
- [(13)](9) Health related services.
- [ii.]iv. (No change in text.)
- 2.-5. (No change.)
- (i)-(o) (No change.)

10:66-3 HCFA COMMON PROCEDURE CODING SYSTEM (HCPCS)

Appendix A5

Partial Care: A mental health service whose primary purpose is to maximize the client's independence and community living skills

in order to reduce unnecessary hospitalization. It is directed toward the acute and chronically disabled individual. PC programs shall provide, as listed below, a full system of services necessary to meet the comprehensive needs of the individual client. Services shall be provided or arranged for, to meet the individual needs of participating clients. These services shall include:

- Assessment and evaluation;
- Service Procurement;
- Therapy;
- Information and referral;
- Counseling;

Appendix A6

IND	HCPCS CODE	MOD	DESCRIPTION	FOLLOW UP DAYS	MEDICAID DOLLAR VALUE		
					S	\$	NS
			Daily living education; Community organization; [Employment/employment readiness] Pre-vocational Therapy [Housing/placement] [Legal] [Recreation] Recreational Therapy [Education (for children's Partial Care)] [Transportation] Health-related. Partial Care Programs shall be available daily for five days a week, with additional planned activities each week, during evening and/or weekend hours as needed. Individual clients need not attend every day but as needed. Partial care programs specifically developed for children may be available four days a week, with one evening and/or weekend activity(ies). The staff of the Partial Care Program should include a Director who shall be a qualified professional from the specialties of psychiatry, psychology, social work, psychiatric nursing, vocational rehabilitation, or a related field with training and/or experience in direct service provision and administration. A qualified psychiatrist shall be available to the PC program on a regularly scheduled basis, for consultation. Other staff deemed necessary to implement a Partial Care Program which meets the requirement of this section should include qualified mental health professionals, para-professionals and volunteers.				

Appendix A7

IND	HCPCS CODE	MOD	DESCRIPTION	FOLLOW UP DAYS	MEDICAID DOLLAR VALUE		
					S	\$	NS
			In order to qualify as an approved Partial Care Program the program must be certified by the Department.				
	Z0170		Partial Care, half day		23.00		23.00
	Z0180		Partial Care, fully day		38.50		38.50

¹These services may be provided directly or arranged by PC staff through other Program Elements or agencies, to avoid duplication.
Note: Except for transportation these rates reflect full payments with a prohibition against multiple billing for more than one service to a Medicaid patient in a given day.

DIVISION OF PUBLIC WELFARE

For the following proposals, submit comments by June 15, 1988 to:
 Marion E. Reitz, Acting Director
 Division of Public Welfare
 CN 716
 Trenton, New Jersey 08625

(a)

Public Assistance Manual Resources**Proposed Amendments: N.J.A.C. 10:81-3.38, 3.39, 3.40, 3.41, and 3.46****Proposed New Rule: N.J.A.C. 10:81-3.42**

Authority: N.J.S.A. 44:7-6 and 44:10-3; 45 CFR 233.20(a)(3)(i)(B)(5), 45 CFR 233.20(a)(3)(ii)(F) and 45 CFR 206.10(a)(i)(vii)(A) & (B); Federal Omnibus Budget Reconciliation Act of 1981 (OBRA).
 Proposal Number: PRN 1988-253.

The agency proposal follows:

Summary

The proposed amendments stem from instructions received from the United States Department of Health and Human Services, governing two Aid to Families with Dependent Children (AFDC) program areas: the application of "lump sum income" policy rules to resources and the provision for the exemption of certain funds in assistance eligibility and grant level calculations. The proposed amendments align rules at N.J.A.C. 10:81 with Federal regulations. Minor technical revisions, as noted below, are also included for organizational improvement of the code and to provide updates and clarifications, based on Departmental experience gained with rules in their present form.

It should be noted that related rules at N.J.A.C. 10:82, the companion segment of the code, used in conjunction with N.J.A.C. 10:81, are also revised to comport with Federal regulations, as a separate proposal in this issue of the New Jersey Register. Certain regulatory material at N.J.A.C. 10:82 has been deleted, revised and incorporated at N.J.A.C. 10:81. For example, language at N.J.A.C. 10:81-3.38(a) and N.J.A.C. 10:82-3.6, each dealing with liquidation of non-exempt real property, is being deleted, revised and relocated at N.J.A.C. 10:81-3.42.

The current rule at N.J.A.C. 10:81-3.38(b)2 stipulates that if a resource or claim belongs to a child, and the parent(s) fails or refuses to cooperate in the liquidation of the resource, only the child will be found ineligible for assistance. This is in conflict with the Federal "filing unit" concept, N.J.A.C. 10:82-3.8(a) and 45 CFR 206.10(a)(i)(vii)(A) & (B). Federal regulations specify that income or resources owned or received by any member of the AFDC eligible family are to be considered income or resources of the assistance family and, therefore, if a member of the eligible family has resources above the resource limit, the entire family is ineligible for AFDC. That ineligibility statement, as well as the penalty listed at N.J.A.C. 10:81-3.38(b)1, are now set forth in the proposed amendment at N.J.A.C. 10:81-3.39(a)1.

Also cited by Federal instructions as not consistent with Federal regulations is language at N.J.A.C. 10:81-3.38(b)3, which states that when nonexempt real property is liquidated at a price less than that authorized by N.J.A.C. 10:82-3.6, the difference between the amount received and the authorized price, shall be treated as if it were lump sum income in accordance with N.J.A.C. 10:82-4.15. Under 45 CFR 233.20(a)(3)(i)(B)(5), the equity value of non-exempt real property is excluded as a resource for a period up to nine months, during which the family is making a good faith effort to sell the property. This provision enables a family to receive AFDC while disposing of property in excess of the total amount that they are permitted to own under the AFDC program. To take advantage of this exclusion, the family must sign an agreement to dispose of the property and to repay the amount of aid received during such period that would not have been paid had the property been sold at the beginning of such period, but not to exceed the amount of the net proceeds of the sale. However, if eligibility for AFDC stops for any reason within the period, the entire amount of assistance received during such period is to be treated as an overpayment.

Language at N.J.A.C. 10:81-3.38(b)3 is being deleted, therefore, because it does not comport with Federal policy in that it fails to recognize that the total amount of assistance paid during the conditional payment

period is an overpayment if it is established that a good faith effort to sell was not made and the equity value of the non-exempt real and personal property belonging to the family exceeded the resource limit at the beginning of the period. Rather than using a "deemed" property value to determine the extent of overpayment, the entire amount paid is considered an overpayment in such a situation. The proposed amendments at N.J.A.C. 10:81-3.42, covering liquidation of non-exempt real property, that is, property not used as a home by the assistance family, now reflect proper application of repayment rules, rather than inappropriate use of lump sum income rules.

N.J.A.C. 10:81-3.38(c)4, also contrary to Federal regulations, is being deleted because the current rule states that where an applicant transfers or assigns property for the purpose of qualifying for assistance, the value of such property in excess of allowable resource limits shall be treated as lump sum income. Federal regulations under 45 CFR 233.20(a)(3) do not allow for the treatment of resources as income; thus, N.J.A.C. 10:81-3.38(c) is being recodified and revised to accommodate the elimination of N.J.A.C. 10:81-3.38(c)4 containing the provision which again contravenes the Federal "lump-sum income" rules. N.J.A.C. 10:81-3.38(c)5, on recordkeeping, is deleted as superfluous.

N.J.A.C. 10:81-3.39(a), in addition to editorial changes, is being revised to clarify that funds from most liquidations are to be treated as income. N.J.A.C. 10:81-3.39(a)1 now clarifies that the entire family is rendered ineligible for assistance for refusal or failure to cooperate in liquidation efforts. N.J.A.C. 10:81-3.39(a)3 is revised to avoid any confusion which may arise from the use of the word "resource".

The proposed amendments at N.J.A.C. 10:81-3.40 are primarily editorial. The substantive changes cover the referral to N.J.A.C. 10:81-3.42 about liquidation of real property not used as a home, and the direct statement of the penalty rendering the AFDC family ineligible for cash assistance for failure or refusal by any person to sign and deliver an Agreement to Repay when it is required. N.J.A.C. 10:81-3.40(c)1vi clarifies the exemption of the requirement for an Agreement to Repay from personal injury funds awarded to a child. Collections on such agreements are barred at N.J.A.C. 10:81-3.40(d)2ii.

N.J.A.C. 10:81-3.41 includes a technical revision stating that amounts up to \$500.00 incurred in the collection of a suit or claim must be verified in order to be exempt.

Social Impact

The proposed amendments are likely to influence only small numbers of people. Deletion of the penalty for improper disposal of resources might appear to encourage such disposal. But, the opportunity is presented in the situations of so few applicants that no serious abuse problem is expected.

Removal of the exemption of up to \$500.00 from certain pending claims may result in increased collection difficulty for county welfare agencies. No social impact is expected from the organizational and editorial amendments other than that beneficial result which may flow from a more usable document.

Economic Impact

On balance, no perceptible influence on the public treasury is foreseen. A few cases may suffer from the elimination of the \$500.00 "pending claims" exemption if they are not able to provide verification of the expenses they have incurred in the collection of proceeds from suits or claims in that such expenses will no longer be allowed as exempt resource. That exemption has been allowable at the discretion of the county welfare agencies. Those agencies have not always found it appropriate to make the full \$500.00 allowance. Elimination of the unconditional allowance will thus not be experienced as a loss of the full amount to very many who might otherwise be eligible for it.

Regulatory Flexibility Statement

This proposed rulemaking has been reviewed with regard to the Regulatory Flexibility Act. P.L. 1986, c.169, effective December 4, 1986. This rulemaking action imposes no compliance requirements 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]).

10:81-3.38 [Liquidation of non-exempt real property, suits and claims and transfer of resources] **Assignment or transfer of property prior to application**

[(a) Responsibilities regarding liquidation as required by N.J.A.C. 10:82-3.6 are as follows:

1. CWA responsibilities: The county welfare agency shall:
i. At time of application or when existence of non-exempt real property becomes known to CWA, inform the parent(s) or other payee of assistance granted to the eligible unit of the obligations relative to the need for liquidation and repayment as applicable (see N.J.A.C. 10:81-3.40(c)).

ii. Develop with the parent(s) or other payee of assistance granted to the eligible unit a plan for liquidation.

iii. Assist in carrying out the plan. (See N.J.A.C. 10:82-3.3 through 3.7 for time limitations.)

2. Responsibilities of the eligible unit: Members of the eligible unit shall identify all resources and shall:

i. Develop with the agency a plan for the liquidation of nonexempt real property and repayment as applicable (see N.J.A.C. 10:81-3.40(c)).

ii. Consent to and take action as necessary to carry out the plan.
(b) Penalties are as follows:

1. When a resource (or a claim pursuant to N.J.A.C. 10:81-3.40(b)2) is applicable to a parent and the parent fails or refuses to cooperate in its liquidation (or to sign an Agreement to Repay), the entire family will be ineligible for assistance.

i. Exception: -N segment parent: When an -N segment parent(s) is required to sign Forms PA-30 and PA-30A in accordance with N.J.A.C. 10:81-3.46 and fails or refuses to do so, only the parents are rendered ineligible thereby. Eligibility of the children is not affected by the refusal.

2. When a resource (or a claim pursuant to N.J.A.C. 10:81-3.40(b)2) is applicable to an otherwise eligible child and the parent(s) fails or refuses to cooperate in liquidation of the resource or to sign an Agreement to Repay when one is required, the child only will be found ineligible for assistance.

3. When nonexempt real property, subject to liquidation, is disposed of at a price less than that authorized by N.J.A.C. 10:82-3.6, the difference between the amount received and the authorized price shall be treated as if it were lump sum income in accordance with N.J.A.C. 10:82-4.15. If the disposed resource was applicable to a child, only the child will be ineligible for the period appropriate for an eligible unit of one.]

[(c)](a) [Assignment or transfer of property:] Applicants for AFDC shall [must not have made a voluntary] **disclose any assignment or transfer of property made** within 24 months prior to the time of initial application [for the purpose of qualifying for assistance].

1. Whenever [investigation indicates that] a person applying for assistance has transferred or assigned any property, whether real or personal, within 24 months prior to the initial application, the [motive and] circumstances surrounding such transfer or assignment shall be evaluated, and a determination made as to whether such transfer or assignment was made for [the purpose of qualifying for assistance] **adequate consideration**.

2. If it is determined that [there was no intent to defraud the CWA and that] the transfer or assignment of the property was a normal transaction for adequate consideration, [such transfer or assignment shall not make the applicant ineligible] **any proceeds remaining shall be evaluated as resources**.

3. If the transfer or assignment is found to have been made without receipt of adequate consideration [by the applicant but with no evidence of intent to qualify for assistance or to avoid repayment], it shall be recognized that the [applicant] **person** may have legal rights to secure the return of the property or the payment of adequate consideration. The CWA will assist [the client] in reclaiming or gaining adequate [compensation] **consideration** for such property. [In the event that such claim is successful, this shall be considered as an actual or potential resource, and the applicant shall be expected to comply with the requirements governing such resources (see N.J.A.C. 10:82-3.3 through 3.7).] **Any proceeds resulting from such effort shall be evaluated as resources**.

[4. If it is determined that such transfer or assignment was made knowingly and willfully for the purpose of qualifying for assistance, the value of such property in excess of allowable resource limits shall be treated as if it was lump sum income in accordance with N.J.A.C. 10:82-4.15.]

[5. Case record: In any application where such question arises, the full facts shall be made a matter of record, including a clear statement of the basis for the final decision regarding eligibility or ineligibility.]

Renumber existing 6. as 4. (No change in text.)

10:81-3.39 Liquidation of all debts, claims, interests, settlements, and trust funds

(a) Members of the eligible [unit] **family** shall [be required to] take all necessary and reasonable action to avail [the eligible unit] **themselves** of funds for support from others who owe or may owe money to [the eligible unit] **them** or who are holding funds for [any member of the eligible unit.] **them**. **Any funds made available by such action (except funds from liquidation of a nonexempt resource) are to be considered as income to the eligible family.**

1. [The penalty for] **Any failure or refusal by any person** to take required action or to cooperate with the CWA in liquidation efforts [shall be as stated in N.J.A.C. 10:81-3.38(b)] **renders the entire family ineligible for assistance for as long as the failure or refusal continues.**

2. (No change.)

3. When a trust fund exists for a member of the eligible [unit] **family**, the CWA shall determine whether or not the funds are currently accessible. If accessible, the funds represent [an available resource] **a source of funds for support** and must be considered in determining eligibility.

i.-ii. (No change.)

10:81-3.40 Repayment

(a) (No change.)

(b) Properly granted assistance rules are:

1. (No change.)

2. Pending claims or interests: Repayment of assistance in the AFDC program (all segments) is required in certain cases in which assistance is granted while the recipient(s) awaits receipt of funds from some other source. **See N.J.A.C. 10:81-3.42 for rules on liquidation of non-exempt real property.** See N.J.A.C. 10:81-3.41 regarding repayment following liquidation of **other pending claims**.

3.-4. (No change.)

(c) Rules when Agreement to Repay (Form PA-10D) is required:

1. The receipt by the CWA of a **completed and signed Agreement to Repay** is required as a condition of eligibility whenever, and only whenever, there appears to be entitlement to a specifically identified payment other than public assistance to any persons for whom cash assistance in AFDC is being requested or granted, except as indicated in (d) below. For this purpose, a parent's potential entitlement is considered to include potential entitlement by that parent's **spouse and minor children** who live in the same home even though **assistance for the parent** may not be [included in the eligible unit] **sought or granted**. Applicable situations include but are not limited to:

i.-iv. (No change.)

v. Sale of **nonexempt real property** [not used as shelter for the eligible unit] (see N.J.A.C. 10:81-3.42 for special rules applicable);

vi. Funds held in trust **except funds from awards for personal injury to a child**;

vii.-viii. (No change.)

ix. Equitable distribution [of nonexempt resources] in [pending suits for] divorce.

2. The **completed** form must be signed by each person whose signature is required on the application for assistance even though **assistance for** that person may not be [included in the eligible unit] **sought or granted**. It must identify the source, [specifically and with particularity the member(s) of the eligible unit] **the persons** for whom the repayment is sought, [and] the reason for the pending payment and the date(s) of signing. An agency employee will witness each signature.

3. [See N.J.A.C. 10:81-3.38(b) for penalties when an applicant/recipient fails or refuses to sign and deliver a completed Agreement to Repay as required.] **Failure or refusal by any person to sign and deliver a completed Agreement to Repay when so required renders the family ineligible for cash assistance in AFDC.**

(d) Rules when agreement to repay is not required:

[1. Assistance other than AFDC money payments:]

[i.]1. Agreements to Repay are not to be used in [the] any Medicaid [Only and Medicaid Special programs] program.

2.-3. (No change.)

(e) (No change.)

10:81-3.41 Action by CWA upon liquidation (except nonexempt real property)

(a) Valid agreement to repay exists: Upon liquidation of a claim or interest (other than liquidation of nonexempt real property) for which a valid Agreement to Repay exists (see N.J.A.C. 10:81-3.40(c)), regardless of whether or not the persons involved are receiving assistance at the time, the CWA will evaluate the situation. Upon a showing that, by release of the funds and only by release of the funds, the household can reasonably be expected to remain off the assistance rolls indefinitely, the CWA may, with approval of the State office, release the funds to the household. In all other instances the CWA will, subject to the special provisions below, pursue recovery of the lesser of the following amounts:

1. (No change.)

2. The amount of money actually received after making allowance for costs and fees of collection, medical payments made as a result of the accident or occurrence giving rise to the client's recovery, identifiable future medical expenses properly due from the proceeds and, deducting at the discretion of the CWA, up to \$500.00 for [miscellaneous] verified related expenses incurred by client (see N.J.A.C. 10:82-3.2(b)9).

i. (No change.)

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

10:81-3.42 [(Reserved)] Liquidation of nonexempt real property

(a) When ownership of nonexempt real property is the only reason for the ineligibility of an otherwise eligible family, the family may receive AFDC during the period of ineligibility under the following terms and conditions:

1. Liquidation of the real property shall be undertaken and completed promptly. In no event may it take more than nine months. At the end of nine months, authorization for assistance grants under these provisions ends.

2. The signer(s) of the assistance application shall sign an Agreement to Repay (Form PA-10D) and shall sign a written agreement with the agency which describes a mutually acceptable plan of liquidation which includes a statement of market value of the property. The plan may be revised as necessary by mutual agreement, but the original nine month period may not be extended. If an appraisal is found necessary in order to reach agreement, the CWA may advance the cost of the appraisal from the administrative account. Any such advance is subject to repayment or recovery as described in (a)4 and 5 below.

3. The owner(s) of the real property shall, in accordance with the written plan, make continuous good faith efforts to liquidate the property at market value. Any breach in the good faith efforts, as determined by the agency, ends the authorization of assistance grants under these provisions. Authorization may be restored by restoration of good faith efforts, but the original nine month period may not be extended.

4. Upon liquidation of the real property, the former owner(s) of the real property shall repay to the agency either the amount of assistance granted during the period of ineligibility or the net amount received from the liquidation, whichever is less. Any funds remaining to the former owners after repayment constitute a resource for regular eligibility determination.

5. All assistance grants made under authority of these provisions are grants to ineligible persons and are, thereby, overpayments. When repayment is made in accordance with (a)4. above and repayment, based on net proceeds, is less than the aggregate assistance grants during the period, the unrepaid balance is no longer an overpayment with respect to these provisions. In all other situations including, but not limited to, expiration of the nine month period, lack of good faith efforts, liquidation for less than market value, or loss of eligibility for other reasons, the full amount of the overpayments is subject to collection as for other overpayments.

10:81-3.46 Repayments from retroactive SSI awards -N segment only

(a) When an applicant for or a recipient of AFDC-N has filed an

application for SSI or an application has been filed on his[/] or her behalf, the CWA will require as a condition of eligibility or continued eligibility that Forms PA-30 and PA-30A be signed and submitted to the CWA by the same person(s) who signed the SSI application(s). [(For penalty see section 38(b) of this subchapter.)] **When an -N segment parent(s) is required to sign Forms PA-30 and PA-30A and fails or refuses to do so, the parent(s) is rendered ineligible. Eligibility of the children is not affected by the refusal.**

1.-2. (No change.)

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

(a)

Public Assistance Manual Child Support Guidelines

Proposed Amendment: N.J.A.C. 10:81-11.18

Authority: N.J.S.A. 30:1-12; 44:7-6 and 44:10-3; Child Support Amendments of 1984 (P.L. 98-378); New Jersey Supreme Court Rule 5:6A

Proposal Number: PRN 1988-251.

The agency proposal follows:

Summary

The Federal Child Support Amendments of 1984 (P.L.98-378) were developed by Congress to make critical improvements in the child support system and provide states with the initiative to improve their current child support programs. Included in the Federal law is a provision that each state must establish guidelines for child support awards within the state; thus, a subcommittee of the New Jersey Supreme Court, Family Court Planning Committee, was formed to examine the concept and need for child support guidelines in New Jersey and to bring the State into compliance with Federal law. The activity of that Committee resulted in the formulation of a proposed court rule and subsequent adoption of Court Rule 5:6A, Child Support Guidelines, on May 9, 1986, by the New Jersey Supreme Court.

The Court Rule attempts to encompass a broad range of family circumstances in the establishment of adequate and equitable child support awards. The Rule is to be used in all child support matters and requires that the guidelines be reviewed annually by the Administrative Office of the Courts (AOC) to determine if any modifications are necessary.

In order to comport with Supreme Court Rule 5:6A, the Department promulgated regulatory material concerning child support guidelines in the New Jersey Register as a proposal at 18 N.J.R. 2178(a) and adoption at 19 N.J.R. 2282(b). The current rule at N.J.A.C. 10:81-11.18(b) calls for the use of the guidelines to also determine spousal support obligations. Many county welfare agencies, however, have not accepted the inclusion of a spousal support obligation in the child support guidelines. There have been complaints that the use of the guidelines to determine spousal support obligations is inappropriate.

Additionally, the Child Support Enforcement Services Unit of the AOC submitted its first year evaluation report on the use and effect of the guidelines, to the Subcommittee on Support Guidelines for its review and action. After review, it has been determined that the guidelines are to be used in determining child support obligations only and are not to be used in spousal support matters; therefore, the provision for spousal support is being deleted from text at N.J.A.C. 10:81-11.18.

Social Impact

There is no significant social impact because spousal support will be sought by the county welfare agency under a separate action. This is merely a procedural change.

Economic Impact

The proposed amendment deleting spousal support requirements will not have any impact since it is merely an elimination of extraneous instructions.

Regulatory Flexibility Statement

This proposal has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. This rulemaking action does not apply to small businesses, therefore, a regulatory flexibility analysis is not required. The proposed amendment applies to the awarding of child support amounts only.

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

10:81-11.18 Child Support Guidelines (New Jersey Supreme Court Rule 5:6A)

(a) (No change.)

[(b) The county welfare agency (CWA) shall seek spousal support, when appropriate, in an amount equal to the amount of support applicable for one child under the Child Support Guidelines Chart.]

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

(a)

Assistance Standards Handbook Exempt Resources

Proposed Amendment: N.J.A.C. 10:82-3.2

Proposal Repeal: N.J.A.C. 10:82-3.6, 3.7

Authority: N.J.S.A. 44:7-6 and 44:10-3; 45 CFR 233.20(a)(3)(ii)(F) and 45 CFR 233.20(a)(3)(i)(B)(5); Federal Omnibus Budget Reconciliation Act of 1981 (OBRA).

Proposal Number: PRN 1988-245.

The agency proposal follows:

Summary

This proposal is based on instructions provided by the United States Department of Health and Human Services, governing two Aid to Families with Dependent Children (AFDC) program areas: the application of "lump sum income" provisions in resource disposal situations and the exemption of certain funds in assistance eligibility and grant level calculations. The proposed amendments align rules at N.J.A.C. 10:82 with Federal provisions.

Since N.J.A.C. 10:82 is used in conjunction with N.J.A.C. 10:81, revisions are being proposed in both chapters. A separate proposal amending N.J.A.C. 10:81 is published concurrently in this issue of the New Jersey Register. The technical revisions in the proposed amendments reorganize material by deleting certain language at N.J.A.C. 10:82 dealing with resources, and incorporating text at N.J.A.C. 10:81, where it more appropriately belongs.

The current rule at N.J.A.C. 10:82-3.2 allows for the exclusion in grant determinations of cash payments to AFDC recipients of up to \$500.00, at the discretion of the county welfare agency, for miscellaneous personal costs and expenses incurred in the collection of a suit or claim. Federal regulations at 45 CFR 233.20(a)(3)(ii)(F) do not permit such miscellaneous and unverified exemption amounts. The proposed amendment at N.J.A.C. 10:82-3.2 therefore deletes the \$500.00 miscellaneous deduction as an exempt resource in the determination of the assistance grant amount, and provides that the amount is contingent on "verified costs of collection".

N.J.A.C. 10:82-3.6 primarily contains parts which are not consistent with Federal regulations at 45 CFR 233.20(a)(3)(i)(B)(5) concerning liquidation of nonexempt real property.

Federal instructions advise that this rule fails to recognize that the total amount of assistance paid during the conditional payment period allowed for disposal of property is considered an overpayment if it is determined that a good faith effort to sell was not made and the equity value of the property exceeded the resource limit. Rather than using a "deemed" property value to determine the extent of the overpayment, the entire amount issued to the recipient is to be considered an overpayment. N.J.A.C. 10:82-3.6, therefore, is being repealed and the text transferred, with corrections, for more appropriate incorporation at N.J.A.C. 10:81-3.42, and to reflect application of repayment rules rather than the use of "lump sum" income provisions.

N.J.A.C. 10:82-3.7 is being repealed in its entirety for reorganizational purposes since the recovery provisions are detailed at N.J.A.C. 10:81-3.39, et seq. Those rules govern repayment agreements made by AFDC families when members of such AFDC eligible families are beneficiaries of settlement proceeds arising from suits or claims.

Social Impact

The proposed amendments deal only with the calculation of assistance grants for active AFDC cases. There will be no impact on closed cases. Certain active recipients will be required to present verification of suit or claim settlement collection costs, an activity which has not been necess-

ary heretofore. Those unable to present the verification may offer more resistance to repayment of assistance granted than they do now, thereby increasing the level of inconvenience to themselves and to the agency.

Economic Impact

There will be a small adverse impact on those recipients who are unable to present verification of the expenses they have incurred in the collection of proceeds from suits or claims. The amount of exempt payment to them will be reduced accordingly. Significant reductions are not, however, expected to occur in very many cases. No perceptible impact on the public treasury is foreseen.

Regulatory Flexibility Statement

This proposal has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. This rulemaking imposes no compliance requirements 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]).

10:82-3.2 Exempt resources

(a) (No change.)

(b) The exempt resource are as follows:

1.-8. (No change.)

9. [Certain lump sum proceeds: At the discretion of the county welfare agency, up to \$500.00 of lump sum proceeds resulting from settlement of claims based on accidents or negligence in order to cover expenses incurred as a direct result of the incident for which the settlement is made. Such exception shall be recorded in the case file. Unless applied to this exemption, all funds so received are subject to reimbursement to the CWA in accordance with N.J.A.C. 10:82-3.7(a)4. Neither the exemption of \$500.00 nor the remainder of funds, if any, shall be applied to savings.] **Funds received in repayment of verified costs of collection of a pending claim when the costs were incurred during a period of receipt of AFDC (see N.J.A.C. 10:81-3.41(a)).**

10.-11. (No change.)

10:82-3.6 [Liquidation of nonexempt real property] (**Reserved**)

[(a) If the eligible unit owns nonexempt real property, the equity value of which causes resource ineligibility, AFDC may be payable pending its liquidation.

(b) Liquidation of the real property shall be undertaken and completed promptly and in no event may it exceed a nine-month period. If the liquidation has not occurred within nine months, the case is ineligible until such time as equity value of resources are within allowable limits.

(c) In accordance with N.J.A.C. 10:81-3.40(c), the CWA shall require that an Agreement to Repay (Form PA-10D) be signed. Net proceeds from the sale of real property shall be used to reimburse the CWA for assistance paid during the disposal period. The amount to be repaid shall be the amount of assistance granted or the amount by which the net proceeds (together with all other countable resources) exceed the resource limit, whichever is less. Any proceeds remaining following reimbursement to the CWA shall be considered a resource.

(d) AFDC payments during a period of ineligibility are contingent upon a good faith effort to liquidate the property. If a member of an eligible unit willfully fails or refuses, within a period of 30 days after being requested in writing, to consent to or to take any action necessary in connection with a plan for liquidation, the family is ineligible for assistance.

(e) If the family becomes ineligible for AFDC during the period of liquidation or if liquidation does not occur within the nine-month period, all assistance paid during the period are overpayments and must be recovered in accordance with N.J.A.C. 10:82-2.19.

(f) The county welfare agency shall:

1. Inform the member(s) of the eligible unit at the time of application or as promptly thereafter as possible that the nonexempt real property must be liquidated;

2. Develop with the member(s) of the eligible unit a plan for the liquidation of the real property; and,

3. Assist in carrying out the plan.

(g) Members of the eligible unit shall:

1. Develop with the agency a plan for the liquidation of the real property;
2. Consent to and cooperate in carrying out the plan; and,
3. Offer the real property for sale at an asking price named by the eligible unit but not lower than the price set by an independent appraisal paid for by the CWA.

(h) Whenever the eligible unit presents evidence that such property cannot be sold, or that all efforts have failed to locate a buyer who is willing to buy the property at the appraisal price, the property must be reevaluated.]

10:82-3.7 [Suits and claims] (Reserved)

[(a) Where a member of the eligible unit is, at time of application, or subsequently becomes the owner of an interest in a suit or claim arising out of an accident, inheritance or legacy, insurance on the lives of relatives or others, statutory benefits or pensions, unfulfilled contracts or obligations, and so forth, such interests constitute personal property and are subject to the rules governing agreement to repay at N.J.A.C. 10:81-3.40, 3.41, and 3.46.

1. Where assistance is extended during the period that the receipt or liquidation of such interest is pending, an agreement shall be made whereby the eligible unit will, when liquidation occurs, repay the agency the amount of assistance granted since the incident or claim occurred, or the amount received as the result of the claim, whichever is less. (See N.J.A.C. 10:81-3.41(a)2 for determination of amount of assistance granted.)

2. The following are not subject to repayment to the CWA: Retroactive Social Security payments, SSI payments (except as indicated in N.J.A.C. 10:81-2.7(c)6, 3.8(e)2, 3.40(b)3 and 3.46), Veteran's benefits, Workers' Compensation and Temporary Disability benefits.

3. See also N.J.A.C. 10:82-4.15 regarding irregular or nonrecurring income.]

(a)

**Home Energy Assistance Handbook
Maximum Program Benefit; Payment Schedule
Proposed Amendments: N.J.A.C. 10:89-3.5, 3.6 and 5.3**

Authority: N.J.S.A. 30:4B-2.

Proposal Number: PRN 1988-250.

The agency proposal follows:

Summary

The Home Energy Assistance (HEA) program is a Federal block grant program authorized by the Low Income Home Energy Assistance Act of 1981, Title XXVI of P.L. 97-35. The purpose of the program is to assist low-income households to meet increasing costs of home heating and medically necessary cooling.

Emergency energy assistance is also available to eligible individuals and families who are without heat, or in danger of being without heat, and lack sufficient income to purchase the necessary heating fuel or service.

The maximum total HEA benefits which any household may receive had been increased from \$750.00 to \$900.00 in Federal Fiscal Year (FFY) 1983, based on available Federal funding, to address the issue of rising average fuel costs. In Federal Fiscal Year (FFY) 1988, in an effort to alleviate cases of homelessness due to heating-related emergencies, the

maximum amount of emergency assistance available for furnace repair was increased to \$1,000 per case. In FFY 87 HEA funds had already been made available to rehouse individuals or families in heating-related emergency situations. Emergency rehousing assistance funds are not limited to a set amount per case; rehousing assistance is limited only in its duration.

The proposed amendment to N.J.A.C. 10:89-3.5(a) excludes emergency rehousing assistance and emergency furnace repair assistance from being counted toward the maximum program benefit of \$900.00 per case, since the cost of such emergency assistance may in itself exceed \$900.00 per case. The exclusion of counting emergency rehousing and furnace repair assistance toward the maximum program benefit is also clarified at N.J.A.C. 10:89-5.3(a), which deals with recovery of overpayments and is referenced in N.J.A.C. 10:89-3.5(a).

The proposed amendment at N.J.A.C. 10:89-3.6(c) includes individuals and families whose heating costs are included in their rent under payment schedule C, which represents a significant increase in the level of HEA benefits to those households.

Social Impact

Twenty-three families received HEA emergency rehousing assistance during the winter months of 1986-87, and thus far in FFY 1988 37 households have received HEA funds for emergency furnace repairs. In 11 of those cases the household's furnace required major repairs which cost approximately \$1,000. In making HEA funds available for major furnace repairs, the HEA program helps to prevent the State's lowest income homeowners from becoming homeless due to heating-related emergencies. The emergency rehousing segment of the HEA program funds emergency shelter for families whose furnaces are beyond repair or who are homeless for some other heating-related reasons. The proposed amendments ensure that the low income population will continue to receive emergency rehousing assistance and emergency assistance for major furnace repairs.

Economic Impact

There will be no direct impact upon New Jersey taxpayers, since the entire cost of assistance and administration of the HEA program is federally funded. There will be an indirect benefit to the public as a whole, since there will be an influx of Federal dollars into the State's economy. The direct beneficiaries of the program will be those households eligible to receive Home Energy Assistance benefits in FFY 1988.

Regulatory Flexibility Statement

This proposal has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. This rulemaking imposes no compliance requirements 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]):

10:89-3.5 Maximum program benefit

(a) An eligible household may receive a maximum of \$900.00 in program benefits to include automatic or special payments plus any emergency assistance payments **exclusive of emergency rehousing payments and emergency furnace repair payments**. A household which receives more than \$900.00] **the maximum program benefit** is subject to recoupment procedures in accordance with N.J.A.C. 10:89-5.3.

(b) (No change.)

10:89-3.6 Payment schedule

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

(c) Schedule C: All other fuel **and renters**:

HOUSEHOLD SIZE Region Designation Monthly Income	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
\$ 0—\$ 667.00	322	280	430	372	516	448
\$ 668.00—\$1084.00	268	234	358	312	430	374
\$1085.00—\$1501.00	216	188	286	250	344	298
\$1502.00—\$1918.00			214	186	258	224
\$1919.00—\$2335.00			144	124	172	150
Over \$2335.00					86	74

"Blue" means Sussex and Warren counties.

"Red" means all other counties.

10:89-5.3 Recoupment of overpayments

(a) "Overpayments" shall include the following:

1. Households which received more than \$750.00 in HEA benefits during any program year prior to October 1, 1982, [or] \$900.00 during [any program year] the period between October 1, 1982 and October 1, 1987, or \$900.00 exclusive of emergency rehousing payments and emergency furnace repair payments during any program year thereafter shall be considered to have been overpaid.

2.-3. (No change.)

(b) (No change.)

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Cancellation and Nonrenewal of Commercial Insurance Policies

Prohibition of Certain Cancellation and Nonrenewal Activity

Proposed Readoptions: N.J.A.C. 11:1-20 and 22.

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

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:22-6.14(a)1, 2 and 3, 17:29A-1 et seq., 17:29AA-1 et seq., 17:29B-4 and 17:29C-1 et seq.

Proposal Number: PRN 1988-259.

Submit written comments by June 15, 1988 to:

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

The agency proposal follows:

Summary

On July 7, 1988, unless earlier repromulgated by the Commissioner of Insurance (Commissioner), N.J.A.C. 11:1-20 shall expire pursuant to N.J.A.C. 11:1-20.12, and N.J.A.C. 11:1-22 shall expire pursuant to N.J.A.C. 11:1-22.4.

The Department of Insurance (Department) has reviewed these rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated.

The Department proposed to readopt N.J.A.C. 11:1-20 and N.J.A.C. 11:1-22 because the Department finds that the rules continue to be necessary to provide procedural and substantive requirements relating to the cancellation and nonrenewal of many commercial lines insurance policies. On September 16, 1985, the Department promulgated, on an emergency basis, N.J.A.C. 11:1-20, comprehensive rules governing the cancellation and nonrenewal of property and casualty/liability insurance policies. This subchapter was subsequently readopted on November 16, 1985, without change. An emergency amendment to the scope section of the rule, N.J.A.C. 11:1-20.1, was promulgated eliminating its applicability to surplus lines insurance policies and certain selected commercial lines coverages. The amendment was also subsequently readopted. Between that time and the present, the Department engaged in several rulemaking proceedings relating to these rules. On June 16, 1986, the Commissioner adopted the repeal of the emergency rule cited as N.J.A.C. 11:1-20 and promulgated two replacement rules, N.J.A.C. 11:1-20 and 22.

The various rulemaking proceedings engaged in by the Department during this period were conducted with a view toward establishing an appropriate framework for governing insurance policy terminations and ensuring compliance with statutory standards prohibiting terminations that are arbitrary, capricious or unfairly discriminatory.

The proposed readoptions are necessary because the Department continues to receive complaints in areas the proposed readoptions address, including, but not limited to, the following: nonrenewals contrary to N.J.A.C. 11:1-20.2(b); failure to correct invalid nonrenewals in accordance with N.J.A.C. 11:1-20.2(c) and (j); failure to comply with N.J.A.C. 11:1-20.4(b)10 concerning documentation of reinsurance situ-

ations; failure to support nonrenewals based upon adverse loss experience pursuant to N.J.A.C. 11:1-20.4(e); failure to support cancellations or nonrenewals pursuant to N.J.A.C. 11:1-20.4(g); and attempts to block cancel or block nonrenewal entire lines or classes of insurance in violation of N.J.A.C. 11:1-22.2(a)2 and 3.

The Department believes that the proposed readoptions maintain a framework that continues to afford adequate protection to the insurance-buying public while at the same time streamlining certain review functions and filing requirements contained in the existing rules.

The proposed readoption of N.J.A.C. 11:1-20 imposes requirements concerning cancellation or nonrenewal of commercial insurance policies. A summary of the subchapter provisions follows:

N.J.A.C. 11:1-20.1 explains the scope of N.J.A.C. 11:1-20, and explains that those commercial lines listed therein are excluded from the scope of the subchapter and that the rules of the subchapter are not exclusive.

N.J.A.C. 11:1-20.2 enumerates certain insurance policy renewal and cancellation notice requirements placed upon insurers of commercial lines of insurance covered by the rules.

N.J.A.C. 11:1-20.3 lists specific minimum policy cancellation and nonrenewal provisions that must be included in commercial insurance policy forms.

N.J.A.C. 11:1-20.4 explains requirements placed upon insurance policy cancellation and nonrenewal underwriting guidelines of commercial lines insurers.

N.J.A.C. 11:1-20.5 imposes documentation and notice requirements upon commercial lines insurers concerning insurance policy cancellation or nonrenewal based on loss of or reduction in available insurance capacity.

N.J.A.C. 11:1-20.6 imposes documentation and notice requirements upon commercial lines insurers concerning insurance policy cancellation or nonrenewal based on material increase in exposure resulting from changes in statutory or case law subsequent to issuance of the insurance contract.

N.J.A.C. 11:1-20.7 imposes requirements upon commercial lines insurers concerning insurance policy cancellation or nonrenewal based on loss of or substantial change in applicable reinsurance.

N.J.A.C. 11:1-20.8 imposes documentation requirements upon commercial lines insurers concerning insurance policy cancellation or nonrenewal based on agency termination.

N.J.A.C. 11:1-20.9 imposes the requirement that no policy shall contain provisions which are inconsistent with the requirements of this subchapter.

N.J.A.C. 11:1-20.10 explains the effect if any provision of this subchapter or the application thereof to any person or circumstances is for any reason held to be invalid.

N.J.A.C. 11:1-20.11 describes the penalties that may be imposed for violation of this subchapter.

N.J.A.C. 11:1-20.12 provides that this subchapter shall expire two years after it becomes effective unless earlier repromulgated by the Commissioner.

The proposed readoption of N.J.A.C. 11:1-22 imposes prohibitions on certain cancellation and nonrenewal activities of commercial lines insurers. A summary of the subchapter provisions follows:

N.J.A.C. 11:1-22.1 explains the scope of this subchapter and defines the terms "block" and "class" as used in this subchapter.

N.J.A.C. 11:1-22.2 specifies certain acts or practices that are specifically prohibited with respect to those policies subject to the provisions of this subchapter.

N.J.A.C. 11:1-22.3 describes the penalties that may be imposed for violation of this subchapter.

Finally, N.J.A.C. 11:1-22.4 provides a "sunset" period of two years for the proposed readoption of this subchapter.

Social Impact

N.J.A.C. 11:1-20 and N.J.A.C. 11:1-22 as proposed for readoption maintain the essential protections currently afforded to policyholders under these rules and under the prior N.J.A.C. 11:1-20 and prior Department bulletins. For example, essential notice requirements pertaining to offers of renewal coverage as well as cancellations and nonrenewals have been continued.

At the same time, the rules proposed for readoption provide insurers with greater flexibility in responding to changes in available reinsurance and other conditions which may warrant termination activity. The applicable standards and requirements set forth in these rules, certain of which

are drawn from the aforementioned prior Department bulletins, serve to ensure that the public will continue to be adequately protected in such situations.

Economic Impact

Since the proposed readoptions of N.J.A.C. 11:1-20 and 22 represent no change in the existing Department rules, the Department foresees no additional economic impact on the public, commercial lines insurance producers, commercial lines insurers or the Department.

Insurance companies will incur no additional expenses because the proposed readoptions do not change the current rules. The Department will not incur additional expenses with the proposed readoption of the current rules.

The proposed readoptions will not have a negative economic impact on the public or commercial insureds because no specific costs are imposed on either groups in order to provide the essential protections now afforded under N.J.A.C. 11:1-20 and 22, which protections are maintained by the proposed readoptions.

The overall economic impact of the proposed readoptions on insurers is not expected to be significant. Any administrative costs to commercial lines insurers in order to comply with the cancellation and nonrenewal notice, documentation or other requirements in the proposed readoptions are expected to be small in relation to the benefits of protecting commercial insureds from unfair termination of their insurance policies which may threaten their ability to continue business operations.

The proposed readoptions are not expected to adversely affect the loss experience of commercial lines insurers because such insurers may continue to cancel or nonrenew insureds in circumstances where proper notice, documentation or other requirements of the proposed readoptions are satisfied.

The Department will experience little, if any, economic impact as a result of the proposed readoptions. Any costs of continued implementation of the proposed readoptions will be absorbed in the current Department budget and staff.

The present economic impact on the regulated parties will be continued by the proposed readoptions.

Regulatory Flexibility Statement

The proposed readoption of these rules will affect only commercial lines insurers. If there are small businesses, as that term is defined in the Regulatory Flexibility Act, P.L. 1986, c.169, in the commercial lines insurance industry, the same policy cancellation or nonrenewal standards must apply to all commercial insurers in order to protect insurance purchasers.

All commercial lines insurers must comply with the rules proposed for readoption to the same extent because proper treatment of commercial lines insurance purchasers upon cancellation or nonrenewal of their insurance policies in New Jersey is a requirement placed upon all commercial lines insurers. Both the large and small firms falling within the purview of these rules have the same responsibility in protecting their respective insurance purchasers.

Full text of the rules proposed for readoption appear in the New Jersey Administrative Code at N.J.A.C. 11:1-20 and 11:1-22.

(a)

DIVISION OF LICENSING AND ENFORCEMENT

Insurance Fraud Prevention: Verification and Claim Form Statements

Proposed Amendments: N.J.A.C. 11:16-1.1 and 1.5 Proposed Repeal: N.J.A.C. 11:16-1.2 through 1.4 and Appendices A and B

Authority: N.J.S.A. 17:1C-6(e) and 17:33A-6.

Proposal Number: PRN 1988-258.

Submit comments by June 15, 1988 to:

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

The agency proposal follows:

(CITE 20 N.J.R. 1062)

Summary

The New Jersey Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq. (the Act), was enacted to combat insurance fraud in New Jersey. As originally enacted, the Act required that persons and practitioners seeking payment for services or materials which will be reimbursed by an insurer verify that the services and materials which it is alleged were furnished were necessary and were, in fact, furnished. In response to the Legislature's directive that the Commissioner promulgate rules implementing the legislation, the Commissioner adopted N.J.A.C. 11:16-1. On December 24, 1987, the Legislature approved P.L. 1987, c. 342 (effective immediately), which legislation amended the Act to delete the above-noted requirement and the Commissioner's authority to promulgate rules thereon. In effect, therefore, the rules now proposed for repeal were rendered null and void on the effective date of the amendment to the Act. Accordingly, the instant proposed repeal is merely an administrative exercise to conform the rules to controlling statutory law and the clearly expressed mandate of the Legislature.

It should be noted that the amendment to the Act does not substantively affect N.J.A.C. 11:16-1.5, which requires that insurance claim forms contain a statement of liability. Accordingly, this section is proposed for recodification only. N.J.A.C. 11:16-1.1 (Scope; definitions) is amended to reflect the legislative change and, respecting N.J.A.C. 11:16-1.5, does not modify existing law.

Social Impact

Other than clarifying and correcting a present inconsistency between statutory and regulatory law, the proposed amendments and repeals will have no social impact in and of themselves since the Legislature has preemptively addressed this matter. Nevertheless, the Department recognizes that the statutory amendment to the Act and the concomitant repeal of N.J.A.C. 11:16-1.2 through 1.4 will have the following social impact.

First, under the new procedures, insurers will no longer be required to distribute to the public the notices previously required by N.J.A.C. 11:16-1.4. Second, the providers will no longer be required to verify their statement of services and to "make a reasonable effort" to discover whether an insurance claim has or will be filed. Third, the amendment to the Act and the repeal of the rules will insure to the benefit of the public by enabling insurers to more expeditiously process the payment of claims by limiting the amount of paper review.

Economic Impact

For the reasons expressed in the Social Impact statement above, the repeal of N.J.A.C. 11:16-1.2 through 1.4 will have no economic impact in and of itself. However, the Department recognizes that the amendment to the Act and the concomitant repeal of N.J.A.C. 11:16-1.2 through 1.4 will have the following economic impact.

First, under the new procedures, insurers will no longer be required to pay the cost of printing and distributing the notice forms previously required by N.J.A.C. 11:16-1.4. Additionally, insurers will no longer be required to pay the costs associated with reviewing these notices. Second, providers will no longer be required to spend the man hours associated with the preparation and filing of verification notices. Third, members or the public can be expected to benefit from the cost savings to be experienced by the insurers and providers.

Regulatory Flexibility Statement

Pursuant to N.J.S.A. 52:14B-19, this statement is not required since the proposal does not impose reporting, recordkeeping, or other compliance requirements on small business. Indeed, the amendment to the Act eliminates the compliance requirements which were previously imposed by the Act as implemented by these rules.

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

SUBCHAPTER 1. [VERIFICATION AND] CLAIM FORM STATEMENTS

11:16-1.1 Scope; definitions

(a) This subchapter applies to all insurers in the State of New Jersey [and to all persons or practitioner, as defined in N.J.S.A. 17:33A-3, seeking payment for services or materials from insurers].

(b) (No change.)

[(c) "Provider" means a person or practitioner as defined in N.J.S.A. 17:33A-3, who furnishes materials or services for which reimbursement from an insurer may be sought.]

PROPOSALS

Interested Persons see Inside Front Cover

PUBLIC UTILITIES

[11:16-1.2 General requirements

(a) No provider shall seek payment for services or materials that will be reimbursed all or in part by an insurer before verifying as required in N.J.A.C. 11:16-1.3 that the services or materials were necessary and were in fact, provided.

(b) The provider shall make a reasonable effort to discover from any person requesting services or materials whether an insurance claim has been or will be filed.]

[11:16-1.3 Form and content of verification

(a) The verification shall be a certification.

1. The verification shall be attached to or included in the provider's bill for services and materials.

2. The verification may be on a form furnished by the insurer or provider, but it, together with the bill, must contain the information detailed in (b) and (c) below. An acceptable example of a verification may be found at the end of this subchapter as Appendix A.

(b) Verification required under this subchapter shall:

1. Contain a statement that the services and materials furnished were necessary and were, in fact, furnished by the provider or by the provider's employee at the provider's direction and under the provider's supervision;

2. Be certified to by the provider pursuant to New Jersey Court Rules R.1:4-4.

3. Contain the claim form warning statement required in N.J.A.C. 11:16-1.5(a); and

4. Contain a statement that the provider is aware that payment by the insurer or recourse against the insured is conditioned upon furnishing the required verification.

(c) The bill for services or materials must contain:

1. Name and address of the provider of goods or services;

2. Name and address of claimant;

3. Identification and description of the type of services performed or materials provided; and

4. Dates upon which the services were rendered or materials furnished.]

[11:16-1.4 Notification to claimant

(a) Every insurer, upon receiving notification of claim, shall within 10 working days of such notice, provide the claimant with the written notice found at the end of this subchapter as Appendix B.

1. In complying with this subsection, an insurer may include the notice with any written acknowledgment of claim or provision of claim forms furnished pursuant to N.J.A.C. 11:2-17.6(b) and (c).

2. A copy of the written notice shall be maintained in the claim file.

(b) Whenever notification of a claim is given other than in writing, an insurer, agent or broker shall at that time inform the claimant that providers of materials or services must furnish with their bill a provider's verification that the services or materials were necessary and provided.

1. The informational requirement of this subsection shall be in addition to the insurer's furnishing of a written notice as specified in (a) above.

2. The insurer's, agent's or broker's records shall reflect provision of this information in accordance with standards applicable to pertinent communications under N.J.A.C. 11:2-17.]

[11:16-1.5] **11:16-1.2** Statement of liability for fraud on claim forms

[(a)] Insurers must place the following warning on all claim forms:

"Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties."

**[APPENDIX A
CERTIFICATION/VERIFICATION**

I have read the attached report and bill for services and/or materials rendered to _____. I declare that the treatments, services, or materials rendered or provided by me or provided by my employee at my direction and under my supervision were reasonable, necessary, and were, in fact, furnished and provided on the dates set forth.

I understand that any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties.

I further understand that the furnishing of this verification is a condition precedent to payment by the insurer or recourse against the insured person to whom, or for whom, the services, treatments, or materials were rendered or supplied.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

SIGNATURE OF PROVIDER

PRINT NAME AND TITLE OF PROVIDER

Date]

**[APPENDIX B
CONSUMER NOTICE
VERIFICATION REQUIRES WITH BILLS
TO BE REIMBURSED**

No one may ask you to pay for any materials or services furnished in conjunction with this claim, unless they give you a certification verifying that the materials or services were necessary and provided. The certification must be included in or attached to their bill.]

PUBLIC UTILITIES

(a)

OFFICE OF CABLE TELEVISION

**Future Provision of a Statewide Access Channel for
Public, Educational and Governmental Use**

Rule Pre-Proposal: N.J.A.C. 14:18-15.1

Authorized By: Bernard R. Morris, Director, Office of Cable Television.

Authority: N.J.S.A. 48:5A-2 and 5A-10.

Pre-Proposal Number: PPR 1988-3.

Take notice that a public hearing to solicit comments prior to proposing a formal rule in this matter will be held on June 7, 1988 at 10:00 A.M. at:

Board of Public Utilities
Hearing Room
Two Gateway Center, 10th Floor
Newark, New Jersey 07102

This pre-proposal represents a preliminary stage of rulemaking and the Office of Cable Television is interested in alternate suggestions as well as specific comments on the draft text of this pre-proposal.

Interested persons may submit in writing data, draft rules, views or comments relevant to the pre-proposal. These submissions and any inquiries about submissions and responses should be addressed to:

Bernard R. Morris, Director
Office of Cable Television
Two Gateway Center
Newark, New Jersey 07102

This is a Notice of Pre-proposal for a new rule (see N.J.A.C. 1:30-3.2). Any rule concerning the subject of the pre-proposal must comply with the rulemaking provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as implemented by the Office of Administrative Law's rules for agency rulemaking. N.J.A.C. 1:30-1 et seq.

The agency pre-proposal follows:

Summary

By Order dated April 13, 1987, the Board of Public Utilities (BPU) instructed the Office of Cable Television (OCTV) to conduct proceedings to determine whether it would be appropriate to facilitate the development of a public, educational and governmental (PEG) access channel on a Statewide basis. Public hearings were held before representatives of the OCTV on April 21, 1987 in Newark, April 22, 1987 in Trenton and April 28, 1987 in Cherry Hill. Written submissions were accepted until

May 13, 1987. Notice was mailed to all municipalities, all cable television operators and all interested persons pursuant to N.J.A.C. 1:30-3.1(a)3. Notices were also published in five newspapers of general circulation within the State.

Comments were received by numerous parties including the New Jersey Department of Higher Education, several colleges and universities, other educational and religious institutions, the New Jersey Network (NJN), the New Jersey Cable Television Association, other community and public interest groups, producers of public affairs programming and private citizens.

The comments were diverse; however, in a number of cases, similar comments were offered by groups with related constituencies. The educational groups submitted the most extensive comments. They point to an increasing need for additional capacity to distribute video programming produced by individual schools and groups of colleges on cable television access channels as well as the Cable Television Network (CTN) and broadcast television. This is evidenced by the growth in tele-courses offered by these institutions and a corresponding growth in the number of students enrolled. Several colleges have made considerable investments in the production and distribution of these courses to reach students who cannot enroll in a traditional curriculum. The commenters suggest that the only way educational programming can be developed to its potential is if a broad-based distribution network dedicated to this programming is established. They assert that reliance on individual cable television franchise commitments or voluntary distribution networks such as CTN is insufficient and would not assure the availability of distribution capacity in the long run.

The comments of most other groups and organizations centered on the belief that individual cable system PEG access commitments were insufficient for many needs and the disbursement of the widest range of ideas could best be accomplished by the establishment of a statewide PEG access network.

The New Jersey Cable Television Association's submission points out that many cable television operators provide extensive local origination and access channel capacity. The association also asserts that the individual cable television operators are in the best position to determine the specific desires of the public for programming delivered on their cable television systems both now and in the future.

A review of these comments leads to the conclusion that there is a clear and growing need to develop a PEG access channel requirement on a Statewide basis. This is especially true in the area of educational programming. However, it is equally clear that establishing a network to fulfill this need is a far-reaching venture.

The OCTV currently believes that the most appropriate approach is to focus on a prospective channel availability requirement in future cable television franchises and renewals as a necessary first step in the eventual development of a public network for Statewide access programming. The final establishment of a Statewide interconnected cable television PEG access network will require considerable cooperation among governmental agencies, cable television operators and other organizations, and probably legislative action as well. All that is contemplated here is assuring that the final pathway to New Jersey's cable homes will be available if and when a Statewide PEG network is implemented.

In order to develop a rule which adequately serves the needs of the public without imposing undue burdens on a cable television operator, the Office of Cable Television requests additional information and further comments on the following:

1. Would requiring cable television operators to dedicate prospectively one channel to Statewide access use be appropriate to fulfill the need for Statewide access programming?
2. The effect of such a requirement on the technical or financial operations of cable television companies.
3. Should such a rule, and any franchise commitments which result from the rule, automatically expire if the contemplated network is not in existence by a certain date? If yes, what is a reasonable time frame, and what is the appropriate measure of the system's status?
4. The costs and benefit impacts on the cable television industry for compliance with such a rule (and the degree to which anticipated increased channel capacity would mitigate those costs).
5. The effect of such a rule on local requirements for PEG access carriage.
6. Alternatives to the rulemaking approach suggested.
7. Any other relevant facts and/or issues.

The pre-proposal follows:

SUBCHAPTER 15. ACCESS CHANNELS

14:18-15.1 Future provision of a Statewide channel for public, educational and governmental access use

(a) Any cable operator applying for a municipal consent or renewal thereof after the effective date of this section shall agree to make one dedicated channel available to carry programming supplied by a designated Statewide access network.

(b) Until the access channel programming in (a) above becomes available, the cable company shall be free to use the channel in any manner the cable company deems appropriate.

(c) This section shall not relieve the cable television company of any separate obligations or commitments in its applications, municipal consent, or Certificate of Approval to provide any municipal, county or regional public, educational or public access channels.

(d) If no Statewide access entity is established by the State prior to January 1, 1994, the channel reservation shall expire and the channel shall revert to the unencumbered use of the cable company.

TRANSPORTATION

TRANSPORTATION OPERATIONS

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

Submit comments by June 15, 1988 to:

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

(a)

Restricted Parking and Stopping Routes U.S. 130 in Salem and Burlington Counties and N.J. 56 in Cumberland County

Proposed Amendments: N.J.A.C. 16:28A-1.46 and 1.98

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-199.
Proposal Number: PRN 1988-236.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking bus stop" zones along Route U.S. 130 in Pennsville Township, Salem County, Cinnaminson Township, Burlington County, and "no stopping or standing" zone along Route N.J. 56 in Vineland City, Cumberland County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops.

Based upon requests from the local officials, in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking bus stop" zones along Route U.S. 130 in Pennsville Township, Salem County, Cinnaminson Township, Burlington County and "no stopping or standing" zone along Route N.J. 56 in Vineland City, Cumberland County were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.46 and 1.98 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no parking bus stop" zones along Route U.S. 130 in Pennsville Township, Salem County, Cinnaminson Township, Burlington County, and "no stopping or standing" zone along Route N.J. 56 in Vineland City, Cumberland County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no stopping or standing" zones signs and the local officials will bear the costs for "no parking bus stop" zone 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, 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-1.46 Route U.S. 130

(a) (No change.)

(b) The certain parts of State highway Route U.S. 130 described in this subsection shall be established and designated as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect **appropriate** signs at the following established bus stops:

1.-5. (No change.)

6. (See proposal at 20 N.J.R. 634(a).)

7. **Along the southbound (westerly) side in Pennsville Township, Salem County:**

i. **Near side bus stop:**

(1) **Plant Street—Beginning at the prolongation of the northerly curb line of Plant Street and extending 105 feet northerly therefrom.**

8. **Along the northbound (easterly) side in Cinnaminson Township, Burlington County:**

i. **Near side bus stops:**

(1) **Cinnaminson Avenue—Beginning at the southerly curb line of Cinnaminson Avenue and extending 105 feet southerly therefrom.**

(2) **New Albany Road—Beginning at the southerly curb line of New Albany Road and extending 115 feet southerly therefrom.**

(3) **Highland Avenue—Beginning at the southerly curb line of Highland Avenue and extending 105 feet southerly therefrom.**

9. **Along the southbound (westerly) side in Cinnaminson Township, Burlington County:**

i. **Near side bus stops:**

(1) **Cinnaminson Avenue—Beginning at the northerly curb line of Cinnaminson Avenue and extending 120 feet northerly therefrom.**

(2) **Wynwood Drive—Beginning at the northerly curb line of Wynwood Drive and extending 105 feet northerly therefrom.**

(3) **Taylor's Lane—Beginning at the northerly curb line of Taylor's Lane and extending 105 feet northerly therefrom.**

(4) **Riverton Road—Beginning at the northerly curb line of Riverton Road and extending 105 feet northerly therefrom.**

(5) **Highland Avenue—Beginning at the northerly curb line of Highland Avenue and extending 105 feet northerly therefrom.**

(c) (No change.)

16:28A-1.98 Route N.J. 56

(a) The certain parts of State highway Route 56 described in this subsection shall be designated and established as ["no parking"] "**no stopping or standing**" zones. [where stopping or standing is prohibited at all times except as provided in N.J.A.C. 39:4-139.]

1.-2. (No change.)

3. **No stopping or standing in Vineland City, Cumberland County:**

i. **Along both sides for the entire length within the corporate limits of the City of Vineland including all ramps, service roads, and connections under the jurisdiction of the Commissioner of Transportation.**

(a)**Restricted Parking and Stopping
Route N.J. 168 in Camden County****Proposed Amendment: N.J.A.C. 16:28A-1.51**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-138(g), 39:4-199.

Proposal Number: PRN 1988-237.

The agency proposal follows:

Summary

The proposed amendment will establish "no stopping or standing" and "time limit parking" zones along Route N.J. 168 in Gloucester Township, Camden 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, in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no stopping or standing" and "time limit parking" zones along Route N.J. 168 in Gloucester Township, Camden County were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.51 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no stopping or standing" and "time limit parking" zones along Route N.J. 168 in Gloucester Township, Camden 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 government officials will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no stopping or standing" zones signs and the local officials will bear the costs for "time limit parking" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendment does not place any reporting, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, 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-1.51 Route 168

(a) The certain parts of State [Highway] highway Route 168 described in this subsection are designated and established as ["no parking"] "**no stopping or standing**" zones. [where stopping is prohibited at all times except as provided in N.J.A.C. 39:4-139.]

1.-5. (No change.)

6. **No stopping or standing in Gloucester Township, Camden County:**

i. **Along both sides:**

(1) (No change.)

(2) **From Asyla Road-Lakeland Avenue to Marshall Road.**

ii. **Along the westerly (southbound) side:**

(1) **From a point 150 feet north of the northerly curb line of Station Avenue to a point 110 feet south of the southerly curb line of Station Avenue.**

iii. **Along the easterly (northbound) side:**

(1) **From a point 100 feet south of the southerly curb line of Fifth Avenue to a point 130 feet north of the northerly curb line of Fifth Avenue.**

(b) (No change.)

(c) **The certain parts of State highway Route 168 described in this subsection shall be designated and established as "Time Limit Parking" zones where parking is prohibited except as specified below. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs in the following established Time Limit Parking zones:**

TRANSPORTATION

1. Along both sides (Black Horse Pike) in Gloucester Township, Camden County:
 - i. Two hours time limit parking from the northerly curb line of Garfield Avenue to the southerly curb line of East Lake Avenue, Monday through Thursday 8:00 A.M. to 8:00 P.M.; Friday and Saturday ONLY 8:00 A.M. to 10:00 P.M., except Sunday and holidays.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Local Property Tax

Proposed Readoption: N.J.A.C. 18:12-1.1 through 18:17-4.1

Authorized By: John R. Baldwin, Director, Division of Taxation
 Authority: N.J.S.A. 54:1-35.1 et seq.; 54:4-26; 54:4-23.21; 54:4-8.19; 54:4-8.47; 54:3-21.5; 54:50-1 et seq.; 54:4-3.80; 54:4-1 et seq.; 54:3-14; 54:4-8.40 et seq.; 54:4-23.1 et seq.; and P.L. 1968, c.49, sec.7.

Proposal Number: PRN 1988-241.

Submit comments by June 15, 1988 to:

Nicholas Catalano
 Chief Tax Counselor
 Division of Taxation
 50 Barrack Street
 CN-269
 Trenton, NJ 08646

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 18:12-1.1 through 18:17-4.1 expire on August 12, 1988. The Division of Taxation has reviewed these rules and has determined them to be necessary, reasonable and proper for the purposes for which they were originally promulgated. The Division proposes to readopt these rules without change.

The local property tax is an *ad valorem* tax measured by property values and is apportioned among taxpayers according to the assessed value of taxable property owned by each taxpayer. The tax applied to real estate, and tangible personal property used in the business of telephone, telegraph and messenger companies.

The property tax is a local tax which is assessed and collected by municipalities for the support of municipal and county governments and local school districts.

The amount of local property tax is determined each year, in each municipality, to supply whatever revenue is required to meet budgeted expenditures not covered by monies available from all other sources. School districts and counties notify municipalities of their property tax requirements and municipalities then add their own requirements and levy taxes to raise the entire amount. As a residual local tax, the total property tax is determined by local budgets and not by property valuations or tax rates.

All taxable property is assessed (valued for taxation) by local tax assessors in each municipality. Assessments are expressed in terms of "taxable value" (not lower than 20 percent or higher than 100 percent in multiples of 10) established by each county board of taxation, except for qualified farmland which is specially valued.

It may be said that the property tax originated in 1670 with a levy of one-half penny per acre of land to support the central government. Through the middle of the 19th century, property taxes were levied upon real estate and certain personal property at arbitrary rates within certain limits called "certainties." In 1851 the concepts of a general property tax and uniform assessments according to actual values were developed (Public Laws 1851, p.273).

For almost a century following the 1851 legislation, a continuing effort was made to accomplish uniform taxation under a general property tax. In 1875 a constitutional amendment provided that "property shall be assessed for taxes under general laws and by uniform rules according to its value" (Article IV, Section VII, Paragraph 12). Courts held that the 1875 amendment permitted classification of property for tax purposes and also permitted exemptions from taxation of certain classes of property, or the substitution of other kinds of taxes "in lieu" of property taxes.

PROPOSALS

Thus began a long period of erosion of the "general property tax" concept. In 1884 a State Board of Assessors was created and given responsibility for the assessment of railroad and canal property, thus setting the pattern for State assessment of certain classes of property.

Intangible personal property was eliminated from the general tax base in 1945 and was replaced with a corporation franchise tax measured by net worth which shifted the emphasis for tax reform from intangible to tangible personal property.

In the continuing evolution of property taxation, a revised New Jersey State Constitution was adopted in 1947. Article VIII, Section I dealt with property taxation and provided that "property shall be assessed for taxation under general laws and by uniform rules. All real property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value, except as otherwise permitted herein, and such property shall be taxed at the general tax rate of the taxing district in which the property is situated, for the use of such taxing district."

This Article of the State Constitution was interpreted to preclude any classification of real estate but was designed to leave the door open for the classification of the taxation of personal property. In 1963 the New Jersey Constitution was amended to permit the assessment of qualified farmland according to its value only for agricultural use. P.L. 1960, c.51, effective for the tax year 1965, provided for such classification and other significant modifications.

The laws of property taxation did not remain stagnant at that point, however, and the personal property provisions of P.L. 1960, c.51 were replaced by P.L. 1966, c.136. For taxes payable in 1968 and thereafter, personal property used in business, other than the business of telephone, telegraph and messenger system companies, was subject to a uniform state tax instead of taxation at the local levels of the various municipalities. Also as a result of this legislation, non-business personal property was no longer subject to any property tax and inventories of all businesses were excluded from property taxation.

P.L. 1966, c.136 also provided for the replacement of local personal property tax revenues from four sources: (1) Retail Gross Receipts Tax, (2) Corporate Business (Franchise) Tax based on net income, (3) Business Personal Property Tax, and (4) Unincorporated Business Tax. This program was subsequently terminated (P.L. 1977, c.3), and legislation was passed providing for an annual appropriation of not less than \$158.7 million to be distributed among municipalities.

The court decision in *Switz v. Middletown Township, et al*, 23 N.J. 580 (1957), required that all taxable property be assessed at "true value" (100 percent of market value). This was the beginning of a series of New Jersey court decisions which have been a major factor in the development of uniform real property tax assessment.

Besides court cases and legislation dealing with the methods of assessing and taxing property, a long period of legislative history has developed numerous property tax exemptions and various special property tax treatments found principally in N.J.S.A. 54:4-3.3 and N.J.S.A. 54:4-3.6. Generally exempt are government owned property, and property of religious, educational and charitable organizations, as well as other types of nonprofit groups. In addition, qualified veterans and senior citizens are entitled to property tax deductions of \$50.00 and \$250.00, respectively. Also, five year tax abatements are permitted on the assessed value of the improved portion of certain renovated and rehabilitated residential structures pursuant to the Home Improvement Exemption Act, N.J.S.A. 54:4-3.72, et seq.

In addition to legislation granting certain tax deductions and exemptions mentioned above, the New Jersey Constitution authorizes a property tax deduction for qualified disabled persons and surviving spouses of senior citizens, disabled persons, and veterans. Article VIII, Section I, Paragraph 4 authorized the Legislature to grant a deduction from taxation on the dwelling house of any citizen and resident of New Jersey of the age of 65 or over or a person who is permanently and totally disabled, or the surviving spouse of such citizen and resident, as follows:

"The Legislature may, from time to time, enact laws granting an annual deduction from the amount of any tax bill for taxes on the real property of any citizen and resident of this State of the age of 65 or more years, or any citizen and resident of this State less than 65 years of age who is permanently and totally disabled according to the provisions of the Federal Social Security Act, residing in a dwelling house owned by him which is a constituent part of such real property or residing in a dwelling house owned by him which is assessed as real property but which is situated on land owned by another or others, but no such deduction shall be in excess of \$160.00 with respect to any year prior to 1981, \$200.00

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TREASURY-TAXATION

per year in 1981, \$225.00 per year in 1982, and \$250.00 per year in 1983 and any year thereafter and such deduction shall be restricted to owners having an income not in excess of \$5,000.00 per year with respect to any year prior to 1981, \$8,000.00 per year in 1981, \$9,000.00 per year in 1982, and \$10,000.00 per year in 1983 and any year thereafter . . ."

Implementing legislation (P.L. 1963, c.172, as amended) was enacted to establish prerequisites for obtaining the deduction and procedures for filing, and application for the deduction, with the local tax assessor or collector.

The Constitution also deals with the assessment of farmland. Article VIII, Section I, Paragraph 1(b), as amended in 1963, authorized the Legislature to enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall, for local property tax purposes, be that value which such land has for those agricultural uses. The constitutional provision reads as follows:

"(b) The Legislature shall enact laws to provide that the value of land, not less than 5 acres in area, which is determined by the assessing officer of the taxing jurisdiction to be actively devoted to agricultural or horticultural use and to have been so devoted for at least the 2 successive years immediately preceding the tax year in issue, shall, for local tax purposes, on application of the owner, be that value which such land has for agricultural or horticultural use.

"Any such laws shall provide that when land which has been valued in this manner for local tax purposes is applied to a use other than for agriculture or horticulture it shall be subject to additional taxes in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the land been valued and assessed as otherwise provided in this Constitution, in the current year and in such of the tax years immediately preceding, not in excess of 2 such years in which the land was valued as herein authorized.

"Such laws shall also provide for the equalization of assessments of land valued in accordance with the provisions hereof and for the assessment and collection of any additional taxes levied thereupon and shall include such other provisions as shall be necessary to carry out the provisions of this amendment."

Implementing legislation was enacted on May 11, 1964 when the Farmland Assessment Act of 1964 became effective as P.L. 1964, c.48. This legislation established detailed prerequisites for obtaining an assessment for farmland under this act. These provisions require the filing of an application with the local tax assessor and also empowers the Director of the Division of Taxation to promulgate rules and to prescribe such forms as are deemed necessary to implement the law.

The law also created a State Farmland Evaluation Advisory Committee consisting of the Director of the Division of Taxation, the Dean of the Rutgers College of Agriculture, and the Secretary of Agriculture. This committee is required to annually determine and publish a range of values for each of the several classifications of land in agricultural or horticultural use in the various areas of the State and to make them available each year to the respective tax assessors.

New Jersey's tax laws continued to evolve in the 1960's with the enactment of P.L. 1968, c.49 (N.J.S.A. 46:15-5, et seq.). With the enactment of this law, New Jersey joined the majority of states that imposed a state-administered realty transfer fee (approximately 38 states) which was designed to replace the repealed federal "Documentary Stamp Tax Act." The New Jersey law became effective on July 3, 1968.

On and after July 3, 1968, no county recording officer could record any deed evidencing the transfer of title to real property unless (a) the consideration paid or to be paid was recited in the deed and in the acknowledgement or proof of execution thereof, or (b) an affidavit by one of the parties declared the consideration and annexed the affidavit to the deed for recording, and (c) a fee at the rate of \$0.50 per \$500.00 of consideration or fractional part thereof was paid to the county recording officer at the time the deed was offered for recording, which amount was retained by the county for the use of the said county.

The law was amended by P.L. 1975, c.176, effective September 1, 1975, to increase the fee from \$0.50 per \$500.00 of consideration to \$1.75 per \$500.00, with the county still retaining \$0.50 and the State receiving the remaining \$1.25 per \$500.00 of consideration. This law also provided a partial exemption of the State's portion of the fee (\$1.25 per \$500.00) for new construction, as defined in the law, and for certain owner-occupied residential property of senior citizens and blind and disabled persons.

This law also provided that the realty transfer fee, when applicable, must be paid as a prerequisite for recording the deed. Also, the consider-

ation base when calculating the transfer fee included the remaining amount of any prior existing mortgage, lien or encumbrance not paid, satisfied or removed in connection with the transfer of title. The law also provided that the fee was imposed on the grantor (seller); however, this language was designed to establish liability for the fee as between the grantor and grantee to assist the recording offices in recording the deed at the time it was presented.

For an effective and uniform administration of the realty transfer fee law in the 21 county recording offices, it is necessary to require adherence to established procedures and forms, as prescribed by the Director of the Division of Taxation. In view of the essentially ministerial role of the county recording offices, the expectation that the various recording officers would be able to render individual evaluations for a variety of diverse situations appeared unrealistic; therefore, stable and familiar formats were and are essential to minimize confusion, delay and controversy at the recording counters. As a result, insofar as a myriad of circumstances may surround individual transactions, thus making it virtually impossible to anticipate every situation, it was and is necessary to ensure that the legal transfer of title to real property will not be unduly obstructed. Accordingly, a deposit procedure for realty transfer fees was established to facilitate prompt recordings in advance of a final resolution to difficult problems which arise. N.J.A.C. 18:16-8.9.

Another area in need of uniform regulation was the training and qualifications necessary for local tax assessors. The Assessor Qualification and Certification Law, P.L. 1967, c.44, (N.J.S.A. 54:1-35.25) followed closely the recommendations made to the Division of Taxation in a report by the Committee to Study the Training of Assessors in New Jersey; this report was prepared in 1964 by the Director of the Rutgers Bureau of Government Research. Enactment of this legislation was the culmination of the combined efforts of state, county and municipal tax officials over a period of many years.

The law provides for holding examinations twice a year for certification as a tax assessor; successful applicants receive a Tax Assessor Certificate. Until June 30, 1969, a Tax Assessor Certificate could be obtained without examination if the assessor furnished proof that he had satisfactorily completed certain in-service training courses and was actually serving as a tax assessor. However, on and after July 1, 1971, no assessor could be appointed or reappointed, elected or reelected as a tax assessor unless he held a Tax Assessor's Certificate, except where such assessor did serve continuously in office from July 1, 1967 to the date of reappointment or reelection. This law also provided a means for a certified tax assessor to acquire tenure.

Also, another law, P.L. 1978, c.128, effective July 1, 1979, provided that a tax assessor would be appointed and not elected. Tenure rights previously acquired by elected tax assessors prior to July 1, 1979 were unaffected.

It should be noted that, for the tax assessor himself, professionalization carried with it both benefits and responsibilities. Municipal governing bodies had to recognize the right of a tax assessor to be adequately compensated for his professional responsibilities while, at the same time, a tax assessor had to recognize the need to perform competently, diligently and professionally with the ethical guidelines that accompanied his status. In observing professional ethics, the tax assessor has to have in mind not only the avoidance of activities which could involve a conflict of interest, but also the possibility that an appearance of such a conflict might reasonably be construed by the general public to be in fact a conflict of interest. As a result, conflict of interest codes are not designed to impugn the integrity of such an official, but rather to ensure against the occurrence, or even appearance of incidents which could bring his ethics into question.

Social Impact

Of great importance, and need of regulation, is the State's assessment/sales study program conducted by the Local Property Tax Branch, together with the other programs set forth in this proposal. This program is a vital force in the operation of the various levels of government in this State. For example, the data calculations derived from the sampling are required for State school aid distribution and also provide the basis for various other fiscal functions. Municipal tax officials, as well as county boards, rely upon this information to assist them with their daily functions.

Uniform treatment of assessments by 567 taxing districts, as mandated by the Constitution, makes it imperative that guidelines and standards exist. This is especially true in view of the increasing demand by taxpayers for greater parity in the assessment process. Consequently, appraisal techniques and standards have become the objects of close public

scrutiny. The guidelines governing contracts for revaluations have been of inestimable value to municipalities embarking on the revaluation process.

Also, aggrieved taxpayers desiring to air their grievances are aided by the use of county tax board rules. These rules are also beneficial to the boards themselves in administering appeals statewide in a uniform manner. Similarly, legal practitioners are assisted by these rules when they participate in the tax appeal process.

Another area that receives benefit by these rules is the home improvement exemption. This exemption allows people with low or moderate incomes to make home improvements and be exempt from a percentage of the assessment and taxes resulting from the improvement. Thus, this program is beneficial to the public welfare of the entire State because it permits home improvements that can assist in reducing the decline of housing in certain areas, which declines can cause neighborhoods to become blighted areas.

In addition, homestead tax rebates, which are distributed each July to qualified homeowners, are appreciated by taxpayers and can be of assistance to families with low or moderate incomes.

Furthermore, the \$250.00 property tax deduction is a benefit to qualified senior citizens, totally and permanently disabled persons and their surviving spouses, because it can ease their burden of taxation and help them to remain in homes in their communities.

Finally, New Jersey has always been thought of as a garden state and in order to preserve farmland, rules for the assessment of farmland have helped to keep farmers in New Jersey producing the food needed by the populace.

Economic Impact

The use of the ratio of average assessed value to true value of real estate in each of the 567 taxing districts is needed and economically benefits the people of New Jersey. These ratios are used to produce the Table of Equalized Valuations which is used to apportion State school aid in all municipalities.

Also of economic impact is the State's in lieu of tax payments to municipalities for local services provided to State owned property. Such payments are made because the local municipalities receive no tax payments from the State of New Jersey.

Furthermore, there is an economic benefit to areas where home improvements are made. Such improvements assist everyone in every economic strata of the State: more jobs are provided for the construction industry thus lessening unemployment and welfare benefit payments.

Each July every qualified homeowner receives a State paid homestead rebate of real estate taxes levied at the municipal level.

Finally, the rules being readopted are necessary to ensure that all facets of property taxation are uniformly administered at the local, county and state levels for the benefit of the citizens and residents of this State.

Regulatory Flexibility Statement

This proposal readopts local property tax and homestead rebate rules. The local property tax applies to real estate and tangible personal property used in the business of telephone, telegraph, and messenger companies according to the assessed value of taxable property owned by each taxpayer. The requirements of N.J.A.C. 18:12-1.1 through 18:17-4.1 must apply uniformly; any action to exempt taxpayers who may be small businesses as defined by the Regulatory Flexibility Act would not be in compliance with applicable statutes.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 18:12-1.1 through 18:17-4.1.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

General Provisions

Access to Information Maintained by Casino Licensees

Proposed New Rules: N.J.A.C. 19:40-2.

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.

Authority: N.J.S.A. 5:12-63(c), 5:12-69(c), 5:12-76(b), 5:12-79(a) and 5:12-96(e).

Proposal Number: PRN 1988-247.

Submit comments by June 15, 1988 to:

Steven M. Ingis
Assistant Counsel
Casino Control Commission
3131 Princeton Pike Office Park
Building No. 5, CN-208
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rules govern access to information maintained by casino licensees on the premises of the approved hotel and pursuant to N.J.S.A. 5:12-96(e). The proposed new rules implement the statutory mandates of N.J.S.A. 5:12-76(b) and 79(a) relative to the scope and format of investigations conducted by the Division of Gaming Enforcement ("Division") and are proposed as a result of a rulemaking petition filed by the Division pursuant to N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6 (see May 2, 1988 New Jersey Register at 1002(a)).

Direct access to manual records maintained by casino licensees would continue to be afforded to Division personnel. Since the early 1980's, casino licensees have developed and implemented various computer systems with respect to their casino operations. Proposed N.J.A.C. 19:40-2.4 would govern the Division's access to casino records maintained via casino electronic data processing (EDP) systems. Essentially, the Division's access would be limited to direct inquiry only access to such information. Casino licensees would be required to provide the Division with reasonable privacy in which to conduct such inquiries and would be precluded from tracking or monitoring specific Division inquiries. However, casino licensees would be afforded the ability to conduct a limited audit of Division inquiries into the casino EDP systems through a variety of steps as set forth in N.J.A.C. 19:40-2.4(c). Finally, casino licensees would be required to train Division personnel in the use of their casino EDP systems in order to facilitate the inquiry only access described in the proposed rules.

The Commission intends to conduct a hearing on this proposal at a time and place to be announced in the New Jersey Register.

Social Impact

The proposed new rules would assure that the Division is able to fully investigate and regulate the activities of casino licensees as they relate to casino operations. The unquestioned public policy of the Casino Control Act requires the strict and comprehensive regulation of all aspects of the industry in general and casino operations in particular. The proposed new rules codify the Division's access to manual records and establish guidelines for direct inquiry only access to casino EDP records. As casino licensees place more emphasis on casino EDP systems, it becomes increasingly important for the Division to access such records during the course of various reviews, audits, evaluations, and investigations.

Economic Impact

As it relates to accessing manual records on the premises of the casino licensees, there would be no additional cost whatsoever to the casino gaming industry. As noted, this method of access has been available to the Division since the inception of casino gaming. According to the Division of Gaming Enforcement, there may be some limited costs to several casino licensees if it is necessary to reprogram their casino EDP systems to the standards contained in the proposed rules. However, most casino licensees utilizing casino EDP systems have inquiry only screens for casino executives. Therefore, the Division anticipates that the actual costs associated with this request will be minimal. The Division notes that three casino licensees are, at least, in partial compliance with the proposed new rules and the cost for such licensees would be less than those for casino licensees who have not provided the Division with any access to casino EDP systems up until this point in time. These proposed new rules may reduce investigative costs to the industry as information will be secured more efficiently and in reduced time frames. Finally, the implementation of the new rules would obviate the need for casino licensees to maintain manual records which parallel the information contained in the casino EDP systems and would reduce administrative and storage costs to the industry.

The Commission notes that certain matters pertaining to the potential economic impact of this proposal may need to be addressed during the

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hearing and that a reassessment of the economic impact may be necessary following the receipt of comment.

Regulatory Flexibility Statement

This proposal will only affect the operations of casino licensees, and, therefore, will not impact on any small businesses as defined by the Regulatory Flexibility Act.

Full text of the proposal follows.

SUBCHAPTER 2. ACCESS TO INFORMATION MAINTAINED BY CASINO LICENSEES

19:40-2.1 Definitions

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

"Casino EDP Systems" means electronic data processing systems inclusive of hardware and software components whereby information is input, stored, and retrieved through application of computer terminals.

"Casino records" shall include but not be limited to all books, records and documents generated or prepared pursuant to N.J.A.C. 19:45, 19:46, 19:47, 19:49, 19:50 and 19:54.

"Inquiry only access" means the ability to access currently stored data within a casino EDP system without any capability to change, alter, modify, delete or add any information therein.

"Manual records" means all books, records, and documents generated, prepared, or utilized by casino licensees to report or record information other than computer generated data.

19:40-2.2 General provisions

(a) The Division and its employees and agents, upon the approval of the Director, shall have access to manual records and access to computer stored information in accord with N.J.S.A. 5:12-79(a). In order to conduct continuing reviews of casino operations and conduct audits of casino operations on the premises of casino licensees, the Division shall have direct access to all casino records including but not limited to books, records, and documents pertaining to a licensee's operations during all hours the casino is open to the public.

19:40-2.3 Access to manual records

(a) In accessing manual documents from a licensee, the Division shall furnish a signed receipt for original documents taken from the premises where such documents, books, or records are normally stored; provided, however, the Division may make copies of any document in the possession of a casino licensee without furnishing a signed receipt.

(b) In accessing manual records, Division agents shall

1. Identify themselves by showing a valid identification badge; and
2. Upon request of the licensee, identify the general category of files to be reviewed.

19:40-2.4 Access to computer stored information

(a) Casino licensees utilizing computer generated systems shall provide direct inquiry only access to the Division of its casino EDP systems containing casino records under the following conditions:

1. The Division shall be provided with the use of a dedicated or designated terminal at a location in the casino cage, accounting department, or other suitable location;
2. The Division shall be provided with the capability to produce or obtain hardcopy printouts of all casino records contained in the casino EDP system; and
3. The Division shall be provided reasonable privacy in which to conduct such inquiries.

(b) Casino licensees shall not track or monitor Division inquiries into the casino EDP systems. Casino licensees shall:

1. Program casino EDP systems so as to preclude the tracking or monitoring of Division inquiries; or
2. Designate a casino key employee who shall be responsible for determining that Division inquiries are not tracked or monitored by casino licensees.

(c) With respect to any Division inquiry into casino EDP systems, casino licensees may upon request obtain the following information,

which information may be posted to a log maintained by the casino licensee or through data input into the computer terminal.

1. Identification of the Division agent seeking inquiry via badge number or other appropriate identifier;
2. The time on the casino EDP system;
3. The general category of information examined;
4. The time off the casino EDP system; and
5. The date of the inquiry.

(d) Each casino licensee shall train Division personnel in the use of its casino EDP system.

(a)

Accounting and Internal Controls Gaming Equipment

Proposed Amendments: N.J.A.C. 19:45-1.14, 1.36.

1.39 and 1.45; N.J.A.C. 19:46-1.19

Proposed New Rule: N.J.A.C. 19:45-1.40B

Authorized By: Casino Control Commission, Theron G.

Schmidt, Executive Secretary.

Authority: N.J.S.A. 5:12-63, 5:12-69, 5:12-70(f), (i), (j) and (l), 5:12-98, 5:12-99 and 5:12-100.

Proposal Number: PRN 1988-246.

Submit comments by June 15, 1988 to:

David C. Missimer
Senior Assistant Counsel
Casino Control Commission
3131 Princeton Pike Office Park
Building No. 5, CN-208
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The following rule proposals are being published as the result of a petition for rulemaking filed by the Division of Gaming Enforcement (Division) pursuant to N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6 (see 19 N.J.R. 2071(a)). The instant proposal only concerns six of the nine rulemaking proposals originally submitted by the Division; the remaining three proposals are currently being redrafted by the Division and will be resubmitted to the Commission for consideration in the near future.

The six rulemaking proposals currently being published concern various aspects of casino operations. The proposed new rule, N.J.A.C. 19:45-1.40B, would codify an informal procedure which has been in use for over two years whereby the Division verifies the validity of certain slot machine jackpots before the winning patron receives casino funds or merchandise. The proposed amendment to N.J.A.C. 19:45-1.14 would mandate the inclusion of an armored car bay in each casino hotel for the transfer of casino assets to an armored car for transportation to a banking institution. The rule proposal also established related security requirements. The proposed amendment would permit any casino licensee which received an operation certificate prior to the effective date of the rule to request an exemption from the requirement if the licensee can demonstrate good cause for the issuance of the exemption and the existence of an alternative secured location for the transfer of casino assets to an armored car.

N.J.A.C. 19:45-1.36 would be amended to require "machine entry authorization logs" to be sequentially numbered and would further require the preparation and maintenance of "progressive entry authorization logs" to monitor and control access to progressive controllers. The proposed amendment to N.J.A.C. 19:45-1.45 is intended to clarify that the signature requirements presently established by that rule apply to any signature required in a casino licensee's approved system of internal procedures and administrative and accounting controls, including, without limitation, procedures required by N.J.A.C. 19:46.

N.J.A.C. 19:45-1.39(g) would be amended to delete the present requirement that the rate of progression or incrementation of a progressive slot machine cannot be modified once an amount appears on a progressive meter until there has been a payout of the amount registered on the meter. In the opinion of the Division, there is no valid law enforcement or public policy basis for this regulatory requirement.

Finally, the proposed amendments to N.J.A.C. 19:46-1.19 would codify various requirements which are currently imposed concerning dealing

shoes used in casinos in conjunction with the games of blackjack, mini-baccarat and baccarat. These requirements, which specify the physical characteristics of the dealing shoes, are designed to prevent patrons from reading or seeing playing cards being dealt from the shoe in advance of the actual dealing of the cards.

Social Impact

Five of the six rule proposals are designed to enhance controls which insure the integrity, security or accountability of casino operations. For example, the proposed jackpot verification rule is intended to preclude the distribution of casino assets following slot machine jackpots which actually resulted due to tampering or machine malfunction. It should be noted that the proposed rule may result in delays in the payment of jackpots governed by the rule; but these delays have not been significant in the past and should cause minimal inconvenience to the gaming public. The proposed amendment to N.J.A.C. 19:46-1.19 should help to minimize the use of dealing shoes in cheating schemes designed to defraud casinos. Progressive controllers are responsible for assuring that the progressive slot machines increment properly and that the total payout appearing on the display is accurate. Since access to progressive controllers is not presently regulated, the proposed amendment to N.J.A.C. 19:45-1.36 would establish a procedure to assure that these objectives are being satisfied by casino licensees.

Historically, the Division has found, when auditing records used to verify accountability for cards, dice and other gaming equipment, that signatures are often illegible or fail to include the Commission license number assigned to the individual responsible for signing the document. The proposed amendment to N.J.A.C. 19:45-1.45 is intended to assure that an adequate paper trail exists to enable the Division to audit and account for the supervision and maintenance of all gaming equipment utilized by a casino licensee. Finally, the proposed amendment concerning armored car bays would enhance the security of casino operations and assets by assuring maximum control over the transfer of casino funds to banking institutions.

The proposed amendment to N.J.A.C. 19:45-1.39(g) would eliminate a regulatory requirement which, in the opinion of the Division, serves no valid regulatory purpose. According to the Division, casino licensees should be given the flexibility to determine whether the rate of increment of a progressive slot machine should be modified before the progressive jackpot is won.

Economic Impact

The casino industry and gaming public will generally only incur insignificant additional costs as a result of these rule proposals. For example, the jackpot verification rule (N.J.A.C. 19:45-1.40B) should not result in any direct cost to casino licensees or the general public. The Division may incur some additional costs if more jackpots are reviewed as a result of this proposal, but it is anticipated that existing resources will be utilized to provide any additional personnel who are needed.

With respect to the proposed amendments to N.J.A.C. 19:45-1.14, most casino licensees presently have designated areas in which armor car transactions occur. It may be necessary for some casino licensees to enhance closed circuit television coverage and the proposed double door entry systems used in such areas to fully implement the proposal. These costs, however, should be minor compared to the cost of constructing a new armored car bay. Therefore, the proposed rule permits the Commission to exempt existing casino facilities from this requirement upon a showing of good cause until such time as the facility is scheduled to undergo significant renovation or reconstruction.

The remaining rule proposals should not have any significant economic impact on casino licensees, the gaming public or the regulatory agencies. Although some casino licensees may have to replace or modify some dealing shoes if the proposed amendment to N.J.A.C. 19:46-1.19 is adopted, the majority of dealing shoes used in the industry already meet these requirements.

Regulatory Flexibility Statement

This proposal will only affect the operations of casino licensees and, therefore, will not impact on any small business protected under the Regulatory Flexibility Act.

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

19:45-1.14 Cashiers' cage; **armored car bay**

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

(e) **Except as otherwise provided in (f) below, each establishment**

shall contain an area commonly referred to as an armored car bay for the transfer of casino assets to an armored car for transportation to a banking institution. The armored car bay shall be designed and constructed to provide maximum security for the assets of the casino; such design and construction shall provide, at a minimum, for the following security measures:

1. A secure route from the cage to the armored car bay;

2. A double door entry and exit system to the exterior of the approved hotel which requires that, during the transfer of casino assets to an armored car, one door be securely locked while the other door is open and which system shall include, at a minimum, the following controls:

i. The door adjacent to the exterior of the approved hotel shall be controlled by the security department;

ii. The interior door of the double door entry system shall be controlled by a department other than the security department;

3. The route used to transport assets to the armored car bay, as well as the armored car bay itself, shall contain closed circuit television coverage under the control of the security department or surveillance department.

(f) Any casino licensee which received a valid operation certificate for its casino prior to the effective date of (e) above may be exempted by the Commission from the facility requirements imposed by (e) above if the casino licensee can demonstrate good cause for the issuance of the exemption and the existence of an alternative secured location for the transfer of casino assets to an armored car. The Commission may require any casino licensee to comply with the facility requirements imposed by (e) above, notwithstanding the previous issuance of an exemption pursuant to this subsection, if the approved hotel is scheduled to undergo significant renovation or reconstruction.

(g) A casino licensee may utilize its armored car bay for other purposes during periods when casino assets are not being transferred and the security measures otherwise required by (e)2 above need not be implemented during such periods.

19:45-1.36 Slot machines; coin containers; keys

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

(d) Keys to each slot machine or any device connected thereto, other than the compartment housing the drop bucket, shall be maintained in a secure place and controlled by the slot department.

[1. Whenever it is required that a slot machine be opened, an entry shall be made on a form to be entitled "Machine Entry Authorization Log." The entry shall include, at a minimum, the date, time, purpose of opening the machine, and signature of authorized employee opening the machine. The Machine Entry Authorization Log shall be maintained in the slot machine.]

[2. If a computer is connected to slot machines in the casino which automatically records the information required in (d)1 above, it is not necessary to maintain the Machine Entry Authorization Log.]

(e) **Unless a computer which automatically records the information specified in (e)1 and 2 below is connected to the slot machines in the casino, the following entry authorization logs shall be maintained by the casino licensee:**

1. Whenever it is required that a slot machine or any device connected thereto be opened, certain information shall be recorded on a form to be entitled "Machine Entry Authorization Log." The information shall include, at a minimum, the date, time, purpose of opening the machine, and signature of authorized employee opening the machine. The Machine Entry Authorization Log shall be maintained in the slot machine and shall have recorded thereon a sequential number and a slot machine serial number or casino number.

2. Whenever it is required that a progressive controller not housed within the cabinet of a slot machine be opened, the information specified in (e)1 above shall be recorded on a form to be entitled "Progressive Entry Authorization Log." The Progressive Entry Authorization Log shall be maintained in the progressive unit and shall have recorded thereon a sequential number and serial number of the progressive controller.

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

19:45-1.39 Progressive slot machines

(a)-(f) (No change.)

(g) Once an amount appears on a "progressive meter(s)," [the rate

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of progression and] the probability of hitting the combination that will award the progressive jackpot may not be changed until there has been a winner of the payout amount registered on the meter(s) or the payout limit, as described in (i) below, is registered on the "progressive meter(s)."

(h)-(k) (No change.)

19:45-1.40B Inspection of slot machine jackpots

(a) Prior to the payment of any slot machine jackpot designated pursuant to the provisions of (b) below, a casino licensee shall notify the Division that a winning combination has been registered and permit the Division to inspect any slot machine, progressive equipment or related equipment involved. Upon notification by the casino licensee, the Division shall advise the casino licensee whether the Division will conduct an inspection. When an inspection is conducted, the casino licensee may award payment of the jackpot to the winning patron upon completion of the inspection absent a contrary direction from the Division pursuant to its authority under the Act. Failure of the Division to object to the payment of the jackpot upon completion of its inspection shall not constitute waiver or estoppel of any charge, issue or claim raised in any criminal or regulatory complaint subsequently filed against any person in connection with the winning or payment of that jackpot.

(b) Except as otherwise provided herein, this section shall apply to any slot machine or progressive jackpot to be paid pursuant to N.J.A.C. 19:45-1.40 which has a value of at least \$5,000, to any jackpot of merchandise or a thing of value to be paid pursuant to N.J.A.C. 19:45-1.40A, and to any progressive jackpot where there is evidence of a malfunction. Notwithstanding the foregoing, the Division may from time to time notify all casino licensees that jackpots to be paid pursuant to N.J.A.C. 19:45-1.40 with a value in excess of \$5,000 may be paid to winning patrons without notice to the Division as otherwise required by (a) above. Any such notice provided by the Division shall:

1. Be in writing;
2. Clearly state the value of all jackpots which must be reported to the Division pursuant to (a) above; and
3. Be provided to all casino licensees at least 48 hours in advance of the time at which the new reporting obligation will become effective.

19:45-1.45 Signatures

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

(d) This section shall apply to any signature required in a casino licensee's approved system of internal procedures and administrative and accounting controls, including, without limitation, procedures required by N.J.A.C. 19:46.

19:46-1.19 Dealing shoes

(a) The following words and terms when used in this section shall have the following meanings:

"Base plate" means the interior shelf of the dealing shoe on which the cards rest.

"Face plate" means the front wall of the dealing shoe against which the next card to be dealt rests and which typically contains a cutout.

[(a)] (b) Cards used to game at blackjack and minibaccarat shall be dealt from a dealing shoe which shall be securely chained to the gaming table during gaming hours and secured in a locked compartment during non-gaming hours. Cards used to game at baccarat shall be dealt from a dealing shoe which shall be secured in a locked compartment during non-gaming hours. [A dealing shoe or other device which automatically shuffles cards may be utilized at the game of blackjack and minibaccarat, provided that such a shoe or device is submitted and approved by the Commission or its authorized designee.]

(b) All dealing shoes shall have a white or transparent base plate and transparent sides or a cut out under the base plate on each side.]

(c) A device which automatically shuffles cards may be utilized at the game of blackjack and minibaccarat in addition to or in place of a dealing shoe, provided that such a device is submitted to and approved by the Commission.

(d) A dealing shoe shall be designed and constructed to contain any feature the Commission may require to maintain the integrity of the game and at a minimum shall adhere to the following specifications:

1. At least the first four inches of the base plate shall be white;
2. The sides of the shoe below the base plate shall be transparent or have a transparent sealed cutout; and
3. A stop underneath the top of the face plate shall preclude the next card to be dealt from being moved upwards for more than one-eighth inch distance.

(e) A baccarat dealing shoe, in addition to meeting the requirements of (d) above, shall also adhere to the following specifications:

1. A removable lid shall be opaque from the point where it meets the face plate to a point at least four inches from the face plate;
2. The sides and back above the base plate shall be opaque; and
3. A device within the shoe shall, when engaged, prevent the cards from moving backward in the shoe.

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

(a)

Procedure For Exchange of Checks Submitted By Gaming Patrons

Verification of Travelers Checks

Proposed Amendment: Alternative I, N.J.A.C.

19:45-1.25; Alternative II, N.J.A.C. 19:45-1.25

Public Hearing

Take notice that the Casino Control Commission will hold a public hearing concerning amendments to N.J.A.C. 19:45-1.25 as proposed in the January 4, 1988, New Jersey Register at 20 N.J.R. 51. The hearing will be held on May 25, 1988, during the regularly scheduled public meeting at the Commission's offices in Lawrenceville, New Jersey. The meeting shall begin at 10:30 A.M.

Interested persons are invited to participate through oral argument and are requested to notify the Commission by May 20, 1988, of their intent to do so by contacting:

Carole R. Jacobson, Esq.
Assistant Counsel
Casino Control Commission
3131 Princeton Pike Office Park
Building No. 5 CN-208
Trenton, New Jersey 08625
(609) 530-4966

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The following proposals are authorized by Charles Serraino, Commissioner, Department of Labor.

Submit comments by June 15, 1988 to:

Alfred B. Vuocolo, Jr.
Chief Legal Officer
Office of the Commissioner
Department of Labor
CN 381
Trenton, New Jersey 08625-0381

(b)

DIVISION OF UNEMPLOYMENT AND DISABILITY INSURANCE GROUP ACCOUNT

Payments in Lieu of Contributions

Proposed Repeal: N.J.A.C. 12:16A-11

Authority: N.J.S.A. 34:1-20; 34:1A-3(e); and 43:21-7.2.

Proposal Number: PRN 1988-257.

The agency proposal follows:

Summary

Upon review of the New Jersey Administrative Code, the Department discovered that the text of N.J.A.C. 12:16A-11, which was adopted in 1973, had been codified in 1985 at N.J.A.C. 12:16-8. In an effort to eliminate unnecessary chapters and avoid duplication, the Department has decided to repeal the text of N.J.A.C. 12:16A-11.1 through 11.4.

Social Impact

As the Department is merely eliminating duplicative text, the requirements of N.J.A.C. 12:16A-11.1 through 11.4 will continue to be in effect pursuant to N.J.A.C. 12:16-8. Therefore, there will be no additional social impact as a result of the repeal.

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Economic Impact

The Department does not foresee any economic impact from the repeal of these rules, since no new requirements are being proposed.

Regulatory Flexibility Statement

The proposed repeal will impose no additional reporting, recordkeeping or compliance requirements for small businesses. Therefore, a regulatory flexibility analysis is not required.

Full text of the proposed repeal can be found in the New Jersey Administrative Code at N.J.A.C. 12:16A-11.

(a)**DIVISION OF WORKPLACE STANDARDS****Carnival-Amusement Rides****Proposed Readoption with Amendments: N.J.A.C. 12:195**

Authority: N.J.S.A. 34:1-20; 34:1A-3(e); and 5:3-31 et seq., specifically N.J.S.A. 5:3-36.

Proposal Number: PRN 1988-256.

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 12:195 will expire on September 6, 1988. The Department of Labor has reviewed the rules proposed for readoption, and determined them to be necessary, reasonable and proper for setting forth standards for the design, construction and operation of amusement rides for the protection of the public. The Department proposes that the existing chapter, with minor technical changes, be readopted.

N.J.A.C. 12:195 first became effective June 26, 1975 and was promulgated to implement the requirements of the Carnival-Amusement Rides Safety Act, N.J.S.A. 5:3-31 et seq. The Act mandates the Department of Labor to adopt rules for the safe installation, repair, maintenance, use, operation and inspection of all amusement rides for the protection of the public.

The rules were subsequently amended on August 1, 1978, May 1, 1979, October 15, 1981 and June 16, 1986 to reflect amendments to the Act, updated references, improved organization of the requirements, and other concerns that the Division of Workplace Standards felt should be addressed. Initial development of the rules and subsequent amendments were accomplished in conjunction with the Advisory Board on Carnival-Amusement Ride Safety organized by statute pursuant to N.J.S.A. 5:3-33.

The chapter provides an indispensable set of standards for the carnival-amusement ride industry and the Division of Workplace Standards. The chapter codifies the purposes of the Act, and enables the Division of Workplace Standards to administer an effective safety program.

This chapter consists of six subchapters. Subchapter 1, General Provisions, has rules relating to administration, records, reporting, and insurance for rides. Subchapter 2 covers definitions for terms used in the chapter. Subchapter 3 addresses design and construction standards for safety of rides. Subchapter 4 concerns safety construction standards for buildings and structures as part of a ride. Subchapter 5 consists of rules relating to the safe operation and use of rides. Subchapter 6 lists the standards and publications referred to in this chapter. The Department has proposed certain technical changes, but the substance of the rules remains the same.

Social Impact

The proposed readoption will enable the Department to continue to maintain adequate safety standards for carnival-amusement rides, which will help avoid safety hazards. This will benefit both the carnival-amusement operators and the general public, who have shown an increasing interest in the amusement industry in New Jersey.

Economic Impact

The proposed readoption will create no additional economic burden on the carnival-amusement ride industry. The proposed readoption will continue to provide economic advantage to the public and the operators and owners of carnival-amusement rides by reducing the likelihood of accidents and potentially expensive injuries.

Regulatory Flexibility Statement

N.J.A.C. 12:195 establishes reporting, recordkeeping and other compliance requirements applicable to carnival-amusement operators, which may include some operators that meet the definition of small business in the Regulatory Flexibility Act. However, uniform application of the rules to all operators is necessary to maintain adequate safety standards.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 12:195.

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

12:195-3.9 Passenger tramways

(a) Aerial Passenger Tramways, ANSI 13.77.1-1982 is [hereby adopted and] incorporated **herein** by reference [as a rule] with the modifications as indicated in (b) below.

(b) The following are modifications to the [rule] **standards** as referenced in (a) above:

1. Sections 1.1 through 1.3 [,] and Section 8 are deleted.

2. Any standards relating to administration or reporting are deleted.

(c) Each owner engaged in passenger tramway operations shall protect the public by complying with the [rule] **standards as referenced** in (a) above.

(d) Where any conflict occurs between the [rule] **standards** referenced in (a) above and any other rule in this chapter, the latter shall prevail.

12:195-3.10 Electrical equipment

(a) The National Electrical Code, NFPA No. 70-1984 is [hereby adopted and] incorporated by reference [as a rule].

(b) Permanent wiring shall be subject to the following requirements:

1. All electrical wiring and equipment used for amusement rides or for lighting shall be installed and maintained in accordance with the [rule] **code [adopted] as referenced** in (a) above.

2.-6. (No change.)

(c) 1.-4. (No change.)

5. Grounding which does not have a resistance to ground of 25 ohms or less shall be augmented by one additional electrode of any of the types specified in section 250-83 of the [rule] **code** referenced in (a) above.

6. (No change.)

(d) (No change.)

12:195-3.11 Air compressors

(a) (No change.)

(b) Air compressor tanks and other receivers used in connection with air compressors shall comply with **the provisions set forth at N.J.A.C. 12:90, concerning boilers, pressure vessels and refrigeration [Chapter 90, Boilers, Pressure Vessels, and Refrigeration of Title 12, N.J.A.C.]**

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

12:195-4.2 Construction

(a) The BOCA Basic Building Code—1981 is [hereby adopted as a rule] **incorporated herein by reference**.

(b) The following are modifications to the [rule] **code** referenced in (a) above.

1.-2. (No change.)

(c) All buildings and structures shall be constructed to conform to the requirements of the [rule] **code** referenced in (a) above governing use and occupancy as regulated by 214, Fire Resistance Ratings of Structural Elements and Table 305, Height and Area Limitations of Buildings and in compliance with the fire limit restrictions of N.J.A.C. 12:195-4.8, 4.9 and 4.10, except as may be specifically required in N.J.A.C. 12:195-4.3, 4.4 and 4.5.

12:195-4.4 Fire resistance

All enclosed amusement park buildings over one story in height shall be constructed or protected to furnish not less than one hour fire resistance rating; except where roof framing and decking are

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specifically permitted to be of noncombustible or mill type construction under the provisions of the [rule] code referenced in N.J.A.C. 12:195-4.2(a).

12:195-4.6 Walkways and ramps

(a) (No change.)

(b) Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1-1978, is [hereby adopted as a rule] **incorporated herein by reference.**

(c) (No change.)

12:195-4.7 Fire protection

In addition to the fire extinguisher and fire fighting equipment required by the use and occupancy of each building and structure under the provisions of the [rule] code referenced in N.J.A.C. 12:195-4.2(a), every amusement ride building or structure, when required by the Commissioner, shall be provided with a system of fire hydrants and fire lines with the required water supply complying with Article 12 of the [rule] code referenced in N.J.A.C. 12:195-4.2(a).

12:195-4.9 Restrictions within the fire limits

(a) All buildings and structures, and all additions to existing buildings and structures, hereafter erected within the boundaries of the fire limits shall be of fireproof (Type 1), protected noncombustible (Type 2A and 2B), heavy timber (Type 3A), or ordinary protected (Type 3B), construction and regulated in Table 214 of the [rule] code referenced in N.J.A.C. 12:195-4.2(a); and shall be constructed within the height and area limitations of Table 305 of the [rule] code referenced in N.J.A.C. 12:195-4.2(a) except as herein provided.

(b) Type 2C, 3C and 4A construction permitted:

1. Buildings and structures, and additions to existing buildings and structures, hereafter erected within the fire limits may be of unprotected noncombustible (Type 2C), ordinary unprotected (Type 3C), or protected frame (Type 4A) construction and **shall be regulated** in Tables 214 and 305 of the [rule] code referenced in N.J.A.C. 12:195-4.2(a) when constructed and located in accordance with one of the following methods described in (b)1i through iii below or an approved combination thereof.

i.-iii. (No change.)

2. (No change.)

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

12:195-4.10 Restrictions outside fire limits

(a) General: Outside the fire limits, all types of construction except as herein specifically prohibited, shall be permitted within the height and area limitations of Table 305 of the [rule] code referenced in N.J.A.C. 12:195-4.2(a).

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

12:195-4.11 Existing buildings

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

(d) Increase in height and area: It shall be unlawful to increase the height or area of an existing building or structure, unless it is of a type of construction permitted for new buildings of the increased height and area, and of a use group within the fire limit in which it is located and as regulated by Table 305 of the [rule] code referenced in N.J.A.C. 12:195-4.2(a).

12:195-4.12 General area and height limitations

(a) General: The areas and heights of all buildings and structures between exterior walls, or between exterior walls and fire walls, shall be governed by the type of construction and shall not exceed the limits fixed in Table 305 of the [rule] code referenced in N.J.A.C. 12:195-4.2(a) except as these may be specifically modified by other provisions of the [rule] code referenced in N.J.A.C. 12:195-4.2(a).

(b) Area limit: The area limitations specified in Table 305 of the [rule] code referenced in N.J.A.C. 12:195-4.2(a) shall apply to all buildings fronting on a street, or public space not less than thirty feet in width accessible to a public street.

(c) Height limit: The height in feet and number of stories specified in Table 305 of the [rule] code referenced in N.J.A.C. 12:195-4.2(a) shall apply to all buildings and to all separate parts of a building enclosed within lawful fire walls and complying with the provisions of fire resistive construction in N.J.A.C. 12:195-4.2.

12:195-6.2 Availability of documents for inspection

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

New Jersey Department of Labor
 Division of Workplace Standards
 [36 West State Street, Room 311]
Station Plaza—Building 4
East State Street and South Clinton Avenue
 Trenton, New Jersey

COMMERCE, ENERGY AND ECONOMIC DEVELOPMENT

(a)

DIVISION OF ENERGY PLANNING AND CONSERVATION

Technical Sufficiency Standards for Cogeneration Equipment Qualifying for a Sales and Use Tax Exemption

Proposed New Rules: N.J.A.C. 12A:54.

Authority: N.J.S.A. 54:32B-8.13d and N.J.S.A. 52:27F-11q

Authorized By: Borden R. Putnam, Commissioner, Department of Commerce, Energy and Economic Development.

Proposal Number PRN: 1988-239.

Submit comments by June 15, 1988 to:

Edward J. Linky, Esq.
 Chief Regulatory Officer
 Division of Energy Planning and Conservation
 101 Commerce Street
 Newark, New Jersey 07102

The agency proposal follows.

Summary

The proposed new rules provide technical sufficiency standards for cogeneration equipment for the purpose of qualifying for a sales and use tax exemption. These rules are designed to clarify the equipment which may qualify for the exemption provided pursuant to N.J.S.A. 54:32B-8.13d. These proposed rules were drafted in consultation with the Department of Treasury, Division of Taxation.

Social Impact

The proposed new rules will have a positive social impact by clarifying the types of equipment which can qualify for the use tax exemption and thereby promote the use of cogeneration in the State.

Economic Impact

The proposed new rules will have a positive economic impact by implementing a statute that was intended to promote the sale of cogeneration equipment in the State. To the extent that wider use of cogeneration occurs, it is anticipated that greater energy efficiency and lower electric rates will occur.

Regulatory Flexibility Statement

The proposed new rules do not place a record keeping burden on small businesses for compliance. The rules should provide stimulus for those small businesses which provide components to the cogeneration industry. If there is a question as to whether a component qualifies for the exemption, a dispute resolution procedure is provided for in the rules.

Full text of the proposal follows.

CHAPTER 54

TECHNICAL SUFFICIENCY STANDARDS FOR COGENERATION EQUIPMENT FOR THE PURPOSES OF QUALIFYING FOR A SALES AND USE TAX EXEMPTION

SUBCHAPTER 1. GENERAL PROVISIONS

12A:54-1.1 Scope

The technical eligibility standards for cogeneration equipment con-

tained in this chapter are designed to establish minimum criteria for the purpose of obtaining a sales and use tax exemption pursuant to P.L. 1985 c.266 (N.J.S.A. 54:32B-8.13d).

12A:54-1.2 Construction and amendment

(a) The rules in this chapter shall be liberally construed to permit the Commissioner to effectively carry out his or her statutory functions and to insure the maximum conservation of energy sources within the State; and

(b) The rules contained in this chapter may be amended by the Director of the Division of Energy Planning and Conservation, pursuant to authority of P.L. 1985, c.266 (N.J.S.A. 54:32B-8.13d).

12A:54-1.3 Definitions

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

"Administrator" means the Commissioner of the Department of Commerce, Energy and Economic Development, or his or her designee.

"Building" means any commercial and/or industrial structure.

"Cogeneration" means and includes all forms of simultaneous or sequential production of electricity and useful thermal energy from a single fuel and as further defined in the Public Utilities Regulatory Policy Act, 16 U.S.C.A. Sec. 796(18)(A)(West Supp. 1892) and regulations promulgated by the Federal Energy Regulatory Commission (FERC), 18 C.F.R. 292.101.

"Control system" means lights, buttons, switches, alarms, computer control systems, start up and remote control capability, programmable logic controller, relays, timers, counters, solenoid coils, function devices, electrical barriers, valve actuator, valves, air lines, air compressor, air dryer storage tank, instrumentation, indicators, controllers, recorders, multi-point scanning systems and computerized system with telephone connection for remote control system for start up and trouble shooting.

"Electrical equipment" means an electric generator, excitor, motor, solenoid, grounding, emergency lighting start up generator, battery, cabling, electrical safety trip device, synchronization equipment and utility-required interconnection equipment.

"Eligible" means a system or component thereof qualifying for an exemption pursuant to N.J.A.C. 12A:54-2.1.

"Exhaust system" means a chimney or stack, forced draft or induced draft fan, and controls.

"Fire and safety equipment" means water storage tanks, pipes, pumps, hydrants, sprinklers, hoses, accessories, extinguishers (types A, B and C) and first aid kit and stretcher.

"Foundation and enclosure" means a partial or complete building foundation, enclosure and freight elevator.

"Fuel systems" means oil, gas, coal and/or other fuel storage tanks, or bin, solid fuel conveyor, grinder, mill, pump, oil or gas supply control and piping system.

"Ineligible" means that a system or component thereof which does not qualify for an exemption pursuant to N.J.A.C. 12A:54-2.3.

"Instrumentation" means equipment to measure and monitor flow, level, pressure, temperature and system operation and may include the following: orifices, nozzles, venturis, pitot tube, turbine metering, sight glass, differential pressure transmitter, thermocouple, thermowell, capillary-filled thermometer.

"Insulation (thermal, safety and noise)" means insulation for pipes, valves, vessels, boilers and turbines.

"Partial eligibility" means a system or component thereof qualifying for a partial exemption pursuant to N.J.A.C. 12A:54-2.2

"Rotating equipment and accessories" means a steam turbine, governor, gearing, gas turbine, ignition chamber, compressor, air extractor, boiler feed pumps, lubrication system and oil purifier.

"Stationary equipment" means a boiler, super-reheater, evaporator, economizer, accumulator, deaerator, boiler feedwater heater, condenser, flash vessel, cooling tower, piping, valve and steam trap.

"Supply lines" means fuel, water, oil and process piping.

"Waste removal and treatment equipment" means fly ash, bottom ash, slag removal and waste water effluent treatment equipment.

"Water treatment equipment" means boiler water treatment ionization system pumps and storage tank.

SUBCHAPTER 2. ELIGIBILITY CRITERIA

12A:54-2.1 Eligible cogeneration equipment

(a) When necessary and used for cogeneration, the following items shall be eligible for an exemption from the Sales and Use Tax. The exemption shall be for 100 percent of the taxes due on the cost, unless stated otherwise.

1. A building;
2. A control system;
3. Electrical equipment;
4. An exhaust system;
5. Fire and safety equipment;
6. A foundation and enclosure;
7. Fuel systems;
8. Instrumentation;
9. Insulation (thermal, safety and noise);
10. Rotating equipment and accessories;
11. Stationary equipment;
12. Supply lines;
13. Waste removal and treatment equipment; and
14. Water treatment equipment.

12A:54-2.2 Partial eligibility

When not fully exempt, certain items may be partially exempt from the Sales and Use Tax. Where a question of partial eligibility exists, a determination by the administrator will be made.

12A:54-2.3 Ineligible equipment

(a) The following shall not be considered eligible for an exemption from sales and use taxes:

1. Motor vehicles;
2. Items which are not fully and/or partially eligible.

12A:54-2.4 Determination by administrator

(a) If the tax exempt status of any cogeneration item(s) is in dispute, the purchaser may apply to the administrator for a determination of eligibility and submit supplemental documents with the request. The administrator shall determine whether the item(s) is eligible or ineligible.

(b) The administrator shall issue a ruling as to the equipment's eligibility within 60 working days of receipt of the request for a determination and shall communicate the ruling to the applicant and to the Department of Treasury, Division of Taxation.

(c) Rulings of the administrator are prospective and shall apply to all future exemption applications for systems of that type.

(d) If a determination is not issued by the administrator within 60 days of receipt of the request, the purchaser's system shall be deemed eligible for a full exemption. This determination will not affect the eligibility of future equipment of the same type.

(e) The determination of the administrator shall constitute final agency action concerning the equipment's eligibility.

RULE ADOPTIONS

BANKING

(a)

DIVISION OF BANKING

Savings Banks: Commercial Loans

Adopted New Rules: N.J.A.C. 3:11-12

Proposed: September 21, 1987 at 19 N.J.R. 1679(b).

Adopted: April 25, 1988 by Mary Little Parell, Commissioner, Department of Banking.

Filed: April 25, 1988 as R.1988 d.230, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 17:9A-26(7).

Effective Date: May 16, 1988.

Expiration Date: March 19, 1989.

Summary of Public Comments and Agency Responses:

The Department of Banking received three public comments relative to the proposed new rules. Two came from savings banks while the other was from an attorney on behalf of the New Jersey Council of Savings Institutions.

COMMENT: One of the savings banks, along with the attorney for the Savings Institutions, questioned the limiting nature of the "commercial loan" definition contained in the proposed rules. It was pointed out that the bill granting savings banks this expanded commercial lending power was all encompassing in its provisions.

It was recommended by these individuals that the definition of commercial loans be restructured to reflect the broad statutory authority granted. It was further pointed out that the commercial lending power was an additional power granted to savings banks. Therefore, any statutory authority for a savings bank to make loans of this nature was in addition to its authority to make loans otherwise authorized by law.

RESPONSE: The Department agrees with the commentators that the law granting savings banks commercial lending authority was intended to be all inclusive. It is further agreed that this new power was intended to expand the authority of savings banks to make commercial loans and was not intended to reduce existing lending powers by including in the rules loans which might otherwise be statutorily granted by savings banks.

Adopted N.J.A.C. 3:11-12.1 includes a clarification of the definition of "commercial loans" by removing any inference that the authority to grant commercial loans is limited in any way or includes any reference to existing lending authority of savings banks. The proposed rule, as originally drafted, was not intended to restrict the commercial loans that a savings bank might make, but was intended to provide savings banks with an easy reference for loans normally categorized as commercial loans. Since the modification of the definition is merely a clarification to bring it in line with the statute, it is not deemed to be substantive requiring additional public notice and comment.

COMMENT: One comment questioned the use of the reference to total assets contained in the Federal Deposit Insurance Corporation (FDIC) Consolidated Reports. It is noted that an FDIC revision to this figure might have a material impact on the total asset figure.

RESPONSE: At the present time, the Department of Banking uses the same consolidated reports as the FDIC; therefore, the total asset figure in question is the total asset figure the Department of Banking requires to be filed with our office. Additionally, the FDIC requires quarterly reports, whereas the Department only requires semi-annual reports. By using the FDIC quarterly average figures, as called for in N.J.A.C. 3:11-12.1, our savings institutions will have the benefit of using current total asset averages, rather than the Department semi-annual figures.

However, it is recognized that the FDIC may occasionally modify its total asset figure to a level which would not be acceptable to the Banking Department. Therefore, the "total asset" definition has been modified in the adopted rule to stipulate that if the existing "total asset" figure is redesignated by the FDIC, the change would also have to be designated as acceptable to the Department of Banking. Therefore, our savings banks will be using a total asset figure as designated by the Banking Department.

COMMENT: The attorney for the New Jersey Council of Savings Institutions also proposed that the Commissioner's approval of an application by a savings bank to exceed the statutory 10 percent limitation shall be automatic within 30 days unless the Commissioner disapproves the application or approves a modified amount.

RESPONSE: The statute mandates that the Commissioner shall issue an approval for an increased commercial loan limitation if he or she is satisfied that the savings bank applicant meets the criteria set out in the law. The statute does not give the Commissioner the prerogative to provide for automatic approvals.

COMMENT: The second savings bank opined that savings banks are as qualified as commercial banks to make commercial loans and should not be required to obtain the Commissioner's approval to exceed the statutory 10 percent limitation.

RESPONSE: The statute granting savings banks commercial lending power mandates that savings banks desiring to exceed the statutory 10 percent limitation must obtain the approval of the Commissioner. The Commissioner does not have the option of waiving this statutory requirement for an application through this regulation. Therefore, the recommendation to grant savings banks full commercial lending authority without the statutorily mandated application process cannot be accepted.

Full text of the adopted new rules follows: (additions indicated in boldface with asterisks ***thus***; deletions indicated in brackets with asterisks ***[thus]***).

SUBCHAPTER 12. SAVINGS BANKS: COMMERCIAL LOANS

3:11-12.1 Definitions

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

"Commercial loans" means any ***[loan which is required to be reported in "Schedule RC-C Loans and Lease Financing Receivables", at line 7a, Commercial and Industrial Loans, of the Consolidated Report of Condition for Savings Banks filed with the Federal Deposit Insurance Corporation. In the event the specified schedule or line item is redesignated, the substituted or redesignated line item is to be used]*** ***secured or unsecured loan for commercial, corporate, business or agricultural purpose, other than any loans which may otherwise be authorized by law***.

"Commissioner" means the Commissioner of the Department of Banking of New Jersey.

"Savings bank" means a savings bank as defined in N.J.S.A. 17:9A-1(13), a capital stock savings bank as defined in N.J.S.A. 17:9A-8.1 and a subsidiary capital stock savings bank as defined in N.J.S.A. 17:9A-382.

"Total assets" means the total asset figure reported in "Schedule RC-K-Quarterly Averages" submitted with the most recent Consolidated Report of Condition for Savings Banks filed with the Federal Deposit Insurance Corporation. In the event the specified schedule is redesignated, the total asset figure reported in the substituted schedule*, **as designated by the New Jersey Department of Banking*** is to be used.

3:11-12.2 Commercial loan limitation

As prescribed in N.J.S.A. 17:9A-26(7), a savings bank may make commercial loans in an aggregate amount that may not exceed 10 percent of the savings bank's total assets without the Commissioner's approval.

3:11-12.3 Application to exceed commercial loan limitation

A savings bank may apply to the Commissioner for approval to exceed the 10 percent commercial loan limitation provided in N.J.S.A. 17:9A-26(7). The application shall be submitted on forms prescribed by the Commissioner. The application shall contain a request by the savings bank to have the Commissioner approve the savings bank's* granting commercial loans up to a ***[limited amount]*** ***specific percentage limitation***, beyond the statutorily authorized 10 percent, or in an unlimited amount, as the board of

the savings bank may by resolution specify. A certified copy of the board resolution shall be submitted with the application. The application shall contain such data as the Commissioner may require in order to make the findings called for in N.J.S.A. 17:9A-26(7) and N.J.A.C. 3:11-12.4.

3:11-12.4 Commissioner approval

(a) Within 30 days of receipt of a completed application, the Commissioner shall approve the application and designate the limited or unlimited amount approved, provided it is found that:

1. The savings bank is being operated in a safe and sound manner;
2. The savings bank has capital equal to that required from time to time by the Board of Governors of the Federal Reserve System for a bank chartered under the laws of a state of the United States which is a member of the Federal Reserve System and said capital shall be calculated in accordance with generally accepted accounting principles as applied to banks;
3. The savings bank is competently managed; and
4. The savings bank has demonstrated satisfactory experience and expertise in making commercial loans.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Construction Grants and Loans for Wastewater Treatment Facilities

Wastewater Treatment Fund Procedures and Requirements

Wastewater Treatment Trust Procedures and Requirements

Determination of Allowable Costs

Adopted Amendments: N.J.A.C. 7:22-3.4, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.13, 3.32, 4.4, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.13, 4.17, 4.32 and 5.11

Proposed: September 8, 1987 at 19 N.J.R. 1600(a).

Adopted: April 14, 1988 by Richard T. Dewling, Commissioner, Department of Environmental Protection, and Ellis S. Vieser, Chairman, New Jersey Wastewater Treatment Trust.

Filed: April 18, 1988 as R.1988 d.210, **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. 58:11B-1 et seq., the Wastewater Treatment Bond Act of 1985 (P.L. 1985, c.329.), and Section 601 of the Water Quality Act of 1987, 33 U.S.C. 1381.

DEP Docket Number: 041-87-08.

Effective Date: May 16, 1988.

Expiration Date: January 5, 1992.

Summary of Public Comments and Agency Responses:

The New Jersey Department of Environmental Protection (the Department) and the New Jersey Wastewater Treatment Trust (the Trust) are adopting amendments to N.J.A.C. 7:22-3, "Wastewater Treatment Fund Procedures and Requirements", N.J.A.C. 7:22-4, "Wastewater Treatment Trust Procedures and Requirements" and N.J.A.C. 7:22-5, "Determination of Allowable Costs". These amendments were proposed on September 8, 1987 at 19 N.J.R. 1600(a). The comment period closed on October 8, 1987. The Department received written comments on the proposed amendments from one person. The following comments on N.J.A.C. 7:22-3 and the responses to these comments are also applicable to the corresponding sections of N.J.A.C. 7:22-4. No comments were received on N.J.A.C. 7:22-5.

7:22-3.6 Terms of the loans from the Wastewater Treatment Fund

COMMENT: N.J.A.C. 7:22-3.6(b) should fully set forth the procedure by which the loan recipient will be credited with interest earned on the recipient's project subaccount and state that the total loan amount will be deposited in the recipient's project subaccount on the date of the loan award.

RESPONSE: Since the source of the moneys for the Wastewater Treatment Fund Loan, which is governed by N.J.A.C. 7:22-3, is the sale of State general obligation bonds on an as needed basis, the scenario whereby the total Fund loan amount is deposited into a recipient's project subaccount, and thereby earns interest, is not applicable to N.J.A.C. 7:22-3.6(b). The proceeds from the sale of the State general obligation bonds are deposited in the State general fund and are not under the control of the Department. The money is not withdrawn from the general fund until it is presented to the local government unit as a loan. There is, therefore, no project subaccount for the Fund loan. A project subaccount is, however, applicable to N.J.A.C. 7:22-4.6(b) because the source of the moneys for the Wastewater Treatment Trust loan, governed by N.J.A.C. 7:22-4, is the sale of Trust revenue bonds for the total Trust loan amount. In State Fiscal Year 1988, the proceeds of the revenue bond sale for the Trust loans were deposited into a project subaccount for each loan recipient and the interest earned on the account will be credited toward the recipient's Trust loan repayments. However, because of the newness of the program, this exact procedure may not be followed for future years' loan awards. Therefore, the wording was chosen to allow flexibility in the Trust's handling of the project subaccounts from year to year.

7:22-3.32 Preaward costs

COMMENT: Consideration should be given to expanding the preaward eligibility beyond the top 70 projects. Given the perpetual nature of the revolving fund and the clear need for all projects on the list, there does not appear to be any need to so limit preaward approvals. All applicants willing to go forward should be encouraged to do so.

RESPONSE: The amendments do allow applicants who are willing to proceed with their projects to qualify for preaward approval even if the project is not ranked within the top 70 as long as an appropriation for the project is in an appropriations bill providing loan moneys for such projects. In most cases, projects capable of complying with the programmatic requirements in a timely manner and able to proceed with construction are in an appropriations bill in either the fundable or contingency range. The Department has amended this section by permitting such a project to proceed if it is ranked one through 70, inclusive, on the most currently approved Project Priority list or if it is included in the Department's request to the Legislature for placement in an appropriations bill. This way, if the appropriations bill has not been passed yet, the project can still proceed.

The Department has made the following clarifying changes to the rules: N.J.A.C. 7:22-3.6(b) and 4.6(b) have been amended by adding a comma to make clear that loan repayments will begin either as indicated in the loan agreement or else one month after the date of initiation of operation, one month after final inspection, or four years from the date of the loan award, whichever occurs first.

N.J.A.C. 7:22-3.9(a) and 4.9(a) have been amended to clarify the difference in the original intent of these sections between being bypassed, which can only happen if the local government unit commits to the project document submittal schedule and then fails to meet that schedule, and the local government unit's failure to commit to the schedule at all, which does not result in the project being bypassed but only renders the project ineligible for loan moneys within that fiscal year. A project is only bypassed for loan moneys because it has failed to meet the document submittal deadlines that it has been committed to meet.

N.J.A.C. 7:22-3.9(c) and 4.9(c) have been amended to further clarify the original intent of these sections.

N.J.A.C. 7:22-3.11(a) has been changed to correct a typographical error.

N.J.A.C. 7:22-3.32(a)1 and 4.32(a)1 have been modified to clarify the original intent of these sections.

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

SUBCHAPTER 3. WASTEWATER TREATMENT FUND PROCEDURES AND REQUIREMENTS

7:22-3.4 Definitions

...

7:22-3.6 Terms of the loans from the Wastewater Treatment Fund

(a) (No change.)

(b) The total term of the loans shall be generally 20 years. Repayments shall begin no later than one month after the date of the initiation of operation or final inspection of the wastewater treatment

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facilities, or four years from date of loan award, whichever occurs first*,* or as indicated in the Fund loan agreement. Thereafter, loan repayments shall be made in accordance with the repayment schedule indicated in the Fund loan agreement. Principal and accrued interest with respect to a particular Fund loan may, however, be prepaid in accordance with the provisions of the relevant Fund loan agreement. Interest on the Fund loan shall accrue as indicated in the Fund Loan Agreement.

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

7:22-3.7 Criteria for project loan priority

(a) Each year, the Division shall develop a Priority System and Project Priority List under the federal grant program for the forthcoming federal Fiscal Year. The Priority System evaluates wastewater treatment projects individually for their anticipated impacts on existing and potential water uses in combination with present water quality conditions. Each year, the Priority System and Project Priority List shall be the subject of public hearings, including a public comment period. Local government units desiring to be placed on the Project Priority List shall make their request for placement before or during this time. Concurrently, all local government units listed or eligible for listing on the Project Priority List shall be required to advise the Division in writing whether they will commit to the project document submittal schedule identified in the annual Priority System and Project Priority List proposal. The following shall be submitted by the authorized representative of the local government unit when requesting placement on the Project Priority List:

1.-3. (No change.)

7:22-3.8 State and federal funding

(a) (No change.)

(b) Those local government units exercising their option for a Fund loan shall have their project ranked in accordance with the Priority System. As part of their decision, local government units shall waive and lose their discretion to accept a federal grant for the two forthcoming federal fiscal years for their project contingent upon the passage of the legislative appropriations act containing the specific project of concern.

(c) The decision, whereby local government units waive and lose their discretion to accept a federal grant for the projects for which they exercise their option for a Fund loan, shall become effective only upon receiving legislative approval in the form of an appropriations act. A local government unit whose project is on the project priority list, but is not part of a legislative appropriations act, remains eligible to receive a federal grant for the project.

7:22-3.9 Project bypassing

(a) Failure of the local government unit to advise the Division, in writing, of *[their]* ***the local government unit's*** commitment to meet the project document submittal schedule by the close of the comment period for the proposed Priority System and Project Priority List shall*, **without further notice by the Division,*** result in the *[bypassing of the]* project ***becoming ineligible for a Fund loan for the forthcoming State Fiscal Year*.**

(b) Failure to submit the complete application within the time period specified shall result in the Department's bypass of the local government unit's Fund loan application unless the Department, at its discretion approves, for good cause, an extension to this period.

(c) Written notice of a bypass action shall be forwarded to the local government unit by certified mail. As a result of such an action, the project on the Project Priority List shall become ineligible to receive a Fund loan in ***the forthcoming State Fiscal Year.*** *[that particular loan funding cycle which may allow]* ***This may allow*** the next highest ranked contingency project to *[be]* ***fall*** within the fundable range on the Project Priority List.

7:22-3.10 Pre-application procedures

(a) Local government units are urged to be familiar with the requirements of this subchapter and to contact the Department early in the planning process so that their projects are in a position to proceed (that is, planning and design completed) in a timely manner. Local government units should be aware that Department ap-

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provable plans and specifications are required as part of the application for a Fund loan.

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

7:22-3.11 Application procedures

(a) Each application for a Fund loan shall be submitted to the Department in conformance with the time period specified in the Proposed Priority System and Project Priority List or as otherwise extended by the Department and shall include full and complete documentation and any supplementary materials that an *[application]* ***applicant*** is required to furnish.

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

(d) The following shall be submitted when applying for a Fund loan:

1.-19. (No change.)

20. A statement by the applicant indicating whether the local government unit is currently in default on any State loan. A Fund loan agreement will not be executed between the Department and the local government unit unless the Department determines that repayment of the defaulted loan will be received.

21.-22. (No change.)

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

7:22-3.13 Evaluation of application

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

(d) The Division shall promptly notify applicants in writing of any disapproval. A disapproval of an application shall not preclude its reconsideration if resubmitted by the applicant. However, reconsideration of a revised Fund loan application and/or processing of a Fund loan agreement for the project within the current fiscal year may be bypassed, precluding funding of the project until a future fiscal year. Affected applicants shall be notified in writing of such action. As a result of a disapproval and project bypass action, the next highest ranked contingency project on the Project Priority List may fall within the fundable range.

7:22-3.17 Loan conditions

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

(d) Neither the State of New Jersey nor the New Jersey Wastewater Treatment Trust will be a party to any contracts and subcontracts awarded pursuant to this Chapter. All such contracts and subcontracts shall include the following statement:

"This contract or subcontract is expected to be funded in part with funds from the New Jersey Department of Environmental Protection and the New Jersey Wastewater Treatment Trust. Neither the State of New Jersey, the New Jersey Wastewater Treatment Trust nor any of their departments, agencies or employees is, or will be, a party to this contract or subcontract or any lower tier contract or subcontract. This contract or subcontract is subject to regulations contained in N.J.A.C. 7:22-3.1 et seq., 4.1 et seq., 5.1 et seq., and 9.1 et seq."

7:22-3.32 Preaward costs

(a) The Department shall not award loan assistance for costs incurred for building performed prior to the award of the loan for the project, except:

1. Where the local government unit's project is ranked *[within and including projects]* one through 70*, **inclusive,*** on the most currently approved Project Priority List or ***is part of the Department's request to the Legislature for placement in*** *[on]* an appropriations bill providing Fund moneys for that project and has met the following conditions:

i.-iv. (No change.)

2. (No change.)

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

SUBCHAPTER 4. WASTEWATER TREATMENT TRUST PROCEDURES AND REQUIREMENTS

7:22-4.4 Definitions

...

7:22-4.6 Terms of the loans from the New Jersey Wastewater Treatment Trust

(a) (No change.)

(b) The total term of the Trust loans shall not exceed 20 years. Repayments shall begin no later than one month after the date of the initiation of operation or final inspection of the wastewater treatment facilities, or four years from the date of loan award, whichever occurs first*,* or as indicated in the Trust loan agreement. Thereafter, Trust loan repayments shall be made in accordance with the repayment schedule indicated in the Trust loan agreement. Principal and accrued interest with respect to a particular Trust loan may, however, be prepaid in accordance with the provisions of the relevant Trust loan agreement. Interest on the Trust loan shall accrue as indicated in the financial plan submitted pursuant to Section 21 of the Trust Act.

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

7:22-4.7 Criteria for project loan priority

(a) Each year, a Priority System and Project Priority List is developed under the federal grant program for the forthcoming federal Fiscal Year. The Priority System evaluates wastewater treatment projects individually for their anticipated impacts on existing and potential water uses in combination with present water quality conditions. Each year, the Priority System and Project Priority List shall be the subject of public hearings, including a public comment period. Local government units desiring to be placed on the Project Priority List shall make their request for placement in accordance with N.J.A.C. 7:22-3.7 before or during this time. Concurrently, all local government units listed or eligible for listing on the Project Priority List shall be required to advise the Trust in writing whether they will commit to the project document submittal schedule identified in the annual Priority System and Project Priority List proposal.

7:22-4.8 State and federal funding

(a) (No change.)

(b) Those local government units exercising their option for a Trust loan shall have their project ranked in accordance with the Priority System. As part of their decision, local government units shall waive and lose their discretion to accept a federal grant for the two forthcoming federal fiscal years for their project contingent upon the passage of the legislative appropriations act containing the specific project of concern.

(c) The decision, whereby local government units waive and lose their discretion to accept a federal grant for the projects for which they exercise their option for a Trust loan, shall become effective only upon receiving legislative approval in the form of an appropriations act. A local government unit whose project is on the project priority list, but is not part of a legislative appropriations act, remains eligible to receive a federal grant for that project.

7:22-4.9 Project bypassing

(a) Failure of the local government unit to advise the Division, in writing, of ***[their]* *the local government unit's*** commitment to meet the project document submittal schedule by the close of the comment period for the proposed Priority System and Project Priority List shall result*, **without further notice by the Division,*** in the ***[bypassing of the]* project *becoming ineligible for a Trust loan for the forthcoming State Fiscal Year*.**

(b) Failure to submit the complete application within the time period specified shall result in the Trust's bypass of the local government unit's Trust loan application unless the Trust, at its discretion approves, for good cause, an extension to this period.

(c) Written notice of a bypass action shall be forwarded to the local government unit by certified mail. As a result of such an action, the project on the Project Priority List shall become ineligible to receive a Trust loan in ***the forthcoming State Fiscal Year.*** ***[that particular loan funding cycle which may allow]* *This may allow* the next highest ranked contingency project to ***[be]* *fall*** within the fundable range on the Project Priority List.**

7:22-4.10 Pre-application procedures

(a) Local government units are urged to be familiar with the requirements of this subchapter and to contact the Trust early in the planning process so that their projects are in a position to proceed (that is, planning and design completed) in a timely manner. Local

government units should be aware that Department approvable plans and specifications are required as part of the application for a Trust loan.

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

7:22-4.11 Application procedures

(a) Each application for a Trust loan shall be submitted to the Trust in conformance with the time period specified in the Proposed Priority System and Project Priority List or as otherwise extended by the Trust and shall include full and complete documentation and any supplementary materials that an applicant is required to furnish.

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

(d) The following shall be submitted when applying for a Trust loan:

1.-19. (No change.)

20. A statement by the applicant indicating whether the local government unit is currently in default on any State loan. A trust loan agreement will not be executed between the Trust and the local government unit unless the Trust determines that repayment of the defaulted loan will be received.

21.-22. (No change.)

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

7:22-4.13 Evaluation of application

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

(d) The Trust shall promptly notify applicants in writing of any disapproval. A disapproval of an application shall not preclude its reconsideration if resubmitted by the applicant. However, reconsideration of a revised Trust loan application and/or processing of a Trust loan agreement for the project within the current fiscal year may be bypassed, precluding funding of the project until a future fiscal year. Affected applicants shall be notified in writing of such action. As a result of a disapproval and project bypass action, the next highest ranked contingency project on the Project Priority List may fall within the fundable range.

7:22-4.17 Loan conditions

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

(d) Neither the State of New Jersey nor the New Jersey Wastewater Treatment Trust will be a party to any contracts and subcontracts awarded pursuant to this Chapter. All such contracts and subcontracts shall include the following statement:

"This contract or subcontract is expected to be funded in part with funds from the New Jersey Department of Environmental Protection and the New Jersey Wastewater Treatment Trust. Neither the State of New Jersey, the New Jersey Wastewater Treatment Trust nor any of their departments, agencies or employees is, or will be, a party to this contract or subcontract or any lower tier contract or subcontract. This contract or subcontract is subject to regulations contained in N.J.A.C. 7:22-3.1 et seq., 4.1 et seq., 5.1 et seq., and 9.1 et seq."

7:22-4.32 Preaward costs

(a) The ***[Department]* *Trust*** shall not award loan assistance for costs incurred for building performed prior to the award of the loan for the project, except:

1. Where the local government unit's project is ranked ***[within and including projects]*** one through 70*, **inclusive*** on the most currently approved Project Priority List or ***is part of the Department's request to the Legislature for placement*** on an appropriations bill providing Trust moneys for the project and has met the following conditions:

i.-iv. (No change.)

2. (No change.)

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

SUBCHAPTER 5. DETERMINATION OF ALLOWABLE COSTS

7:22-5.11 Miscellaneous costs

(a) Allowable miscellaneous costs include:

1. (No change.)

2. The costs of additions to a wastewater treatment facility that was assisted under the federal Water Pollution Control Act of 1956 (Pub. L. 84-660) or its amendments, or the Wastewater Treatment

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Bond Act of 1985 (P.L. 1985, c.329) or its amendments, or the New Jersey Wastewater Treatment Trust Act (N.J.S.A. 58:11B-1 et seq.) or its amendments, or the Pinelands Infrastructure Trust Bond Act of 1985. (P.L. 1985, c.302) or its amendments, and that fails to meet its performance standards as specified in the Fund or Trust loan agreement, provided:

i. The project is identified on the Project Priority List as a project for additions to wastewater treatment facilities that has received previous State or federal funds;

ii.-iv. (No change.)

3.-4. (No change.)

(b) Unallowable miscellaneous costs include:

1.-3. (No change.)

4. Issuance costs and other expenses incidental to the approval, preparation and sale of bonds, notes or obligations of the local government unit required to finance the project and the interest on them.

5.-12. (No change.)

HEALTH

(a)

PUBLIC HEALTH COUNCIL

Public Recreational Bathing
Chapter IX, State Sanitary Code

Adopted Amendments: N.J.A.C. 8:26-1.2, 1.3, 3.15, 3.17, 4.3, 4.4, 5.2, 5.3, 5.10, 5.11, 6.4, 7.9, 8.9 and 8.10

Amendments Not Adopted: N.J.A.C. 8:26-2.10, 5.1 and 5.7

Proposed: March 7, 1988 at 20 N.J.R. 464(a).

Adopted: April 22, 1988 by the Public Health Council, Milton Prystowski, Chairman.

Filed: April 25, 1988 as R.1988 d.229, **with substantive and technical changes**, not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

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

Effective Date: May 16, 1988.

Operative Date: May 27, 1988.

Expiration Date: August 4, 1991.

Summary of Public Comments and Agency Responses:

At a public hearing on March 30, 1988 at the Hughes Justice Complex, 25 Market Street, 5th floor, West Wing Training Room, Trenton, New Jersey 08625, 75 people were present and 51 comments were received on various general and specific aspects of the proposed amendments to N.J.A.C. 8:26. The attendees represented the New Jersey Health Officer's Association, Save Our Shores, American Red Cross, North Jersey Coalition of Lake Associations, the Greater Wildwood Hotel and Motel Association, New Jersey Recreation and Parks Association, New Jersey Pool Managers Association, and the New Jersey Department of Community Affairs. Also, 4 health officers, 2 state colleges, 3 public campgrounds, 12 condominium associations, and 19 hotel/motel operators provided oral comment. In addition, 104 individual written comments were received from 16 condominium associations, 9 lake associations, 22 public health officials, 3 state legislators, 2 state agencies, the New Jersey Campground Association, New Jersey Hotel and Motel Association, Cape May Motel Association, the New Jersey Health Officer's Association, and the New Jersey Public Health Association. The oral and written comments and the department's responses follow in summary form. (The commenters have received individual responses from the department on the issues of particular interest to them.)

COMMENT: Numerous comments were received from lake associations and condominiums in support of the proposed amendments to N.J.A.C. 8:26-1.2, 1.3 and 2.10, to exclude private nonprofit lake associations and condominiums from compliance with rules, except for the accident reporting and sign posting requirements.

RESPONSE: The Public Health Council has not adopted these proposed amendments, based on the premise that owners and operators

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of such recreational facilities have a responsibility to address health and safety issues for their membership, occupants and invited guests. It was determined that the arguments of ownership or profit vs. nonprofit should not be used to guide the establishment of standards for water quality, sanitation, and safety since the inherent risks associated with the operation of recreational bathing facilities are universal. As such, the proposed amendments to N.J.A.C. 8:26-1.2, 1.3 (definitions of "public bathing place" and "swimming pool") and 2.10 were not adopted. The Public Health Council advised the department that waivers of standards in accordance with N.J.A.C. 8:26-2.9 may be granted for lifesaving personnel from private lake associations, especially those of limited membership and where lakes are less than 4½ feet in depth in the designated swimming area.

COMMENT: Various groups raised the question of whether the proposed amendment to the definition of private bathing place would include adult communities, cooperative housing projects, and townhouses.

RESPONSE: The Public Health Council's decision to reject the department's proposed definition of private bathing place was based in part on the fact that ownership should not be used as a criterion to determine the responsibilities of specific groups to comply with safety, water quality, and sanitation rules.

COMMENT: A number of comments were received from local health officials, environmental organizations, aquatics professionals, and state agencies opposing the proposal to amend the definition of private bathing place to include private nonprofit lake associations and condominiums, thus exempting those facilities from the existing Public Recreational Bathing rules, except for the accident reporting and sign requirements.

RESPONSE: As stated previously, the Public Health Council did not adopt this proposed amendment. Thus, the definition of public bathing place remains as a body of water, natural or modified by man, used for swimming, diving, and recreational bathing and which shall not serve any type of cooperative housing or joint tenancy of three or more living units.

COMMENT: Numerous comments were received from owners and operators of hotels and motels supporting the proposed change to the lifeguard requirement at N.J.A.C. 8:26-5.1, which would provide, as an alternative to this requirement, a requirement for a competent person at least 16 years old who is certified by the American Red Cross in Basic Water Safety or an equivalent program, for hotel/motel swimming pools of less than 2,000 square feet in size. In addition, many hotel/motel operators and the New Jersey Campground Owners Association petitioned the Public Health Council to allow hotels, motels, campgrounds, and other limited use bathing facilities to utilize "adult supervisors" in lieu of lifeguards.

RESPONSE: The Public Health Council did not adopt the proposed amendment to N.J.A.C. 8:26-5.1, due to a concern for swimming pools with diving boards and sliding boards and due to a conflict with N.J.S.A. 26:4A-1.1. The Council recommended that all pools having diving boards and sliding boards have lifeguards regardless of size. The Public Health Council found that the proposal of an "adult supervisor" in lieu of a lifeguard was in conflict with N.J.S.A. 26:4A-1.1. This statute provides that all public swimming pools or public swimming places of less than 1,000 square feet provide as a minimum level of protection at least one person, 18 years of age or older, who is certified by the American Red Cross in basic rescue and water safety and standard or multimedia first aid, and by the American Red Cross or the American Heart Association in cardiopulmonary resuscitation. Thus, the subject rules cannot conflict with, nor can they supersede, the referenced statute. N.J.S.A. 26:4A-1.1 et seq. does not recognize the title of "adult supervisor." In addition, the Public Health Council questioned the ability and appropriateness of an individual with the credential of basic water safety and rescue training to provide adequate lifesaving services at public recreational bathing facilities greater than 1,000 square feet in size in every circumstance. The Public Health Council, however, recognized the difficulty of many small hotel/motels and limited use bathing facilities in finding appropriate lifesaving personnel. The Public Health Council advised the department that waivers of standard may be granted, when appropriate, on a case by case basis, in accordance with N.J.A.C. 8:26-2.9. The waiver, if granted, however, could not be in contravention to N.J.S.A. 26:4A-1.1 et seq. The Public Health Council also recommended that lifesaving personnel be within the swimming pool fence or designated area and not merely "on the premises."

COMMENT: At the time of proposal, the Department of Health and the Public Health Council elicited comments regarding the minimum water depth requirement for head first entry during competitive swim-

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ming events, since N.J.A.C. 8:26-5.3(b)3 is being considered for amendment to allow competitive swimming events to be held in four foot depth of water rather than five feet which is the depth now required by this rule. Information was provided which gave valuable insight and viewpoints on the hazards and degree of risk associated with head first entries into varying depths of water. This included the explanation that different types of dives had corresponding degrees of risk; that training and supervision of the competitive swimmer by a qualified instructor may ensure that the dives are executed properly; and, that the potential hazards may be mitigated by eliminating the use of elevated starting blocks by school age children during swim events.

RESPONSE: The Public Health Council decided not to propose amendments to the existing rule, which requires a minimum water depth of five feet for all head first entries. The Public Health Council advised the department to take all the comments under advisement and to continue to evaluate on a case by case basis all requests for a waiver of standard for competitive swimming events in accordance with N.J.A.C. 8:26-2.9.

COMMENT: Several comments from operators of public recreational bathing facilities were received regarding the proposed amendment to N.J.A.C. 8:26-5.7, which includes a requirement for the removal of rocks from lake bathing areas. These operators discussed the difficulty in removing large rocks from the lake bottom. The proposed amendment would require removal of any rocks or weeds which may create a bathing hazard, except for those that cannot be reasonably removed. In case of the latter, those hazards shall be properly marked or identified.

RESPONSE: The Public Health Council has not adopted the proposed amendment to N.J.A.C. 8:26-5.7(a), on the basis that all hazards, including hidden dangers, were not addressed in the proposed revisions to this standard. Since the intent of the existing standard is to remove or identify bathing hazards which may not be easily seen by the bather and which may cause injury, it was determined that the existing rule provides the most appropriate safeguard.

COMMENT: Several comments were received regarding the buffer zone between recreational bathing areas and watercraft activities. Because of the physical constraints of small lakes, it was felt that a 200 foot buffer zone would not be feasible or needed in some instances.

RESPONSE: The Public Health Council has not adopted the department's proposed amendment to N.J.A.C. 8:26-5.7(b) to reduce the buffer zone from 200 feet to 100 feet. The Council realized that there will be circumstances in which this standard will not be appropriate and, thus, a request for a waiver of standards submitted to, and evaluated by, the local health authority could be a mechanism to provide appropriate relief and still adequately address the safety issues on a case by case basis.

COMMENT: Several comments were received regarding the proposed amendment to N.J.A.C. 8:26-8.9 requiring the reporting of saves to the local health authority by November 1 of each year. The point was made that time spent in collecting personal data on each victim may adversely affect or distract lifesaving personnel from their primary responsibilities.

RESPONSE: The Public Health Council adopted this proposed amendment, with a minor editorial change. Statistical information such as the date of the incident and a brief description of the occurrence shall be recorded and reported to the local health authority each year. Personal data such as the name and address of the person should be recorded when possible.

COMMENT: Several comments were received supporting the department's proposed amendment to the contents of the 24 unit first aid kit.

RESPONSE: The Public Health Council replaced the 24 inch by 72 inch plain absorbent gauze and tourniquet requirement with plain absorbent gauze and adhesive tape. This change was prompted because people trained in standard first aid do not possess the knowledge or skills to utilize a tourniquet or 24 inch by 72 inch gauze. The Public Health Council felt, however, that scissors and tweezers should remain in the adopted version as a requirement in the first aid kit. This change also addresses the anticipated specific needs of recreational bathing related accidents.

COMMENT: A number of comments addressed various components of N.J.A.C. 8:26 which were not being considered for amendment by the Department of Health at this time.

RESPONSE: These comments will be taken under advisement and referred to when subsequent rule amendments are considered.

There were a number of minor technical and editorial amendments about which the department did not receive public comment and which the Public Health Council approved.

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

SUBCHAPTER 1. PURPOSE, SCOPE, AND DEFINITIONS

8:26-1.2 Scope

(a) These rules shall govern all recreational bathing places in the State of New Jersey with the exception of a private bathing place as defined in N.J.A.C. 8:26-1.3*******]; however, all recreational bathing places, including private bathing places, except for individual and family units, shall comply with requirements in section 8:26-8.10, reporting of deaths, injuries and saves, and section 8:26-2.10, posting of bathing places.]* The provisions of the State Sanitary Code have the force and effect of law. The provisions are enforceable by the State Department of Health, local departments of health, local police authorities, local sheriff's departments and other enforcement agencies.

(b) (No change.)

8:26-1.3 Definitions

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

... "Private bathing place" ***means a body of water, natural or modified by man, used for swimming, diving, and recreational bathing by an individual, family, or living unit member(s) and their guests, which shall not serve any type of cooperative housing or joint tenancy of three or more living units.*** ***[means a body of water, natural or modified, owned and/or operated by a private nonprofit lake association, condominium or by an individual, family, or living unit member(s) and their guest(s).]***

... "Save" means any incident that requires assistance to a person in the water who is injured or in distress.

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

*{8:26-2.10 Posting of signs

(a) Private bathing places shall conspicuously post a sign(s) stating: "State regulations do not require this bathing place to have lifesaving personnel or equipment. Swim at your own risk."

(b) Swimming pools less than 2,000 square feet located at hotels and motels which elect to use the alternative means of waterfront safety supervision as indicated in N.J.A.C. 8:26-5.1(d) shall conspicuously post a sign(s) stating: "State regulations do not require this bathing place to have advanced lifesaving personnel. Swim at your own risk."]*

8:26-3.15 Recirculation system

(a) (No change.)

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

1.-3. (No change.)

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

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

8:26-3.17 Water slides

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

(b) (No change.)

8:26-4.3 Decks: construction and design

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

1. (No change.)
2. Decks shall be edged, radiused or otherwise relieved so as not to present exposed sharp corners.

8:26-4.4 Heater and temperature requirements

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

(c) An audible alarm or an equivalent device ***approved by the department*** to warn users and management; and an automatic safety device to shut off heater when the temperature exceeds 104 degrees Fahrenheit (40 degrees C) shall be provided.

(d) (No change.)

8:26-5.1 Swimming pool supervision

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

(d) ***At least one lifeguard shall be on duty for 60 or less swimmers or 2,000 square feet of surface area in use at all times when the pool is in use. Additional lifeguards shall be required depending on bather load, size and configuration of the swimming pool, amount of surface area for shallow and deep water areas, emergencies, and lifeguard's ability to see bathers.*** *[At least one lifeguard shall be on duty for 60 or less swimmers in the water whenever the pool is in use. Additional lifeguards shall be required depending on bather load, size and configuration of the swimming pool, amount of surface area for shallow and deep water areas, emergencies, and lifeguard's ability to see bathers. The only exception to this rule is pools located at commercial hotels and/or motels having a swimming area of less than 2000 square feet, which may employ, in lieu of lifeguard, a competent person at least 16 years old who is certified by the American Red Cross in Basic Water Safety or equivalent program.]*

1. (No change.)
(e)-(i) (No change.)

8:26-5.2 Emergency equipment for swimming pools

(a) Swimming pools shall be provided with the following equipment, which shall be properly stored and readily accessible:

1.-3. (No change.)

4. ***A full spine board, complete with ties and/or straps, that meet the design requirements of the Emergency Medical Services (N.J.A.C. 8:40-5.16).*** *[A full spine board complete with ties and/or straps shall be available at all times when a certified lifeguard is on duty. The full spine board shall meet the specifications of the Emergency Medical Services.]*

5. Every swimming pool capable of accommodating 500 patrons or more shall have readily accessible a room or area designated and

equipped for emergency care. A telephone, citizen band radio, signaling devices, or other approved means of communication shall be provided as close as possible to the lifeguard station for emergency use. Emergency numbers for the nearest rescue squad, physician, ambulance, police department, hospital, clinic, or other appropriate entity shall be posted in a weather resistant display, adjacent to the telephone.

8:26-5.3 Bather rules for swimming pools, wading pools, hot tubs, and spas

(a) Bather rules covering admission, bathing, and conduct of patrons shall be conspicuously posted and shall include the following:

1. Any person showing evidence of any communicable skin disease, sore or inflamed eyes, cold, nasal or ear discharge or any communicable disease shall be refused admission.

2.-8. (No change.)

(b) (No change.)

8:26-5.7 Bathing beaches

(a) Swimming areas shall be maintained in a clean and safe condition, free from rocks, holes, and hidden dangers. ***Any known hazard in the vicinity shall be properly safeguarded and posted.*** *[Any weeds or rocks which may create a bathing hazard, and cannot be reasonably removed, shall be marked or identified.]*

(b) Each bathing beach shall be designated by means of water buoys. A neutral zone of ***200*** *[100]* feet between the bathing area and watercraft activities, such as motorboats and sailboats, shall be maintained. Each bathing beach shall establish its own policy to allow for a buffer zone based upon the size constraints of its bathing beach for human-powered, slow moving watercraft, such as rowboats and pedal-boats.

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

8:26-5.10 Diving stands and boards for bathing beaches

(a) Diving stands and boards for bathing beaches shall conform to the bather rules as specified in N.J.A.C. 8:26-5.3 governing swimming pools.

(b) Fixed platforms and floats for bathing beaches may be permitted if constructed with a visible one foot (30.5 centimeters) air space below the platform or float. There shall be as little underwater construction as is consistent with strength and all braces and struts shall be designed to prevent entanglement or trapping of the bathers.

1.-2. (No change.)

8:26-5.11 Waterfront restrictions for bathing beaches

(a) Waterfront restrictions pertaining to swimming, boating, and safe limits for bathing, for bathing beaches, shall be posted and include the following:

1.-3. (No change.)

8:26-6.4 Water closets and lavatories

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

(c) Fixtures shall conform to the following requirements:

1.-3. (No change.)

4. Soap dispensers for providing either liquid or powdered soap shall be provided at each lavatory. The dispenser must be of all metal or plastic type with no glass permitted in these units.

5. Only unbreakable mirrors shall be provided.

8:26-7.9 Chemical water quality standards for swimming pools and wading pools

(a) Free chlorine, combined chlorine, bromine and pH values shall be continuously maintained within the following ranges:

	Minimum	Ideal	Indoor pools	Maximum Outdoor pools
Free chlorine residual parts per million (ppm)	1.0	1.0-1.5	2.0	3.0
Combined chlorine (ppm)	None	None	0.2†	0.2†
Bromine (ppm)	2.0	2.0-4.0	4.0	4.0
pH	7.2	7.4-7.6	7.8	7.8

†Remedial action shall be taken if combined chlorine exceeds 0.2 as it will result in reduced chlorine efficacy.

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

8:26-8.9 Recordkeeping

(a) Accurate and complete records on the following items shall be kept on the premises and be available upon request of the authorized agent or the health authority. Such records shall be kept for a minimum period of one year.

1.-7. (No change.)

8. Records on the number of saves shall include *[the name and address of the person,]* the date, *[and a]* ***the*** description of the occurrence ***and, if possible, the name and address of the person***.

8:26-8.10 Deaths and/or serious injuries

All deaths, head, neck, spinal cord injuries, and any injury which renders a person unconscious shall be reported to the health authority within 24 hours of occurrence. All saves shall be reported in writing to the health authority by November 1 of each year. The local health authority shall report such injuries and saves to the State Health Department in January of each year.

APPENDIX

The following organizations are currently recognized by the New Jersey State Department of Health to certify the personnel and/or program required in N.J.A.C. 8:26-5.

First Aid Certification (No change.)

CPR Certification (No change.)

Lifesaving/Lifeguarding Certification (No change.)

Certified Pool Operators Certification (No change.)

24 UNIT FIRST AID KIT CONTENTS

2 Units—1 inch Adhesive Compress

2 Units—2 inch Bandage Compress

2 Units—3 inch Bandage Compress

2 Units—4 inch Bandage Compress

1 Unit—3 inches by 3 inches Plain Gauze Pads

2 Units—Gauze Roller Bandage

1 Unit—Eye Dressing Packet

4 Units—Plain Absorbent Gauze—1/2 square yard

3 Units—Plain Absorbent Gauze

4 Units—Triangular Bandages

1 Unit—Adhesive Tape*—**Scissors, Tweezers***

(a)

HOSPITAL REIMBURSEMENT

Financial Elements and Reporting

Adopted Amendment: N.J.A.C. 8:31B-4.62

Proposed: December 21, 1987 at 19 N.J.R. 2365(a).

Adopted: March 18, 1988 by Molly Joel Coye, M.D., M.P.H.,
Commissioner, Department of Health (with approval of the
Health Care Administration Board).

Filed: April 21, 1988 as R.1988 d.213, **without change.**

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5b and
26:2H-18d.

Effective Date: May 16, 1988.

Expiration Date: October 15, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

8:31B-4.62 Excluded Health Care Services

(a)-(f) (No change.)

(g) Excluded Ambulatory Services: HealthStart Maternal Care Health Support Services. The revenues and expenses associated with the provision of these services shall be treated as Case C, netted against each other, with neither gains nor losses added to the Preliminary Cost Base.

(h) Excluded Ambulatory Services: HealthStart Pediatric Continuity of Care. In Hospitals with salaried pediatricians, revenues and

expenses associated with the non-institutional Medicaid capitated fee shall be treated as Case C and netted against each other. Gains and losses shall be excluded from the Preliminary Cost Base.

COMMERCE, ENERGY AND
ECONOMIC DEVELOPMENT

(b)

DIVISION OF TRAVEL AND TOURISM

Tourism Grants

Adopted New Rules: N.J.A.C. 12A:12-3

Proposed: January 19, 1988 at 20 N.J.R. 172(b).

Adopted: April 18, 1988 by Borden R. Putnam, Commissioner,
Department of Commerce, Energy and Economic
Development.

Filed: April 22, 1988 as R.1988 d.215, **without change.**

Authority: N.J.S.A. 52:27H-6(f).

Effective Date: May 16, 1988.

Expiration Date: September 21, 1992.

Summary of Public Comments and Agency Responses:

Four letters of comments were received by the Division of Travel and Tourism which are addressed individually as follows.

COMMENT: The Southern Shore Regional Tourism Council submitted a letter of comment which addressed one issue concerning these rules, that the current filing of December 15th of the grant applications to Regional Councils from tourism organizations should be changed to January 10th. The council believes that this date should be changed for two reasons: one, most organizations and municipalities are on a calendar year basis of bookkeeping and, two, "the intervening holidays between the proposed December 15th date and the January date do not allow time for meetings of grant committees to review grants that will rush in to meet the December 15th date."

RESPONSE: The December 15th filing was specifically established in response to discussion between Division of Travel and Tourism staff and the various regional tourism councils, who requested more time to consider and review applications from other organizations.

COMMENT: The Hunterdon Wine Growers Association submitted a letter of comment which addressed two issues concerning these rules.

1. That the competitive bidding requirements set forth in N.J.A.C. 12A:3.9(f)1. would have the "effect of making grants under this program unavailable to organizations like the Hunterdon Wine Growers Association." The Wine Growers Association believes that it will be unable to comply with this requirement because of the lack of paid staff within the organization to perform the work and the need to make spontaneous purchases for events as the need or opportunity for a bargain purchase arises.

2. That N.J.A.C. 12A:12-3.3(d) and 12A:12-3.4(d) provide for the loss of eligibility for funding for one specific project if it has received funding for three consecutive years in the past. These two subsections would place an unnecessary limitation on the administrator in the Grant Program. The Association believes that the grant advisory committees should have the ability "to evaluate all the circumstances and make an informed decision without being inhibited by such a proscription."

RESPONSE: 1. In response to the Association's first comment, the establishment of the competitive bid requirements is a measure designed to ensure efficient and proper expenditures of State funds. These rules, however, did take into account the need for spot purchasing by requiring that purchases under \$1,000 would not be covered by the three bid requirement.

2. As to the Association's second concern, the three year consecutive funding restrictions for any one tourism promotion event was established to encourage development of new innovative tourism promotion events and to encourage already existing tourism promotional events to become self sufficient.

COMMENT: The County Administrative Office of Morris County submitted a letter of comment which dealt with one issue concerning these rules, that N.J.A.C. 12A:12-3.9(f)1, which requires competitive bids for any purchases over \$1,000 may cause some difficulties for some grant recipients. Additionally, the bidding threshold of purchases or contracts

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in excess of \$1,000 "is far below the current threshold level of \$8,400, as specified in the Local Public Contracts Law."

RESPONSE: The \$1,000 bidding threshold was established to ensure efficient and proper expenditures of State funds. The reason the bid threshold amount is below that currently allowed under the Local Public Contract Laws, \$8,400, is that many of the grants awarded under this program are smaller than the \$8,400 threshold. Secondly, the suggested \$8,400 threshold amount, would in effect eliminate any competitive bidding because that amount could, in many cases, be a huge portion of the actual grant. Finally, an \$8,400 threshold is impractical as it relates to the purchase patterns of tourism promotional events, few, if any, of which events have purchases that would even be close to that level.

COMMENT: Steve Norton of the Governor's Tourism Advisory Council submitted a letter of comment which dealt with six issues concerning these rules.

1. That the proposed rules seem to favor the regional tourism councils over other more localized tourism oriented organization and structures.
2. That there should not be a three year consecutive funding restriction for any one tourism promotion event. This policy could undermine the momentum of a successful event.
3. That the current rules are confusing by listing those items which are not eligible for the matching grant. It is suggested that rules read that "matching grants can fund up to 50% of the following direct expenditures for a program . . . space advertising, brochures, collateral material, direct mailings, public relations fees, postage, etc."
4. That there is no need to have non-regional tourism council proposals be reviewed by the regional tourism councils. In particular, some of the proposals sent to the regional councils could be subject to favoritism or prejudice.
5. That tourism matching grants should only be available for projects that "have at least a season duration." One-time yearly events seem to only attract local interest and therefore don't necessarily advance tourism promotion most efficiently.
6. That a minimum grant award level should be established to avoid the excessive paperwork produced for the grant in relation to the grants' size, and also for freeing up more grant money "for more deserving programs."

RESPONSE: 1. These rules have been formulated with the specific intent of providing each proposed project an equal and fair chance. The reason for providing that non-regional tourism council applicants send their grant request through the regional councils is to provide for greater focus and coordination on the tourism promotion activities of an area. The regional tourism councils in reviewing a grant application are only to evaluate and rank the project. All decisions as to funding of any tourism promotions lie solely with the Department of Commerce, Energy and Economic Development (see N.J.A.C. 12A:12-3.7(d)).

2. The three year consecutive funding restriction for any one tourism promotion event was established to encourage development of new innovative tourism promotion events and to encourage already existing tourism promotional events to become self sufficient.
3. Defining non-eligible cost for consideration of grant funding is done so as to provide flexibility to adapt grant funding to future innovation of future grant proposals. Non-eligible cost provides a sufficient guide to grant applicants as to what the tourism matching grant program will not fund in any manner.
4. These rules, as to review of grant applications, are designed to maximize participation as well as to ensure fair and equal consideration. All applications submitted shall be considered by the Department Grant Review Committee.
5. The limitation of grant awards to projects which are "at least a season(s) duration" would limit the flexibility of the program, discouraging new or growing tourism promotion activities.
6. Minimum grant levels tend to limit flexibility of the grant program to support various and numerous tourism promotional programs.

Full text of the adoption follows.

SUBCHAPTER 3. MATCHING TOURISM GRANTS TO REGIONAL TOURISM COUNCILS, COUNTIES, MUNICIPALITIES AND TOURISM PROMOTION ORGANIZATIONS

12A:12-3.1 Scope and purpose

(a) The rules in this subchapter are promulgated by the Department of Commerce and Economic Development to implement the

Tourism Matching Grant Program within the Department under the auspices of the Division of Travel and Tourism. This program has been established to encourage regional tourism councils, counties, municipalities, and tourism promotion organizations to engage in creative promotional projects or events which compliment state tourism promotional efforts.

(b) Applications and questions regarding participation in this program should be addressed to:

Matching Grant Coordinator
N.J. Department of Commerce and
Economic Development
Division of Travel and Tourism
CN 826
Trenton, New Jersey 08625

(c) This program shall be open to all regional tourism councils, counties, municipalities, and tourism promotion organizations. All applications for the grant program which meet the requirements of this subchapter shall be given due consideration, however, not all applicants are guaranteed to be awarded a grant.

12A:12-3.2 Definitions

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

"Applicant" means any county, municipality, or tourism promotion organization applying for a tourism grant pursuant to this subchapter.

"Commissioner" means the Commissioner of the Department of Commerce and Economic Development.

"DCED" means the Department of Commerce and Economic Development.

"Director" means the Director of the Division of Travel and Tourism in the Department of Commerce and Economic Development.

"Division" means the Division of Travel and Tourism in the Department of Commerce and Economic Development.

"Grant Coordinator" means the Coordinator of the Division of Travel and Tourism Matching Grant Program.

"Grantee" means a regional tourism council, county, municipality, or tourism promotion organization which has been awarded a grant under the tourism matching grant program.

"Logo" means the promotional symbol authorized by the Division of Travel and Tourism in use for promoting tourism and related industries of the State of New Jersey.

"Non-eligible project cost" means a cost for which a tourism grant will not be awarded or funded. These costs include, but are not limited to:

1. Durable equipment, capital investments, restoration/rehabilitation of structures or buildings, except when these types of expenditures are an integral part of the proposed project or event;
2. Wages or benefits for employees for the project or event;
3. Hospitality expenses;
4. Entertainment;
5. Fireworks;
6. Transportation expenses;
7. Lodging expenses; or
8. Membership fees or dues for travel and/or tourism organizations.

"Regional councils" means any or all of the six regional tourism councils designated and created under the New Jersey Tourism Master Plan by the Division of Travel and Tourism in the Department of Commerce and Economic Development.

"Tourism promotional organization" means any non-profit organization created under N.J.S.A. 15A:1-1 et seq. including but not limited to chambers of commerce, merchant business associations and heritage, cultural, or historic commissions.

12A:12-3.3 Eligibility of counties, municipalities, and tourism promotion organizations

(a) To be eligible to receive a tourism grant the applicant shall forward to its respective regional tourism council:

1. A completed DCED tourism grant application; and

2. The entire budget of the proposed program or event, including the amount requested to be funded by DCED and all other sources of funding for the project.

(b) The amount of funding requested from DCED may not exceed 50 percent of the total budget of the event or project. For purposes of this section, total budget of the event or project shall exclude non-eligible project cost from the request for funding.

(c) In each program year no more than three grants will be awarded to any one applicant.

(d) No one specific project or event shall be eligible for funding if that project or event has received funding under this program for three consecutive years in the past.

12A:12-3.4 Eligibility of regional tourism councils

(a) To be eligible to receive a tourism grant a regional council shall forward to the grant coordinator:

1. A completed DCED tourism grant application;

2. The entire budget of the proposed program or event, including the amount requested to be funded by DCED and all other sources of funding for the project.

(b) The amount requested from DCED may not exceed 50 percent of the total budget of the event or project. For purposes of this section, total budget of the event or project shall exclude non-eligible project cost from the request for funding.

(c) In each program year no more than five grants will be awarded to any one council.

(d) No one specific project or event shall be eligible for funding if that project or event has received funding under this program for three consecutive years in the past.

12A:12-3.5 Application deadlines for grants to counties, municipalities, and tourism promotion organizations

(a) An applicant for a tourism grant shall submit an application to its respective regional tourism council no later than December 15 of each grant program cycle. Any application received after December 15 shall not be considered for a grant award.

1. For purposes of this section, date of receipt means postmark date.

(b) The Commissioner may change the application deadline in (a) above as he deems necessary.

1. Any change in the application deadline by the Commissioner shall be noted in the Tourism Grant Application.

12A:12-3.6 Application deadlines for grants to regional tourism councils

(a) A regional tourism council shall submit an application to the grant coordinator no later than January 31 of each grant program cycle. Any applications received after January 31 shall not be considered for a grant award.

1. For purposes of this section, date of receipt means postmark date.

(b) The Commissioner may change the application deadline in (a) above as he deems necessary.

1. Any change in the application deadline by the Commissioner shall be noted in the tourism grant application.

12A:12-3.7 Evaluation of grant applications of counties, municipalities, and tourism promotion organizations

(a) Upon receipt of an application from a county, municipality, or tourism promotion organization, the respective regional council shall evaluate and rank the application through its grant advisory committee.

(b) A grant advisory committee shall consist of:

1. One freeholder or designee appointed by each county within tourism region covered by the council;

2. A member of the Governor's Tourism Advisory Council from the region covered by the council; and

3. Members of the regional tourism council designated by the council to serve on the committee.

(c) The grant advisory council shall evaluate each application on the following factors and then rank all applications based upon application scores:

1. Integration of the program or event into the overall State tourism promotional program;

2. Prominent use of the division's promotional logo;

3. Program quality;

4. Anticipated benefit to the region in which the project is proposed;

5. Amount of local support for the program or event;

6. Amount of local funds raised during the previous year for tourism programs;

7. Scope of planning needed for the program or event; and

8. Scope of local participation in the program or project.

(d) The grant advisory committee shall forward its completed evaluation to the grant coordinator by no later than January 31 of the grant program cycle.

(e) The grant coordinator, after receipt of the reports from the grant advisory committee of each regional tourism council, shall collate the reports and prepare them for review by the DCED grant evaluation committee.

(f) The grant evaluation committee shall consist of:

1. The Deputy Commissioner of Commerce and Economic Development or his or her designee;

2. The Director of the Division of Travel and Tourism; and

3. The Chairman of the Governor's Tourism Advisory Council or his or her designee.

(g) The grant evaluation committee shall evaluate each application on the following factors:

1. Integration of the program or event into the overall State tourism promotional program;

2. Prominent use of the division's promotional logo;

3. Program quality;

4. Benefit to the region in which the project is proposed;

5. Amount of local and/or regional support for the project;

6. Amount of tourism promotional activity already existing in the tourism region, county, or municipality;

7. Innovation of the program; and

8. Whether an adequate amount of funds exist for the program so that the grant funds contributed to the program event will not exceed 50 percent of the eligible cost of the program or event.

(h) The Grant Evaluation Committee shall issue a report to the Commissioner which shall include:

1. A prioritized listing for recommended grant recipients; and

2. A recommended amount for each grant.

(i) Upon receipt of the report in (f) above, the Commissioner shall issue a final decision as to the grant recipients and the amount of each grant.

1. Announcement and distribution of grant funds shall be on March 31 of the grant program cycle.

2. The Commissioner may as he deems necessary change the date of announcement and distribution in (g)1 above.

3. The Commissioner may award grants on an incremental basis, such that a grantee may be required to produce specific documents or periodic reports as a condition of receipt.

12A:12-3.8 Evaluations of grant applications of regional tourism councils

(a) Upon receipt of an application from a regional tourism council, the grants coordinator shall evaluate and rank the application in the manner enumerated in N.J.A.C. 12A:12-3.7(c).

1. The grant coordinator shall provide a report of the evaluation and ranking in (a) above to the DCED grant evaluation committee.

(b) The DCED grant evaluation committee shall evaluate the regional council application pursuant to N.J.A.C. 12A:12-3.7(f).

(c) The Grant Evaluation Committee shall issue a report to the Commissioner which shall include:

1. A prioritized listing for recommended grant recipients; and

2. A recommended amount for each grant.

(d) The Commissioner shall issue a final decision as to the grant recipients and the amount of each grant.

1. Announcement and distribution of grant funds shall be on March 31 of the grant program cycle;

2. The Commissioner may as he deems necessary change the date of announcement and distribution in (d)1 above; and

3. The Commissioner may award grants on an incremental basis, such that a grantee may be required to produce specific documents or periodic reports as a condition of receipt.

12A:12-3.9 Reports and compliance

(a) Each grantee shall submit the following to the grants coordinator, when a grant has been received in part or whole:

1. First progress report on the project or event, due no later than September 1 of each grant program cycle;
2. Second progress report on the project or event, due no later than December 1 of each grant program cycle;
3. Third progress report on the project or event, due no later than March 1 of each grant program cycle;
4. Fourth progress report on the project or event, due no later than May 1 of each grant program cycle; and
5. Final accounting report, along with all invoices, due no later than June 15 of each grant program cycle.

(b) The Commissioner may change the dates of the reports in (a) above as he deems necessary.

1. Any change in these dates made by the Commissioner shall be noted in the tourism grant application.

(c) All projects or events receiving funds under this program shall complete their programs by June 1 of the program grant cycle.

1. The Commissioner may waive this completion date when the original grant application clearly indicates that the project or event completion will take place after the June 1 date within the grant program year.

(d) By no later than June 15 of the grant program cycle a grantee shall submit a signed contract between DCED/State and the grantee.

1. Failure to timely submit such contract shall result in forfeiture of the grant by the grantee.

(e) Failure of a grantee to timely file any report or document required by this subchapter may result in ineligibility for the tourism grant program for that grant program cycle, and/or grant payments may be suspended or rescinded.

1. The commissioner may bar a grantee from receiving a grant under this program for a period of up to two grant program cycles.

(f) The Commissioner, upon award of a grant, shall specify the terms of compliance for the grant to the grantee. The terms of such agreement shall include, but are not limited to, the following:

1. Any purchases made by the grantee in excess of \$1,000.00 shall be competitively bid. For purposes of this section, competitively bid means that a bid request for the item or service has been published in a public manner and at least three bids have been received.

2. No purchases made by the grantee for the project or event shall be made in a manner that provides exclusive contracting privileges to any one member or office of the grantee.

12A:12-3.10 Grant rejection or rescission

(a) Any grant rejected in whole or part by a grantee shall be returned to the general grant pool and shall be available to other applicants or to increase awards to other grantees.

(b) Any grant rescinded by the Commissioner for non-compliance by the grantee pursuant to N.J.A.C. 12A:12-3.9 shall be returned to the general grant fund and may be used for other applicants or to increase awards to other grantees.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL AMUSEMENT GAMES CONTROL BUREAU Amusement Games Control

Readoption with Amendments: N.J.A.C. 13:3-1, 2, 3, 4, 7

Adopted Amendments to Readoption: N.J.A.C.

13:3-1.1, 1.8, 1.13, 1.16, 2.3, 3.4, 3.5, 3.6, 3.7, 3.9, 4.3, 7.2 and 7.6

Proposed: March 21, 1988 at 20 N.J.R. 627(a).

Adopted: April 25, 1988 by John F. Vassallo, Jr., Director, Division of Alcoholic Beverage Control, and Amusement Games Control Commissioner.

Filed: April 25, 1988 as R.1988 d.227, **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. 5:8-79, 5:8-79.1, 5:8-85, 5:8-107.

Effective Date for Readoption: April 25, 1988.

Effective Date for Amendments: May 16, 1988.

Expiration Date: April 25, 1993.

Summary of Public Comments and Agency Responses:

A pre-proposal hearing was held January 20, 1988, and was summarized in the proposal at 20 N.J.R. 627(a). Subsequent to the proposal, the Commissioner elicited comment from interested groups and legislators. Seven legislators sent letters and all indicated that they either were in agreement with or had no comment about the proposals. The only other comments came from the New Jersey Amusement Association, which first met with the Commissioner and then submitted comments in writing, and from Kenneth J. Goich of Ken Dor Enterprises, Inc., an Amusement Game licensee. The New Jersey Amusement Association is the same organization whose members had testified at the pre-proposal hearing. The first five of the following comments were all contained in the comment letter received from the New Jersey Amusement Association. The last two of the comments are from Mr. Goich. Mr. Goich's letter also contained a similar comment to the first voiced by the New Jersey Amusement Association, and it touched on an aspect of the proposed N.J.A.C. 13:3-3.5(b), which is covered in the third of the following comments.

COMMENT: Regarding N.J.A.C. 13:3-3.4(b), the proposal for books of tickets redeemable for plays is seen as being fraught with potential problems. It was asserted that the typical amusement game transaction is spontaneous and completed at the time of play. Although multiple play discounts are a benefit to both the licensee and the customer, they are directed towards the plays taking place at the moment, while the ticket books would be directed towards longer play. The ticket books are seen as having tremendous potential for enforcement and control problems as well as redemption abuse. Moreover operators have indicated they do not want to use the books because of the problems they could create, but adoption of the amendment could force use of them by virtue of unknowledgeable operators making use of them.

RESPONSE: The Commissioner recognizes the validity of some of the concerns of the New Jersey Amusement Association. Since operators do not wish to make use of ticket books, the proposed amendment has not been adopted.

COMMENT: Regarding N.J.A.C. 13:3-3.5(d), two concerns were expressed. The New Jersey Association expressed an understanding that the proposal came about as a result of problems with some balloon dart games, and suggested that, rather than have an amendment, the offending operators should be dealt with or the certification of the balloon dart game addressed. The second concern was that it is difficult to purchase merchandise that fits the even increments proposed.

RESPONSE: The New Jersey Amusement Association is partially correct in the origin of the proposal, and its objections are well taken. The proposed amendment has not been adopted.

COMMENT: Regarding N.J.A.C. 13:3-3.5(b), the New Jersey Amusement Association suggested that the nature of "skilos" and "fascinations" is similar enough to that of an arcade that they should be allowed the ability to award prizes up to \$999.99. Multiple wheel games also should be allowed to do so, as well as some of the more typical wheels where multiple wins could be accumulated. Mr. Goich urged that the raising of the prize value only for arcades is absolutely discriminatory and openly and blatantly favors a certain specified group (arcades). He pointed out that since the inception of the Amusement Games Licensing Law in 1959, the prize limits have remained equal for all licensees and should remain that way now.

RESPONSE: When the amendment was proposed, it was intended to include all game "arcades" and it was an oversight not to include "skilos" and "fascinations", which are basically arcade-type games and are generally of a lasting nature. The adoption is being corrected to include "skilo" and "fascination" parlors and eliminate this oversight. As for wheels, whether they are multiple wheels or single wheels with multiple win accumulations, the Commissioner finds them to be more apt to change

either type of game or type of prize or that the prizes might not be available to the player who began accumulating wins at a prior visit or even in a prior session. The same holds true with other games. They simply do not have the stability that the arcades have. There is no discrimination since there is this fundamental and overriding difference. The higher value for prizes in the proposal is to enable a player to save tickets or tokens for better prizes if they are more frequent visitors to the Shore resorts, but at the same time to protect the players who do so accumulate tickets or tokens in that the prizes will in all likelihood remain available no matter how long they hold them before redeeming them. This is more certain in the case of arcades and "skilo" and "fascination" parlors than it is with other games.

COMMENT: Regarding N.J.A.C. 13:3-3.5(b)1, the language should be modified to reflect that it is intended to deal only with arcades, "fascinations" and "skilos".

RESPONSE: It was assumed that the context made it clear that the specific reference to no limit on the time for redemption of tokens or tickets applied only to arcades, and to "fascinations" and "skilos", which are of the same nature as arcades. Since the New Jersey Amusement Association has found it unclear, the proposal has been adopted with clarifying language as suggested in the comment.

COMMENT: Regarding N.J.A.C. 13:3-4.3, the reports of conduct would be much more accurate and timely if they were due by April 15, the same as tax returns. Requiring a filing prior to a time when a company's books can be expected to be fully in order produces unnecessary additional bookkeeping and creates a high potential for inaccuracy.

RESPONSE: The proposal intended to create a uniform date for the filing of reports, and it adopted the date in the existing regulation that was most generally applicable. It is recognized by the Commissioner that the January 15th date may be too soon after the end of the year. The filing date has therefore been changed to February 15 to allow more time, but also recognizing that the information required to be filed is much less than is required on a tax return.

COMMENT: Regarding N.J.A.C. 13:3-3.4, Mr. Goich expressed concern about the effect it may have on the game operators by their landlords, who might once again satisfy their appetites by increasing the rents to the game operator tenant. This, he points out, could trigger an increase in the price to play for the consumer which would slow down spending at the games and in turn cause a simultaneous reduction in sales tax revenues resulting eventually in forcing the individual game operator out of business.

RESPONSE: The Bureau has not been presented with any evidence that there is any correlation between prices charged and rents other than a common provision for a commercially reasonable percentage of gross that is permitted without having the landlord considered to have a prohibited interest in the Amusement Games license. There is also no evidence that the allowance for an increase in ceiling on the price to play will necessarily result in games going to those prices. In fact, there is evidence based on the prior permissible price increases that this will not happen. The proposal is designed to afford more versatility and to permit greater playing bargains for the consumer. The proposal specifically does not raise the single price to play from its present maximum, but only permits multiple plays at reduced prices.

COMMENT: Regarding N.J.A.C. 13:3-3.4(e), Mr. Goich commented that this section should be clarified as to which group games it would apply to, and that it should only apply to "skilo" and "fascination" type games. He pointed out that "group games" is all encompassing and would include water balloon race games, horse race games, etc. Including these games in a time period special would be counter-beneficial to the consumer.

RESPONSE: The Bureau does not understand how the inclusion of all the group games in the proposal to permit a charge not to exceed \$5.00 in order to continue play for a specified period of time would be counter-beneficial to the consumer. There is no reason not to extend this permission to all group games if an operator of such game wishes to utilize it. Likewise, there is no requirement that a group game operator offer such a limited time of play.

Summary of Changes between Proposal and Adoption:

As stated in the responses to the comments, the proposed amendments to N.J.A.C. 13:3-3.4(g) and N.J.A.C. 13:3-3.5(d) have not been adopted. N.J.A.C. 13:3-3.5(b) has been changed to include "skilo" and "fascination" games. Clarifying language has been added to N.J.A.C. 13:3-3.5(b)1 to make it clear that the restriction applies only to arcades, "skilos", and "fascinations". The date for the filing of reports of conduct of games has been changed from January 15 to February 15 in N.J.A.C. 13:3-4.3.

Additionally, in N.J.A.C. 13:3-3.5(a), the word "contraceptives" has been eliminated from the proposal where it was erroneously copied from a rejected draft proposal. In other sections, technical changes have been made to correct grammatical errors or to correct citations referenced.

Full text of the reoption can be found in the New Jersey Administrative Code at N.J.A.C. 13:3-1, 2, 3, 4, 7.

Full text of the adopted amendments to the reoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

13:3-1.1 Definitions: Location of games

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

"Arcade" means a place where a single player may play any one of a number of machines or devices, upon payment of a fee, to attempt to obtain a prize or tickets or tokens redeemable for a prize, or to attempt to attain a score or result upon the basis of which a prize, ticket or token is awarded.

"Recognized amusement park" means a commercially operated permanent business, open to the public at least 31 consecutive days annually, whose acreage is designed and themed for the primary purpose of providing participatory amusements incorporating rides or water slides licensed in accordance with N.J.S.A. 5:3-31, et seq., and food and merchandise concessions in permanent structures. Nothing in this definition shall prevent a license from being issued in any location which has had a license issued prior to (the effective date of this amendment).

"Resort" means a place providing recreation and entertainment especially to visitors.

"Seashore resort" means a "resort" as defined in this subsection that borders tidal waters.

(b) (No change in text.)

13:3-1.8 Separate license required for each game and premises

A separate license shall be issued for each specific kind of game authorized to be held, operated and conducted on the licensed premises by the licensee, and a separate license shall be issued for each place at which the licensee is authorized to hold, operate and conduct such game, except that a single license may be issued for all games classified under Certification No. 2 pursuant to N.J.A.C. 13:3-7.9(a)2 and operated in an arcade at a single location.

13:3-1.13 Municipal resolution to authorize licenses

(a) No license shall be issued in any municipality unless and until the issuance thereof has been authorized by a resolution duly adopted by the municipal governing body which resolution shall, among other things, specifically recite:

1. That the premises to be licensed are located in a recognized amusement park in the municipality; or

2. That the municipality is a seashore or other resort and that the premises to be licensed are located in an amusement or entertainment area in such resort according to the customary understanding of such terms in the municipality; or

3. That the municipality contains a place where an agricultural fair and exhibition is held by an association organized for the purpose of holding agricultural fairs and exhibitions which is approved by the State Department of Agriculture.

(b) (No change.)

13:3-1.16 Amendment to license; notice

(a) Any license may be amended, upon application to the municipal governing body, a copy of which application must be submitted to the Commissioner, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license, including amendments between all certifications, and upon payment of such additional license fee, if any, as would have been payable, if it had been so included.

(b) Notice of any such amendment shall be certified to the Commissioner by the municipal governing body within 10 days, along with a \$25.00 amendment fee, payable by the licensee to the Amusement Games Control Bureau.

ADOPTIONS

LAW AND PUBLIC SAFETY

13:3-2.3 Separate application and fee for specific games and separate premises

(a) A separate application shall be made, and separate fee paid, for each specific kind of game to be authorized to be held, operated and conducted by the applicant pursuant to municipal and State license and for each place at which the applicant seeks authorization to hold, operate and conduct such game or games, except that a single license may be issued for all games classified under Certification No. 2 pursuant to N.J.A.C. 13:3-7.9(a)2 and operated in an arcade at a single location.

13:3-3.4 Maximum fee for participation in game

(a) Except as set forth in this section*,* no licensee shall charge or accept, or allow, permit or suffer, directly or indirectly, the charging or accepting of more than \$1.00 from any one player or participant in any one amusement game for each single or multiple entry fee or payment for the privilege of participating in the game.

(b) The maximum charge for participation in any skill game certified in N.J.A.C. 13:3-7.9(a)1 under Certification No. 1 shall not exceed \$1.00 for any one game or play, except that a charge not to exceed \$2.00 may be made for multiple plays, the aggregate number of which must be greater than the sum of the plays available at the single play price.

(c) The maximum charge for participation in any game of chance certified in N.J.A.C. 13:3-7.9(a)5 or (a)9 under Certifications No. 5 or No. 9 shall not exceed \$1.00 for any one game or play, except that a charge not to exceed \$2.00 may be made for multiple chances, the aggregate number of which must be greater than the sum of the chances available at the single play price.

(d) The maximum charge for participation in any arcade game certified in N.J.A.C. 13:3-7.9(a)2 under Certification No. 2 shall not exceed the maximum charge specified in the original or amended certification, but in no event shall the amount exceed \$1.00, except that where a machine or device permits an enhanced mode of play when additional coins are inserted, and provided that the number of tickets or tokens awarded are at least proportionately increased, the maximum denomination coin shall not exceed \$0.25, and the cumulative total shall not exceed \$1.25 when the maximum number of coins are inserted. In establishing the maximum charge for an arcade machine or device, the Commissioner shall consider*,* but is not limited to, the following:

1. The type and nature of the machine or device;
2. The type of prize it is designed to award;
3. The number of coins required or permitted for play; and
4. The time required to complete a game or play.

(e) The maximum charge for participation in any group game certified in N.J.A.C. 13:3-7.9(a)4 under Certification No. 4 shall not exceed \$1.00 for any one game or play, except that an increased charge not to exceed \$5.00 may be made to allow play for a set period of time, provided that the number of games to be played within that period of time shall exceed the number of games or plays that would be played at the single game or play price.

(f) Upon receipt of currency greater than the charge for the game or play, the licensee must immediately remit the appropriate change to the player.

*{(g) Nothing in this section shall preclude a licensee from offering a ticket book with tickets good for a number of plays of a game, provided that:

1. The number of plays shall be greater than the number that would be available at the single game or play price;
2. The total cost of the ticket book shall not exceed \$10.00; and
3. A single game or play price not exceeding the limits set forth in (a) through (e) above is always available.]*

13:3-3.5 Types of prizes permitted; value of prize

(a) No licensee shall offer or give, directly or indirectly, any prize in any single amusement game except merchandise other than alcoholic beverages; drug or narcotic paraphernalia; obscene, indecent, filthy, lewd, lascivious or disgusting recordings, printings, writing, pictures or other matter*[: contraceptive]*; or weapons as defined in [N.J.A.C.]* *N.J.S.A.* 2C:39-1r.

(b) The retail value of such merchandise prize or prizes to be so offered and given in any such game *[of]* *or* for an accumulation

of wins from a series of games or plays shall not exceed an average retail value of \$500.00, except that the maximum average retail value of any prize which may be offered and given for accumulation of tickets or tokens in any arcade *or parlor* certified in N.J.A.C. 13:3-7.9(a)2 *or (a)4* under *[Certification]* *Certifications* No. 2 *or No. 4 ("Skilo" and "Fascination") only* shall not exceed \$999.99.

1. There shall be no limit on the time within which tokens or tickets must be redeemed*[:]* *in any arcade licensed pursuant to N.J.A.C. 13:3-7.9(a)2 under Certification No. 2, or in any "Skilo" and "Fascination" parlor licensed pursuant to N.J.A.C. 13:3-7.9(a)4 under Certification No. 4.*

2. The transfer of any arcade *or parlor* licensed and certified in N.J.A.C. 13:3-7.9(a)2 *or (a)4* under Certification *[No.]* *Nos.* 2 *or 4 ("Skilo" or "Fascination" only)* shall specifically provide that all tickets and tokens awarded by the transferor shall be honored by the transferee.

(c) All winners shall be determined and all prizes or non-transferable tickets or tokens that may be accumulated for a prize shall be awarded in any game forthwith upon the completion of the game and before making or accepting any charge for participation in any subsequent game or play.

{(d) The maximum number or prize levels for games certified in N.J.A.C. 13:3-7.9(a) under Certification Nos. 1, 3, 5, 6, 7, 8 and 9 shall not exceed five, as follows: small, medium, large, extra large and choice. There shall not be more than two steps for each prize level.]

*[1.]**(d)* Where *[such]* games *licensed and certified pursuant to N.J.A.C. 13:3-7.9(a)1, 3, 5, 6, 7, 8 or 9* are operated in conjunction with an arcade licensed *pursuant to N.J.A.C. 13:3-7.9(a)2 under* Certification No. 2, such arcade may also award as prizes tickets redeemable toward merchandise prizes available in the arcade, provided that the value of any single prize ticket shall not permit redemption for a prize valued in excess of an average retail value of \$500.00. Such tickets may be combined with tickets or tokens awarded in the arcade for redemption purposes.

13:3-3.6 Determination of value of prizes

(a) No licensee shall offer, give or display any prize on the licensed premises unless its average retail value is not in excess of the limits established in N.J.A.C. 13:3-3.5(b).

(b) (No change.)

13:3-3.7 Redemption of prize for cash

No licensee shall, directly or indirectly, redeem for money or for the playing of any additional game or games, any prize or ticket or token offered or given nor shall any licensee allow, permit, suffer or participate in such redemption.

13:3-3.9 Employees qualification, list

(a) No licensee shall employ in any capacity on the licensed premises any person who would fail to qualify as a licensee by reason of conviction of a crime or otherwise.

(b) A copy of an employee list shall be kept with each individual license. This list must contain the name and home and seasonal address of every person authorized to operate the licensed game, his date of birth, and the date of commencement and termination of employment. This list must be kept current.

(c) The licensee may require employees to complete an application or affidavit certifying the employee's eligibility for employment under the terms of this section.

13:3-4.3 Report of conduct of game by licensee

(a) Every licensee shall, not later than the 15th day of *[January]* *February*, file with the Commissioner a report of the conduct of games for the previous license year or period, in a form prescribed by the Commissioner.

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

13:3-7.2 Application for certification; contents; fee

(a) (No change.)

(b) Every application for certification shall be accompanied by a non-refundable fee of \$100.00 payable to the New Jersey Amusement Games Control Commissioner.

13:3-7.6 Cancellation of certification

(a) Any certification of permissibility may be cancelled and vacated or modified by the Commissioner in his sound discretion at any time, either specifically as to a particular license or licenses, or generally as to all licenses issued on the basis of the particular certification, whereupon such licenses as may be affected, shall, 30 days after the cancellation and vacation, no longer authorize the holding, operation or conduct of the game which was the subject of the certification, or shall authorize the holding, operating and conduct of the game only in such manner as accords with the modified certification in the event of its modification.

(b) Before any cancellation and vacation of a certification shall occur, any licensee operating a game, machine or device under such certification shall be given notice and afforded a reasonable opportunity to be heard by the Commissioner.

DIVISION OF CONSUMER AFFAIRS

(a)

BOARD OF COSMETOLOGY AND HAIRSTYLING

Adopted Repeal: N.J.A.C. 13:27A and 13:28

Adopted New Rule: N.J.A.C. 13:28

Proposed: February 16, 1988 at 20 N.J.R. 370(b).

Adopted: April 13, 1988, by Frances Gray, Chairperson, Board of Cosmetology and Hairstyling.

Filed: April 22, 1988 as R.1988 d.214, **without change**.

Authority: N.J.S.A. 45:5B-6.

Effective Date: May 16, 1988.

Expiration Date: May 16, 1993.

Summary of Public Comments and Agency Responses:

COMMENT: Two written comments relating to the proposed new rules were received during the comment period. Both letters oppose N.J.A.C. 13:28-2.5, which requires a minimum of 350 square feet for shops applying for initial licensure on or after December 4, 1985.

RESPONSE: The Board believes that this requirement is a reasonable and appropriate means of fulfilling its responsibility to the public. It should be noted that prior regulations did not allow the waiting area, dispensary and lavatory to be included in the calculation of the square footage requirement. Additionally, N.J.A.C. 13:28-2.5(e) gives the Board the discretion to grant a waiver of the square footage requirement for good cause shown, as long as cosmetology and hairstyling services will be provided in a safe and sanitary manner.

Full text of the adopted repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:27A and 13:28.

Full text of the adopted new rules follows.

CHAPTER 28

BOARD OF COSMETOLOGY AND HAIRSTYLING

SUBCHAPTER 1. PRACTICING LICENSES, APPLICATION AND EXAMINATIONS

13:28-1.1 Application for examination for licensure; acceptable documentation of credentials

(a) Applications for examination may be procured from the office of the Board of Cosmetology and Hairstyling.

(b) All applications must be accompanied by satisfactory proof of age. The following are deemed to constitute such proof:

1. Birth Certificate or Baptism Certificate;
2. Passport, citizenship papers, immigration certificate or Alien Registration Card;
3. A valid New Jersey driver's license; or
4. Any other document or affidavit which constitutes a valid proof of age.

(c) All applications must be accompanied by proof of satisfactory completion of high school or its equivalent. The following are deemed to constitute such proof:

1. A high school diploma or the equivalent thereof;

2. A certified High School transcript substantiating successful completion of a secondary program; or

3. Any other document or affidavit which constitutes reliable proof of educational attainment.

(d) All applications must be accompanied by satisfactory proof of the attainment of the requisite training in cosmetology and hairstyling.

1. Applicants obtaining their cosmetology and hairstyling training in another state or country must demonstrate, by way of certification from that state's or country's licensing authority that such training conforms substantially with the standards applicable to cosmetology and hairstyling schools in the State of New Jersey. Applicants holding a license from another state who have engaged in the practice of cosmetology and hairstyling for at least three years in that state, may submit, in lieu of documentation of cosmetology and hairstyling training, a notarized affidavit of work experience and a letter of certification of licensure by the State's board.

(e) Application for licensure as a teacher must be accompanied by satisfactory proof of the requisite work experience in the form of affidavits from former employers.

(f) All applications for licensure must be accompanied by the appropriate fee as set forth in N.J.A.C. 13:28-5.1.

13:28-1.2 Examination and reexaminations

(a) Applicants shall be subject to testing in all areas of cosmetology and hairstyling appropriate for the license sought, and such examination shall be in three parts: practical, oral and written.

(b) Applicants must receive a passing grade on each part of the examination to obtain a license.

(c) An applicant who fails one or more parts of the examination shall be reexamined only on the part(s) failed; provided, however, that an applicant for a cosmetology and hairstyling license pursuant to N.J.S.A. 45:5B-18 and 19 who fails one or more parts of the examination shall retake the complete examination.

(d) An applicant who fails the examination or fails to appear for an examination may be rescheduled for examination upon written notice to the Board. Payment of the initial fee shall entitle an applicant to be scheduled for no more than two examinations.

13:28-1.3 Temporary permits and student permits

(a) Upon the Board's acceptance of an application to sit for an examination, a temporary permit, which shall be valid for a period of 120 days, may be issued to an applicant.

(b) Upon application, the Board may issue a student permit to any student registered at a licensed New Jersey cosmetology and hairstyling school or enrolled in a New Jersey State approved high school or vocational program.

1. An application for a student permit shall be accompanied by the appropriate fee as set forth in N.J.A.C. 13:28-5, and a certification from the school that the student has completed 600 hours of cosmetology and hairstyling training.

13:28-1.4 Application for license to teach or practice cosmetology and hairstyling by persons holding both a barber license and a beauty culture license

(a) Any person holding both a New Jersey State barber license and a New Jersey State operator, manager-operator or beautician license may be issued a license to practice cosmetology and hairstyling upon notice to the Board and payment of the appropriate fee as set forth in N.J.A.C. 13:28-5.

(b) Any person holding both a New Jersey State barber license and a New Jersey state license to teach beauty culture may be issued a license to teach cosmetology and hairstyling upon application to the Board and payment of the appropriate fee as set forth in N.J.A.C. 13:28-5.

13:28-1.5 Lost licenses

Licensees may secure a duplicate replacement license upon payment of the required fee as set forth in N.J.A.C. 13:28-5 and submission of an affidavit indicating the circumstances under which the license initially issued was lost or destroyed.

ADOPTIONS

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SUBCHAPTER 2. SHOP LICENSES

13:28-2.1 Applications

(a) Applications for a shop license may be procured at the office of the Board.

(b) Where the application is for other than an individual proprietorship it must be accompanied by proof of the form of ownership of the shop. The following are deemed to be proof of the form of ownership:

1. Incorporation papers;
2. Partnership agreement; or
3. Any other document or affidavit which constitutes reliable proof of ownership.

(c) All applications must be accompanied by an acceptable floor plan.

(d) Upon receipt of an acceptable application and the requisite fee as provided in N.J.A.C. 13:28-5, the Board shall conduct an inspection of the premises. No shop shall be permitted to operate until the Board has reviewed the inspection report and issues a shop license.

13:28-2.2 Removal of a shop

(a) Prior to the removal of a shop to another address, the holder of a shop license shall notify the Board of his intention and make application for a new shop license pursuant to N.J.A.C. 13:28-2.1.

1. An acceptable application shall be received by the Board not less than three weeks prior to the intended opening date of the new shop.

2. No practice of cosmetology and hairstyling shall be done on the premises of the new shop until a shop license has been issued.

13:28-2.3 Transfer of ownership

(a) Upon a transfer of ownership the holder of a shop license shall, by letter, notify the Board of the transfer, providing the name and address of the new owner. The shop license shall be surrendered to the Board as soon as the transfer of ownership is complete.

(b) Prior to the completion of a transfer of ownership, the intended new owner shall apply for a new shop license pursuant to N.J.A.C. 13:28-2.1.

13:28-2.4 Renewal of shop license

(a) The holder of a shop license shall submit an application for renewal of that license prior to the expiration of the current license.

(b) The Board, in its discretion, may renew shop licenses within 90 days from the date of expiration.

(c) The Board will not renew a shop license if the application for renewal is submitted more than 90 days after the date of expiration. In such cases the shop owner shall be required to make application for an initial shop license pursuant to N.J.A.C. 13:28-2.1.

(d) Notwithstanding the Board's renewal or restoration of an expired license, the Board may initiate whatever penalty action it may deem appropriate for the operator of a shop without a valid license.

13:28-2.5 Physical requirements for shops applying for initial shop license on or after December 4, 1985

(a) All licensed premises shall contain not less than 350 square feet of space. An additional 50 square feet of space shall be provided for every work station in excess of two.

(b) Each shop shall contain at least one lavatory. Lavatories shall include a toilet, hand washing facilities and a door.

(c) All shops must contain the following:

1. At least one shampoo basin with hot and cold running water and a reclining chair;
2. A dry sterilizer for each work station;
3. A wet sterilizer for each work station;
4. A closed container for clean linens;
5. A closed container for soiled linens;
6. Hair drying facilities;
7. A dispensary or place where supplies are prepared and dispensed; and
8. Such other equipment as is necessary to provide those services offered by the shop in a safe and sanitary manner.

(d) Shops shall display a permanent sign indicating the name of the shop, which shall be clearly visible to the general public from the exterior of the shop.

(e) Where application is made to issue a new shop license for premises that had been licensed by the former Board of Barber Examiners or the former Board of Beauty Culture Control, and the shop premises do not meet the minimum requirements of this section, the Board may, in its discretion, waive one or more of the requirements of this section for good cause shown. Such waiver will not be granted where the failure to meet minimum requirements may result in the inability of the shop owner to provide cosmetology and hairstyling services in a safe and sanitary manner.

13:28-2.6 Shops within residential premises

(a) No portion of a licensed shop shall be used as a portion of a private residence.

(b) Entrances to shops located within private residences must permit patrons to enter the shop directly, without requiring passage through any portion of the residence.

13:28-2.7 Leasing space prohibited

No holder of a shop license shall lease or sublease space or provide space on the licensed premises to a non-employee for the purpose of providing cosmetology and hairstyling services or ancillary services as part of a separate business to be conducted by the non-employee. Practices commonly known as chair rentals or booth rentals are prohibited by this section.

13:28-2.8 Sale of merchandise

The holder of a shop license may permit the sale of merchandise within licensed premises, provided that space allocated for such sales is in addition to the space required by N.J.A.C. 13:28-2.5.

13:28-2.9 Ancillary services

(a) The holder of a shop license may offer ancillary services related to the beautification of the body or the enhancement of personal appearance, but not included in the definition of cosmetology and hairstyling, on the licensed premises, provided that these services are performed in a safe and sanitary manner by personnel who are adequately trained to render such services, and that the space allocated for such services is in addition to the space required by N.J.A.C. 13:28-2.5.

(b) If electrolysis for the removal of superfluous hair is offered, it must be performed by an electrologist who has completed either a course or program of training in electrolysis approved by the New Jersey State Department of Education or another course or program of training in electrolysis substantially equivalent to a course or program approved by the New Jersey Department of Education.

(c) If tanning booths or tanning beds are utilized, they must be operated by an individual who is appropriately trained in the use of the tanning equipment. Manufacturer's instructions concerning the use and limitations on the use of the tanning equipment must be scrupulously followed.

1. Appropriate warnings concerning possible hazards from over-exposure to ultraviolet radiation must be posted in plain sight near the equipment and clients using the equipment must be verbally informed of such possible hazards.

13:28-2.10 Posting of licenses and required notices

(a) All shops shall display the following in a location clearly visible to all patrons:

1. The shop license;
2. Licenses for all practitioners rendering services within the shop. Each license shall contain a current picture of the licensee;
3. A listing of all services performed and the charges for each service; and
4. The following notice:

NOTICE

This shop and the operators herein are licensed to engage in the practice of cosmetology and hairstyling by the State Board of Cosmetology and Hairstyling, an agency of the New Jersey Division of Consumer Affairs. Any member of the consuming public having a complaint concerning the manner in which this practice is conducted may notify the State Board of Cosmetology and Hairstyling at 1100 Raymond Boulevard, Newark, New Jersey 07102, or the New Jersey Division of Consumer Affairs, 1100 Raymond Boulevard, Newark, New Jersey 07102.

13:28-2.11 Supervision of shops and absence of experienced practicing licensee

(a) Each shop shall ensure that there is at least one experienced practicing licensee present to generally oversee the management of the shop. The experienced practicing licensee shall either:

1. Hold a beautician, barber or cosmetologist-hairstylist license and have three years of experience as a beautician, barber or cosmetologist; or
2. Hold a beautician or cosmetologist-hairstylist license and have been issued a manager-operator license by the Board of Beauty Culture Control.

(b) A shop which satisfies the requirements of (a) above by employing a practicing licensee who holds a barber license shall be prohibited from employing senior students unless the shop employs a practicing licensee who holds a license as a beautician or a cosmetologist-hairstylist and has at least three years of experience as a beautician or a cosmetologist-hairstylist, who shall supervise the rendering of cosmetological services by the senior students.

(c) A letter of permission shall be issued by the Board to allow a shop owner to operate his licensed shop for one day per week without the services of an experienced practicing licensee.

1. The shop owner shall furnish the Board with the name and license number of a New Jersey licensee, who has been licensed in the State for at least one year, who will be in charge of the licensed shop in the absence of the experienced practicing licensee.

2. This subsection is intended specifically to allow continuous operation of the licensed shop on the experienced practicing licensee's regularly scheduled day off. The day of the week must remain consistent. If the licensed shop owner desires to change his licensee-in-charge or experienced practicing licensee's day off, he must request a new letter of permission. The Board requires 30 days notice prior to approving any change.

(d) A letter of permission will be issued by the board to allow a shop owner to operate his licensed shop for a period of two weeks without the services of an experienced practicing licensee.

1. The shop owner shall furnish the Board with the name and license number of a New Jersey licensee, who has been licensed in the State for at least one year who will be in charge of the licensed shop in the absence of the experienced practicing licensee.

2. This subsection is intended specifically to allow continuous operation of the licensed shop during the experienced practicing licensee's vacation period. The Board will require 30 days notice before any vacation period will be approved.

3. No more than two vacation periods per year will be approved for a given shop.

SUBCHAPTER 3. SAFETY AND SANITATION

13:28-3.1 Premises

(a) All licensed shops, including lavatories therein, shall be properly lighted and ventilated.

(b) All licensed shops shall have an adequate supply of potable water.

(c) All licensed shops shall dispose of wastes in a manner which shall not pose a public health hazard.

(d) All licensed shops and the furniture, fixtures, equipment and supply cabinets therein shall be maintained in a sanitary manner and in good repair. Floors shall be thoroughly cleaned daily.

(e) All tools, implements and electrical appliances used within a licensed shop shall be maintained in a sanitary and safe manner. Tools and utensils applied directly to patrons shall be thoroughly cleaned and sanitized after each and every use.

(f) All linens and toweling used within a licensed shop shall be laundered and sanitized before each and every direct contact with a patron. In lieu of laundered and sanitized linens, disposable toweling may be used.

13:28-3.2 Personnel

(a) All practitioners shall wash their hands before and after serving each patron.

(b) All practitioners shall be attired in clean clothes.

(c) No practitioner shall serve a patron if the practitioner has a communicable disease which may be transmitted to patrons in the normal course of rendering cosmetological services.

(d) No practitioner shall serve a patron whom the practitioner knows or has reasonable grounds to believe has a communicable disease which may be transmitted in the normal course of rendering cosmetological services.

(e) All practitioners shall utilize safe practice techniques and follow manufacturers' instructions when utilizing any chemical preparations in the rendering of cosmetology and hairstyling services.

(f) No practitioner or patron shall smoke while services are being performed.

SUBCHAPTER 4. ENFORCEMENT

13:28-4.1 Inspection of premises

Any premises where it appears that cosmetology and hairstyling services have been or are being rendered shall be subject to inspection by the Board or its representative.

13:28-4.2 Compliance with statutes and rules

Any individual rendering cosmetology and hairstyling services shall be in compliance with all pertinent statutes and rules.

13:28-4.3 Responsibility for compliance with laws

The holder of a shop license, as well as the shop's supervisor, shall be responsible for compliance with all of the laws relating to the operation of the premises at which cosmetology and hairstyling services are rendered. Operators as well as supervisors shall be responsible for compliance with all the laws relating to the practice of cosmetology and hairstyling.

SUBCHAPTER 5. FEES

13:28-5.1 Fee schedule

(a) The following fees will be charged by the Board:

- | | |
|---|------------------------------|
| 1. Initial shop license—(one year): | \$ 35.00 |
| 2. Biennial shop license—renewal: | \$ 50.00 |
| 3. Examination fee for practicing & teacher licenses: | \$ 20.00 |
| 4. Biennial barber license—renewal: | \$ 20.00 |
| 5. Biennial beautician license—renewal: | \$ 20.00 |
| 6. Biennial cosmetologist hairstylist license—
license renewal | \$ 20.00 |
| 7. Biennial manicurist license—renewal: | \$ 20.00 |
| 8. Biennial teacher license—renewal: | \$ 20.00 |
| 9. Restoration fee for lapsed practicing &
teaching licenses: | \$20.00 plus
license fee |
| 10. Duplicate license: | \$ 5.00 |
| 11. Initial school license (one year): | \$100.00 |
| 12. Biennial school license—renewal: | \$100.00 |
| 13. Endorsement: | \$ 50.00 plus
license fee |
| 14. Student registration card: | \$ 3.00 |
| 15. Student permit: | \$ 3.00 |
| 16. Temporary permit: | \$ 15.00 |

SUBCHAPTER 6. SCHOOLS OF COSMETOLOGY AND HAIRSTYLING

13:28-6.1 Compliance with law

Licensed schools shall comply with the Cosmetology and Hairstyling Laws of the State and these rules. Any school violating any provision of this chapter shall be subject to disciplinary action by the Board. A notice of proposed suspension or revocation of a license shall inform the licensee of the right to a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

13:28-6.2 Application procedure for school licenses

(a) When a request is received by the Board for information regarding initial licensure of a school, an application, bond forms, a school bulletin and an evaluation criteria work sheet will be forwarded to the individual requesting the information along with a copy of the school rules and regulations.

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(b) Upon receipt of a completed application the School Committee shall review the application. A complete application shall include: a school bond; school bulletin; a certificate of incorporation or partnership agreement where applicable; personnel data form(s); floor plan; employment contract (one year minimum) with the supervising teacher; hour by hour breakdown of the 1,200 hour course; a sample enrollment agreement (contract); sample certificate of completion; sample advertisements; certified-audited financial data; and the required licensing fee as set forth in N.J.A.C. 13:28-5.1.

(c) Upon approval of the initial application by the School Committee, the prospective owner(s) and the supervising teacher shall appear before the full Board for an interview. Upon completion of the interview, the Board will approve or disapprove the application.

1. If the application is approved, approval will be granted subject to the completion of a satisfactory school inspection and satisfaction of all minimum square footage and equipment requirements as set forth in N.J.A.C. 13:28-6.7(a) and 13:28-6.20(b).

(d) Upon approval of the initial application for school licensure and satisfactory completion of the school inspection, an initial cosmetology and hairstyling school license shall be issued for the current registration period.

13:28-6.3 Student registration

Students shall not be registered at a school until such time as that school has been licensed.

13:28-6.4 Name of school; advertisements; signs

(a) School advertisements shall set forth the name and address of the school as it appears on the license for that school.

(b) False or misleading statements in school advertisements or any statement appearing in school advertisements endeavoring to influence the public to enroll in the school through the use of the name "State Board of Cosmetology and Hairstyling", other than advertising that the school is licensed and governed by the rules of the Board, are prohibited.

(c) Each school shall display, at the main entrance, a sign indicating that the establishment is a school of cosmetology and hairstyling.

(d) A private school of cosmetology and hairstyling should exercise great care in the selection of the name of school.

1. No new or modified school name shall infringe on the name of another existing school.

(e) No school, proposed or previously licensed, shall adopt any title or name commonly accepted as descriptive of collegiate or university institutions.

(f) No new or modified school name shall contain any word or phrase referencing a political subdivision, geographical area, the State of New Jersey, county of location, or municipality closely associated with the location of the school.

13:28-6.5 School shops

Schools of cosmetology and hairstyling are prohibited from operating shops in conjunction with, or as a part of, the school administration.

13:28-6.6 Separate entrance for shop located on school premises

Where any person, organization, corporation, association or partnership has any interest in both a licensed school and a licensed shop and both operations are conducted on the same premises the licensed school and the licensed shop shall have separate and distinct entrances.

13:28-6.7 Size of schools; number of students

(a) Each school shall have at least 2,500 square feet of floor space, consisting of at least 500 square feet for offices, reception area and locker space separate and apart from the lavatories, and at least 2,000 square feet for working space.

1. The number of students in the first 2,000 square feet of working space is limited to 100 students.

2. For every student thereafter there shall be 20 square feet of floor space per student.

(b) The Board shall make a survey to determine the maximum number of students that any school may have in attendance. In determining this maximum number, the Board shall apply the formula set forth in (a) above.

(c) No school shall be permitted under any circumstances to have in attendance any student beyond the maximum number approved.

13:28-6.8 Student registration cards

(a) A request shall be submitted by the school to the Board for a student registration card.

1. This request shall be submitted on application forms to be provided by the Board. The application shall contain a declaration of the student's assigned class schedule as approved by the school director. Any change of the student's assigned class schedule shall be reported to the Board in writing.

2. Upon completion of the form in (a)1 above, the form shall be returned to the Board together with a photograph for each student, measuring 1½ inches by 1¾ inches, and proof of the student's legal name, date of birth and the required fee.

3. All costs of submission of this application form shall be paid by the student.

(b) A student registration card is valid from the date of issue until the particular student's education is completed in the course in which the student is enrolled, as long as the student is not absent from school for period of more than three months.

1. In instances where absences exceed three months, the student shall be dropped from the school's time sheets and must obtain a new registration card in order to resume training.

(c) The school shall submit applications for student registration cards at least two weeks in advance of the authorized monthly starting date.

1. In instances where this is not possible and a registration card is not received prior to the monthly starting date, a school may allow a student to attend classes, provided that an application for a student registration card has been submitted to the Board office on or before the authorized monthly starting date. No student shall be permitted to continue to attend classes in this manner for more than 30 days. If, for any reason, the student registration card is not issued during that period, the student's training shall be discontinued until a registration card is issued.

13:28-6.9 Non-English speaking student enrollment

(a) A licensed school shall evaluate each non-English speaking student to determine whether such student is likely to succeed in the intended course of study. Upon such determination being made, the school may enroll the non-English speaking student.

(b) The Board approved enrollment agreement and application for student registration must specify the language in which the course will be offered.

1. The licensed school shall submit the text of the enrollment agreement to the Board for approval before the school may require students to sign the enrollment agreement.

2. The enrollment agreement shall be printed in the language in which the course will be offered and the student shall be provided with a copy of it.

(c) Schools offering courses in languages other than English shall employ an appropriately licensed teacher who is fluent in the English language and in the language in which the course is offered. The school's records shall contain evidence that the teacher is sufficiently qualified to adequately provide instruction in the non-English language.

(d) Instruction materials, for example, textbooks, and demonstration materials, shall be printed in the language in which the course will be offered.

(e) Final testing and periodic examinations required to be taken by the non-English speaking student shall be given in that particular student's language.

13:28-6.10 Commencement of classes

School classes shall commence on the first Monday of each month, provided, however, that if a holiday falls on the first Monday, school classes shall commence on the first working day following the holiday.

13:28-6.11 School credits by hour

(a) School hour credits shall not be granted for more than 40 hours of regularly scheduled class time in any calendar week.

(b) A student may be given credit for up to eight hours of make-up classes in excess of his or her regularly scheduled classes where such make-up time is necessary because of absence of the student from his or her regularly scheduled classes.

1. Each school shall submit a schedule of day or night make-up hours to be approved by the Board.

13:28-6.12 Training schedules

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

1. "Full-time student" means a student who regularly attends classes more than 20 hours a week, Monday through Friday inclusive.

2. "Part-time student" means a student who regularly attends classes 20 hours or less per week, Monday through Friday inclusive.

(b) Any part-time student may attend classes on Saturday upon approval by the school director.

(c) Any student who is absent from a regularly scheduled class may attend a designated make-up class upon approval by the school director, provided that the total class hours for any week shall not exceed 48.

13:28-6.13 School schedules

(a) Each school shall submit a schedule of proposed classes including hours of instruction to be taught during the school year. This schedule must be approved by the Board prior to implementation.

1. Board approval will not be granted for school class sessions of less than three hours daily.

2. A copy of the approved schedule of classes shall be kept on the school premises at all times.

(b) The Board shall be advised one month in advance of any proposed change in the schedule of classes.

13:28-6.14 Smoking in schools

Schools shall not permit smoking by students or teachers in classrooms or clinics.

13:28-6.15 School records

(a) Each school shall maintain a register of all students and check students' attendance twice daily.

(b) Each school shall keep a detailed record of students' attendance at classes and subjects taught at these classes.

(c) All school records relating to students shall be maintained for a period of five years. All records shall be maintained in a manner and condition subject to convenient inspection by inspectors or members of the State Board.

(d) Uniform student sign-in sheets shall be kept on a daily basis and shall be retained on the school premises at all times.

1. Uniform time sheets of daily attendance records for each student shall be forwarded to the office of the Board at the end of each month.

(e) School rules and regulations and copies of current cosmetology and hairstyling laws and rules of the State of New Jersey shall be maintained by each school in a location readily accessible to the students and management.

13:28-6.16 Other trades; demonstrations

(a) Trades or professions other than the teaching of cosmetology and hairstyling shall not be practiced on the premises of a licensed school.

(b) A school shall not rent space for demonstrations to outside companies, individuals, corporations, associations, partnerships or other entities unless such space is in excess of the required minimum footage for school premises pursuant to N.J.A.C. 13:28-6.7. Demonstrations shall not conflict with the regular school operation and may only be conducted after Board approval.

13:28-6.17 Transfer of school business, relocation, renewal

(a) When a duly licensed school moves to a new location or undergoes a transfer of ownership, the school shall give notice to the Board as soon as practicable, pursuant to N.J.S.A. 45:5B-36, and shall submit an initial application for licensure.

(b) In the case of a move or transfer in (a) above, the Board may waive any provisions of this subchapter relating to the initial application for licensure of schools which the board in its discretion deems

to be unduly burdensome under the circumstances of the particular move or transfer. The Board may permit the new school to operate pending completion of the application process.

13:28-6.18 Supervising teacher

A proposed new school shall supply the Board with satisfactory evidence, in the form of a one-year employment contract, of employment of a supervising teacher prior to final approval of its application by the Board.

13:28-6.19 Branch schools licensed separately

All premises used as a licensed school, including each and every branch school, must be licensed separately.

13:28-6.20 Equipment

(a) Each school shall possess and operate equipment adequate and sufficient for the courses of instruction administered. This equipment shall be modern, installed in accordance with standard building codes or safety regulations and operated in conformity with standard safety regulations.

(b) The minimum equipment required for schools shall be as follows:

1. Six shampoo bowls in good running condition;
2. One straightening apparatus;
3. One marcel stove;
4. Six manicure tables;
5. Six hair dryers;
6. One container for liquid sterile solution for each manicure table;
7. Four dry sterilizers;
8. Four wet sterilizers;
9. Six canvas-blocks;
10. One practice manikin per student;
11. One facial chair and one barber chair;
12. A latherizer, one hone, one strap and electric clippers;
13. Two steamers or heat caps;
14. One student locker for each pupil with provisions for security of students' equipment in the locker rooms;
15. Separate lavatories for men and women with toilets and with sinks having hot and cold running water; and
16. One teachers' rest room for schools having three or more teachers.

(c) Each school shall supply each student with the following tools: two hair brushes, combs, 100 clips, cape, razor, shears, cold wave rods, end papers, rollers, hair dye brush, swab or applicator bottle, straightening combs, marcel iron and text book. Manicuring students shall be supplied with kits having a pusher, files, emery boards, nipper, nail brush, orange wood stick, spatula and tweezers. Student kits are to be inspected by teachers and kept in sanitary condition.

(d) Each school shall have a sufficient supply of working places, chairs, mirrors, shelves, facilities, blackboards and charts as required for students who take notes on lectures.

(e) Each school shall have separate, closed cabinets for supplies as follows:

1. At least two closed containers for soiled linens;
2. At least three closed containers for all waste materials;
3. Sufficient supply of properly labeled lotion containers with tops or covers.

(f) Each school shall have separate lecture rooms for junior and senior students.

(g) Each school shall provide furnishings and supplies sufficient to accommodate and properly teach its students.

(h) Any equipment which may be hazardous to operate shall be used by a student only when there is a licensed teacher in the room.

(i) Each school shall install a bulletin board in a location which is readily accessible to all persons. All notices and school rules and curricula shall be posted on the bulletin board.

13:28-6.21 Student standards and requirements

(a) An application for student registration and all training courses administered by licensed schools shall be accompanied by proof, by affidavit or otherwise, that the particular student has been informed that he or she must meet the minimum requirements for admission to licensing examination and that an examination must be taken and

ADOPTIONS**LAW AND PUBLIC SAFETY**

successfully completed. A copy of this notification must be retained in the student personnel file.

(b) Students and teachers shall be attired in washable clean coverall outer garments during attendance at school.

(c) Junior and senior students, and those enrolled in a teacher training course, shall be designated by the following forms of identification:

1. Junior students: white uniform;
 2. Senior students: a uniform of one color other than white to be designated by the school;
 3. Teacher training and all others: identification badge.
- (d) Junior and senior students shall be distinguished as follows:
1. Junior students are those students who have completed less than 600 hours of their courses in cosmetology and hairstyling;
 2. Senior students are those students who have completed 600 hours or more of their courses in cosmetology and hairstyling;
 3. Junior manicuring students are those students who have not yet completed the first 100 hours of their course in manicuring;
 4. Senior manicuring students are those students who have completed 100 hours of their course in manicuring.

(e) Upon filing and acceptance by the Board of applications for permission to enroll in a teacher training course, student registration cards will be issued by the Board. Students taking teacher courses shall comply with all Board rules of the particular school.

(f) Each student shall sign the register each time he or she enters and leaves the school.

(g) Any student who is more than ten minutes late for class shall be penalized one hour unless the tardiness is due to an emergency condition as explained by the student, in writing, at the time of his or her attendance at that class.

(h) Failure of any student to observe school rules and regulations shall be considered sufficient justification for expulsion. A student who is expelled may request a hearing before the Board. Where good cause is demonstrated, a hearing may be scheduled.

(i) A school shall notify the Board of all students whose training may be interrupted or terminated prior to graduation.

(j) Upon a student's completion of the curriculum and his or her graduation, the school shall certify this information to the Board and shall make such notation on the monthly time sheets submitted by the school.

(k) Failure of a school or student to comply with any provision of N.J.A.C. 13:28-6.21 may result in the Board's refusal to recognize credit hours claimed by or for a student and disqualify that student for examination by the Board.

(l) A student who desires to transfer to another school shall notify the Board of his or her intention at least two weeks in advance of the proposed transfer.

1. Upon application for a transfer, the new school shall conduct an evaluation to determine the number of hours for which the student may be credited and advise the Board of the results of the evaluation.

2. Credit hours for cosmetology and hairstyling training in out-of-state schools will be granted if such schools are approved by the Board.

(m) The school to which the student transfers shall submit to the Board an application for a new student registration number.

(n) Any student who is absent from school over a period of three months shall automatically be dropped from the monthly time sheets.

1. A student requesting reinstatement shall be re-registered in accordance with N.J.A.C. 13:28-6.8.

2. The school may petition the Board for an adjustment with respect to credit hours to which a student may be entitled upon reinstatement.

3. No credit of hours will be given to any student who is absent from school for a period of five years or more.

(o) Examinations shall be administered by the school to the student at least 50 hours prior to completion of his or her course in accordance with the standard procedures followed by public educational institutions in the State in all courses of instruction. The examination shall be written, practical and oral.

(p) All students shall complete a course of study consisting of 1,200 hours in conformance with the curriculum adopted by the Board.

(q) All students who successfully meet the requirements of this section shall be issued a diploma by the school.

13:28-6.22 Application submission by schools

The school shall submit applications for each student for examination within 30 days after the student's completion of 1,200 hours of course study. Each application must be accompanied by two recent photographs, a copy of a high school or equivalency diploma and the appropriate fees pursuant to 13:28-5.1.

13:28-6.23 Number of teachers employed; teacher restrictions

(a) The number of teachers a school shall employ shall be determined in the following manner:

1. A minimum of two licensed teachers per school;
2. Three teachers for a school attendance of 51 but not exceeding 75 students;
3. An additional teacher shall be required for every group of 25 students enrolled in excess of 75 students.

(b) Teachers shall devote their entire time during school hours to the proper instruction of students and shall not engage in private or public practice of cosmetology and hairstyling during school hours. Teachers licensed by the Board shall be in constant attendance at all classes conducted by licensed schools.

(c) A substitute teacher licensed by the Board shall be in attendance when a regular teacher is absent.

(d) A teacher shall immediately inform the Board in writing of the termination or interruption of services performed by him or her for a school.

13:28-6.24 Employment of licensed teachers

(a) A school shall permit only a licensed teacher or a registered student teacher to teach its students; provided, however, a demonstrator may demonstrate new processes, preparations and appliances to a class of school students if such demonstration is supervised by a licensed teacher at the school.

(b) Each school shall employ a teacher supervisor who has been a licensed teacher actively teaching for a period of two years who will be responsible for the conduct of the teaching staff and students.

(c) Each school shall submit a list of its teachers and registered student teachers to the Board and advise the Board in writing immediately of changes in its teaching staff.

13:28-6.25 Refresher courses

(a) Refresher courses shall be administered only to a person who holds or once held a practitioner's license which he or she has allowed to lapse and who desires to prepare for an examination.

(b) The school shall forward applications for registration cards to the Board for all persons desiring to enroll in refresher courses.

(c) A student permitted by the Board to enroll in refresher courses shall comply with that particular school's rules and with the rules of the Board.

(d) Credit will not be given by the Board for refresher courses of less than 250 hours.

13:28-6.26 Postgraduate courses

(a) Postgraduate courses shall be administered only to persons who presently hold a current practitioner's license, or to persons who have completed 1,200 hours of training and were graduated but have not obtained their license and desire to obtain advanced education in the practice of cosmetology and hairstyling.

(b) The school shall forward applications for student registration cards to the Board for all persons desiring to enroll in postgraduate courses.

(c) A student permitted by the Board to enroll in postgraduate courses shall comply with that particular school's rules and with the rules of the Board.

(d) Credit will not be given by the Board for postgraduate courses of less than 250 hours.

13:28-6.27 Clinical work prerequisites and limitations

(a) Any school performing clinical work shall display in a conspicuous place in the waiting room and senior room a sign readily visible and legible, stating: **SERVICES DONE HERE BY SENIOR STUDENTS ONLY**. This sign shall be in letters at least one inch high.

(b) A school shall not permit its students to practice cosmetology and hairstyling on the public under any circumstances except by way of clinical work performed upon persons willing to submit themselves to such practice.

(c) Before clinical work may be performed, the person to receive cosmetology and hairstyling services shall be advised by the teacher in charge that the operator is a senior student.

(d) Theory shall be taught in every subject before a senior student may be permitted to perform clinical services upon any subject or model.

(e) Clinical services may be performed upon the general public during the hours of school training daily from Monday to Saturday inclusive by senior cosmetology students and senior manicuring students only.

(f) Senior students shall be prohibited from distributing appointment cards and soliciting or making appointments for services to patrons during school hours.

(g) The instructor shall at all times be responsible for assigning subjects or models to the senior student.

(h) Teachers shall not perform or complete any one or a series of services or receive compensation for services on patrons in school clinics.

(i) Truthful, non-deceptive school advertisements for clinic patrons upon whom cosmetology and hairstyling services may be performed are permitted, provided however, that all such advertisements must clearly inform the prospective clinic client that the advertised services are to be performed by senior students under the supervision of licensed teachers.

(j) Fees shall not be accepted from any person who acts as the subject or model for the purpose of a demonstration in school classes or clinics.

(k) The school shall keep records or slips showing the number of cosmetology and hairstyling treatments or operations of clinical work by senior students. These records or slips shall be maintained and kept by the school on its premises as part of its official records.

(l) Clinic hours may be determined by the school; provided, however, that at least one hour of classroom instruction for full-time students and one half hour of classroom instruction for part-time students must be scheduled for each day in addition to any scheduled clinic practice for such students.

13:28-6.28 Curriculum for 500-hour course for barbers who wish to obtain a cosmetology-hairstyling license

TIME DISTRIBUTION FOR INSTRUCTION UNITS AND CLINICAL PRACTICE:

	Hours of Class and Subject Related Instruction	Hours of Practical Instruction	Total
Make-up, Depilatory, Eyebrow Arching	15	45	60
Roller Control, Pin Curls Fingerwaving, Back Combing	50	90	140
Bleaching including Frosting, Tipping & Streaks	50	70	120
Permanent Waving	50	80	130
Manicuring & Pedicuring	15	35	50
TOTAL	<u>180</u>	<u>320</u>	<u>500</u>

13:28-6.29 Curriculum for 1200 hour cosmetology and hairstyling course

TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND CLINICAL PRACTICE:

	Hours of Class and Subject Related Instruction	Hours of Practical Instruction	Total
State Laws, Rules & Regulations for Cosmetology & Hairstyling Administrative Shop Operations	10	0	10
Sanitation & Sterilization	3	7	10
Facials & Massage Skin Care, Make-up, Depilatory, Eyebrow Arching, Shaving	30	70	100
Shampooing—including Temporary & Semi-Permanent Rinses	25	45	70
Hair and Scalp treatments, reconditioning treatments	15	40	55
Hair & Basic layer & Cap Cut—Razor, Scissors, Thinning Shears, Tapering	40	130	170
Hairstyling—including Pin Curls, Fingerwaving, & Blow Waving	30	150	180
Hair Tinting & Bleaching including Frosting, Tipping & Streaks	35	110	145
Permanent Waving	30	100	130
Chemical Relaxing & Pressing	30	60	90
Thermal Curling & Waving	15	45	60
Manicuring & Pedicure	50	100	150
Chemistry Relating to Cosmetology	30	0	30
TOTAL	<u>343</u>	<u>857</u>	<u>1200</u>

13:28-6.30 Curriculum for 25 hour shaving course for beauticians who wish to obtain a cosmetology-hairstyling license

TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND CLINICAL PRACTICE

	Theory	Practical	Total
Shaving Course Outline:	10	15	25

13:28-6.31 Curriculum for 500 hour course for student teachers

TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND CLINICAL PRACTICE

	Hours of Class and Subject Related Instruction	Hours of Practical Instruction	Total
State, laws, rules & Regulations for cosmetology & Hairstyling Administrative Shop Operations	5	0	5
Sanitation & Sterilization	5	0	5
Facials, Massage, Skin Care, Make-up, Depilatory, Eyebrow Arching, Shaving	15	15	30
Shampooing—including Temporary & Semi-Permanent Rinses	10	10	20
Hair and Scalp Treatments, Reconditioning Treatments	10	10	20

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Hair & Basic Layer & cap cut—razor, scissors, thinning shears, tapering	20	30	50
Hairstyling—Including Pin Curls, Fingerwaving & Blow Waving	20	30	50
Hair Tinting & Bleaching including Frosting, Tipping & Streaks	20	20	40
Permanent Waving	20	20	40
Chemical Relaxing & Pressing	15	25	40
Thermal Curling & Waving			
Manicuring & Pedicuring	20	20	40
Chemistry Relating to Cosmetology	10	0	10
Teaching Methods	50	100	150
TOTAL	<u>220</u>	<u>280</u>	<u>500</u>

13:28-6.32 Curriculum for Board administered and approved teacher shaving course

TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND CLINICAL PRACTICE

	Theory	Practical	Total
Shaving Course Outline:	10	15	25

13:28-6.33 Bond for schools of cosmetology and hairstyling
 (a) Each school of cosmetology and hairstyling licensed by the Board shall post a bond in favor of the State in an amount to be determined as follows:

1. Schools with an average weekly enrollment of 1 to 20 students \$10,000
2. Schools with an average weekly enrollment of 21 to 75 students \$15,000
3. Schools with an average weekly enrollment of over 75 students \$20,000

13:28-6.34 Eligibility for a teacher's license for applicants enrolled in a teacher's training course prior to December 4, 1985
 Any applicant for a teacher's license who was enrolled in a 1500-hour teacher training course prior to December 4, 1985 may apply for examination for a teacher's license at any time after December 4, 1985 provided that the applicant has completed 500 hours of acceptable teacher training pursuant to N.J.A.C. 13:28-6.31.

(a)

**BOARD OF MARRIAGE COUNSELOR EXAMINERS
 Temporary Permit Holders**

Adopted Amendment: N.J.A.C. 13:34-3.6

Proposed: March 7, 1988 at 20 N.J.R. 501(a).
 Adopted: April 21, 1988 by Board of Marriage Counselor Examiners, Arthur A. Santucci, Vice Chairman.
 Filed: April 25, 1988 as R.1988 d.228, **without change**.
 Authority: N.J.S.A. 45:8B-13.
 Effective Date: May 16, 1988.
 Expiration Date: November 21, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

13:34-3.6 Temporary permit requiring supervision
 Pursuant to N.J.S.A. 45:8B-6(e) and N.J.S.A. 45:8B-18(b), prior to the Board's approval of a three-year temporary permit the applicant must show that he has had a minimum of two years of full-time counseling experience and meets the educational requirement for licensure.

TRANSPORTATION

TRANSPORTATION OPERATIONS

(b)

Speed Limits

Routes N.J. 13 in Ocean County; N.J. 20 in Passaic County; N.J. 44 in Gloucester County and N.J. 70 in Camden, Burlington, Ocean and Monmouth Counties

Adopted Amendments: N.J.A.C. 16:28-1.13, 1.15, 1.30 and 1.93

Proposed: March 21, 1988 at 20 N.J.R. 630(a).
 Adopted: April 21, 1988 by John F. Dunn, Jr., Assistant Chief Engineer, Traffic and Local Road Design.
 Filed: April 21, 1988 as R.1988 d.217, **without change**.
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-98.
 Effective Date: May 16, 1988.
 Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

16:28-1.13 Route 20 including Route 20 Freeway
 (a) The rate of speed designated for the certain part of State highway Route 20 described in this subsection is established and adopted as the maximum legal rate of speed.

1. (No change.)
2. In the City of Paterson, Passaic County:
 - i. For northbound traffic:

(1) Zone one: 45 miles per hour between Route U.S. 46 and 530 feet south of Edwards Street (mileposts 9.13 to 10.90); thence
 (2) Zone two: 35 miles per hour between 530 feet south of Edwards Street and 1060 feet north of Edwards Street (mileposts 10.90 to 11.18); thence

(3) Zone three: 45 miles per hour between 1060 feet north of Edwards Street and 36th Street (mileposts 11.18 to 11.54); thence

(4) Zone four: 35 miles per hour between 36th Street and 9th Avenue (mileposts 11.94 to 13.21); thence

(5) Zone 5: 45 miles per hour between 9th Avenue and Madison Avenue (mileposts 11.94 to 13.21); thence

- ii. For southbound traffic:

(1) Zone one: 45 miles per hour between Madison Avenue and 9th Avenue (mileposts 13.21 to 11.94); thence

(2) Zone two: 35 miles per hour between 9th Avenue and 36th Street (mileposts 11.94 to 11.54); thence

(3) Zone three: 45 miles per hour between 36th Street and 42nd Street (mileposts 11.54 to 11.25); thence

(4) Zone four: 35 miles per hour between 42nd Street and 650 feet north of Overlook Avenue (mileposts 11.25 to 10.74); thence

(5) Zone five: 45 miles per hour between 650 feet north of Overlook Avenue and Route U.S. 46 (mileposts 10.74 to 9.13);

- (b) (No change in text.)

16:28-1.15 Route 13

(a) The rate of speed designated for State highway Route 13 described in this subsection is established and adopted as the maximum legal rate of speed:

1. For both directions of traffic in the Boroughs of Point Pleasant and Bay Head, Ocean County:

i. Thirty-five miles per hour between 300 feet west of Rue Lido Boulevard (milepost 0.0) and 312 feet east of Bay Avenue (milepost 0.58).

16:28-1.30 Route 70

(a) The rate of speed designated for the certain parts of State highway Route 70 described in this subsection shall be established and adopted as the maximum legal rate of speed:

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1. For both directions of traffic in Camden, Burlington, Ocean and Monmouth Counties:
 - i. In Cherry Hill Township, Camden County:
 - (a) Zone one: 45 miles per hour between Route 38 and the Cherry Hill Township-Evesham Township line (mileposts 0.0 to 7.38);
 - ii. In Burlington County:
 - (1) Evesham Township:
 - (A) 45 miles per hour between the Cherry Hill Township-Evesham Township line and Route 70-Route 73 traffic circle (mileposts 7.38 to 8.30); thence
 - (B) Zone two: 50 miles per hour between Route 70-Route 73 traffic circle and the Evesham Township-Medford Township line (mileposts 8.30 to 11.78).
 - (2) Medford Township:
 - (A) 50 miles per hour between the Evesham Township-Medford Township line and Medford-Evesboro Road (County Road 618) (mileposts 11.18 to 12.34); thence
 - (B) Zone three: 45 miles per hour between Medford-Evesham Road (County Road 618) and Main Street (County Road 541) (mileposts 12.34 to 13.90); thence
 - (C) Zone four: 50 miles per hour between Main Street (County Road 541) and the Medford Township-Southampton Township line (mileposts 13.90 to 15.91);
 - (3) Southampton Township, Woodland Township and Pemberton Township:
 - (A) 50 miles per hour between the Medford Township-Southampton Township line and Pemberton Township-Manchester Township line (mileposts 15.91 to 33.45);
 - iii. In Ocean County:
 - (1) Manchester Township:
 - (A) 50 miles per hour between the Pemberton Township-Manchester Township line and the westernmost Manchester Township-Lakehurst Borough line (mileposts 33.45 to 43.25);
 - (2) Lakehurst Borough:
 - (A) 50 miles per hour between the westernmost Manchester Township-Lakehurst Borough line and the Eisenhower traffic circle (mileposts 43.25 to 43.55); thence
 - (B) Zone five: 45 miles per hour between the Eisenhower traffic circle and the easternmost Lakehurst Borough-Manchester Township line (Routes 70 and 37 traffic circle) (mileposts 43.55 to 44.82); thence
 - (3) Manchester Township:
 - (A) Zone six: 50 miles per hour between the easternmost Lakehurst Borough-Manchester Township line (Route 70 and 37 traffic circle) and the Manchester Township-Dover Township line (mileposts 44.82 to 48.02); thence
 - (4) Dover Township:
 - (A) 50 miles per hour between the Manchester Township-Dover Township line and the Dover Township-Lakewood Township line (mileposts 48.02 to 49.88); thence
 - (5) Lakewood Township:
 - (A) 50 miles per hour between the Dover Township-Lakewood Township line and the Lakewood Township-Brick Township line (mileposts 49.88 to 53.28); thence
 - (6) Brick Township:
 - (A) 50 miles per hour between the Lakewood Township-Brick Township line and Duquesne Boulevard (mileposts 53.28 to 53.75); thence
 - (B) Zone seven: 45 miles per hour between Duquesne Boulevard and Chambers Bridge Road (County Road 549), (mileposts 53.75 to 54.40); thence
 - (C) Zone eight: 50 miles per hour between Chambers Bridge Road (County Road 549) and 1,170 feet west of Route 88 (mileposts 54.40 to 54.95); thence
 - (D) Zone nine: 40 miles per hour between 1,170 feet west of Route 88 and 780 feet east of Route 88 (mileposts 54.95 to 55.33); thence
 - (E) Zone 10: 50 miles per hour between 780 feet east of Route 88 and River Road (mileposts 55.33 to 58.18); thence
 - (F) Zone 11: 45 miles per hour between River Road and Brick Township-Point Pleasant Borough line (mileposts 58.18 to 58.30); thence

- (7) Point Pleasant Borough:
 - (A) 45 miles per hour between Brick Township-Point Pleasant Borough and the Point Pleasant Borough-Brielle Borough line (center of the Bridge over Manasquan River) (mileposts 58.30 to 58.36); thence
 - (8) Brielle Borough:
 - (A) 45 miles per hour between the Point Pleasant Borough-Brielle Borough line (center of the Bridge over Manasquan River) and River View Drive (mileposts 58.36 to 58.87); thence
 - (B) Zone 12: 50 miles per hour between River View Drive and the Routes 70, 34 and 35 traffic circle (mileposts 58.87 to 59.84);
 - iv. In Monmouth County:
 - (1) Wall Township:
 - (A) Zone 12: 50 miles per hour between River View Drive and the Routes 70, 34 and 35 traffic circle (mileposts 58.87 to 59.84);
- 16:28-1.93 Route 44
 - (a) The rate of speed designated for State highway Route 44 described in this subsection shall be established and adopted as the maximum legal rate of speed:
 1. For both directions of traffic in Gloucester County:
 - i. Logan Township:
 - (1) Zone one: 50 miles per hour within corporate limits (mileposts 0.0 to 2.5); thence
 - ii. Greenwich Township:
 - (1) 50 miles per hour between the Logan Township-Greenwich Township line and 2,000 feet south of Willow Drive (mileposts 2.17 to 2.74); thence
 - (2) Zone two: 40 miles per hour between 2,000 feet south of Willow Drive and 200 feet south of Willow Drive (mileposts 2.74 to 3.0); thence
 - (3) 35 miles per hour between 200 feet south of Willow Drive and Casperson Street, except 25 miles per hour within the Gibbstown Elementary School Zone during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (mileposts 3.0 to 4.09); thence
 - (4) Zone three: 45 miles per hour between Casperson Street and Swedesboro-Billingsport Road (mileposts 4.5 to 5.6); thence
 - iii. Greenwich Township and Paulsboro Borough:
 - (1) Zone four: 35 miles per hour between Swedesboro-Billingsport Road and Berkley Road (mileposts 5.6 to 5.7); thence
 - iv. Paulsboro Borough:
 - (1) 35 miles per hour between Berkley Road and the West Deptford Township line (mileposts 5.7 to 6.6); thence
 - v. West Deptford Township:
 - (1) Zone five: 50 miles per hour between the Borough of Paulsboro-West Deptford Township line and 900 feet south of Church Street (mileposts 6.6 to 8.9); thence
 - (2) Zone six: 40 miles per hour between 900 feet south of Church Street and Salem Avenue (mileposts 8.9 to 9.4); thence
 - (3) Zone seven: 45 miles per hour between Salem Avenue and Route U.S. 130 (mileposts 9.4 to 9.9).

(a)

**Speed Limits
Routes U.S. 9 in Monmouth County and N.J. 185 in
Hudson County**

Adopted Amendment: N.J.A.C. 16:28-1.41

Adopted New Rule: N.J.A.C. 16:28-1.26

Proposed: March 21, 1988 at 20 N.J.R. 632(a).

Adopted: April 21, 1988 by John F. Dunn, Jr., Assistant Chief Engineer, Traffic and Local Road Design.

Filed: April 25, 1988 as R.1988 d.219, **without change.**

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

Effective Date: May 16, 1988.

Expiration Date: November 7, 1988.

ADOPTIONS

TRANSPORTATION

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28-1.26 Route 185

(a) The rate of speed designated for the certain parts of State highway Route 185 described in this subsection shall be established and adopted as the maximum legal rate of speed:

- 1. In the City of Jersey City, Hudson County:
 - i. 40 miles per hour along the completed part of Route N.J. 185 (vicinity of Harbor Drive to Linden Avenue).

16:28-1.41 Route U.S. 9 including Parts of Routes 35 and 444

(a) The rate of speed designated for the certain parts of State highway Route U.S. 9 described in this subsection shall be established and adopted as the maximum legal rate of speed:

- 1. (No change.)
 - Renumber existing i. through xii. from subsection (b) as xiii. through xxiv. in subsection (a) (No change in text.)
 - (b) The rate of speed designated for State highway Route U.S. 9, including parts of Route 444 (and excluding Garden State Parkway Authority sections) described in this subsection shall be established and adopted as the maximum legal rate of speed for both directions of traffic:
 - 1.-26. (No change.)
 - 27. In Howell Township, Monmouth County:
 - i. 40 miles per hour between the Lakewood Township—Howell Township Line (North Branch Metedeconk River) and Ford Road (mileposts 102.96 to 103.12); thence
 - ii. 50 miles per hour between Ford Road and White Street (mileposts 103.12 to 107.98); thence
 - Renumber existing 32. through 36. as 28. through 31. (No change in text.)

(a)

Speed Limits

Route N.J. 156 in Mercer County

Adopted Amendment: N.J.A.C. 16:28-1.112

Proposed: March 21, 1988 at 20 N.J.R. 632(b).
 Adopted: April 25, 1988 by John F. Dunn, Jr., Assistant Chief Engineer, Traffic and Local Road Design.
 Filed: April 25, 1988 as R.1988 d.220, **without change.**
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-98.
 Effective Date: May 16, 1988.
 Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28-1.112 Route 156

(a) The rate of speed designated for the certain parts of State highway Route 156 described in this subsection shall be established and adopted as the maximum speed:

- 1. For both directions of traffic in Hamilton Township, Mercer County.
 - i. Zone one: 40 miles per hour between the southerly terminus of Route U.S. 130-Route N.J. 156 and 200 feet north of Doctors Creek (mileposts 0.0 to 0.16); thence
 - ii. Zone two: 35 miles per hour between 200 feet north of Doctors Creek and Locust Avenue (mileposts 0.16 to 0.75); thence
 - iii. Zone three: 40 miles per hour between Locust Avenue and the northerly terminus of Route N.J. 156-Route U.S. 130 (mileposts 0.75 to 1.21).

(b)

**Restricted Parking and Stopping
 Routes U.S. 9 in Ocean County; N.J. 27 in Middlesex
 County; and U.S. 206 in Burlington County
 Adopted Amendments: N.J.A.C. 16:28A-1.7, 1.18
 and 1.57**

Proposed: March 21, 1988 at 20 N.J.R. 633(a).
 Adopted: April 21, 1988 by John F. Dunn, Jr., Assistant Chief Engineer, Traffic and Local Road Design.
 Filed: April 25, 1988 as R.1988 d.218, **without change.**
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.
 Effective Date: May 16, 1988.
 Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

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

- (a) (No change.)
- (b) The certain parts of State highway Route U.S. 9 described in this subsection 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 westerly (southbound) side in Lakewood Township, Ocean County:
 - i. Near side bus stops:
 - (1) County Line Road (120 feet).
 - (2) Kennedy Boulevard: Beginning at the northerly curb line of Kennedy Boulevard and extending 105 feet northerly therefrom.
 - ii. Far side bus stops:
 - (1) Tenth Street (105 feet);
 - (2) Sherwood Drive (170 feet);
 - (3) Pine Boulevard (100 feet);
 - (4) John Street: Beginning at the prolongation of the southerly curb line of John Street and extending 100 feet southerly therefrom.
 - iii. Mid-block bus stop:
 - (1) Kennedy Boulevard: Beginning at a point 1,000 feet north of the northerly curb line of Kennedy Boulevard to a point 135 feet northerly therefrom.
 - 10. Along the easterly (northbound) side in Lakewood Township, Ocean County:
 - i. Far side bus stops:
 - (1) Tenth Street (105 feet);
 - (2) County Line road (105 feet);
 - ii. Near side bus stops:
 - (1) John Street: Beginning at the southerly curb line of John Street and extending 105 feet southerly therefrom.
 - iii. Mid-block bus stops:
 - (1) Pine Boulevard: Beginning at the prolongation of the southerly curb line of Pine Boulevard and extending 105 feet southerly therefrom;
 - (2) Sherwood Drive: From a point 150 feet south of the southerly curb line of Sherwood Drive and extending 135 feet southerly therefrom;

- Renumber existing 10. through 12. as 11. through 13. (No change in text.)
- Renumber existing 15. through 24. as 14. through 23. (No change in text.)
- Renumber existing 27. through 41. as 24. through 38. (No change in text.)

16:28A-1.18 Route 27

- (a) The certain parts of State highway Route 27 described in this subsection shall be designated and established as "no stopping or standing" zones.
 - 1.-17. (No change.)

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(b) The certain parts of State highway Route 27 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-22. (No change.)

23. Along the northbound (easterly) side in North Brunswick, Middlesex County.

i. Far side bus stop:

(1) Finnegan Lane: Beginning at the northerly curb line of Finnegan Lane and extending 140 feet northerly therefrom.

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

16:28A-1.57 Route U.S. 206

(a) The certain parts of State highway Route U.S. 206 described in this subsection shall be designated and established as "no stopping or standing" zones.

1.-6. (No change.)

7. No stopping or standing in Springfield Township, Burlington County:

i. Along both sides:

(1) For the entire length within the corporate limits of Springfield Township including all ramps and connections under the jurisdiction of the Commissioner of the Department of Transportation except at approved bus stops.

8.-14. (No change.)

15. No stopping or standing in Mansfield Township, Burlington County:

i. Along both sides:

(1) For the entire length within the corporate limits of Mansfield Township including all ramps and connections under the jurisdiction of the Commissioner of the Department of Transportation except at approved bus stops.

16.-25. (No change.)

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

(a)

**Restricted Parking and Stopping
Routes U.S. 40 and N.J. 77 in Salem County
Adopted Amendments: N.J.A.C. 16:28A-1.28 and
1.41**

Proposed: March 7, 1988 at 20 N.J.R. 508(a).
Adopted: April 7, 1988 by John F. Dunn, Jr., Assistant Chief
Engineer, Traffic and Local Road Design.
Filed: April 14, 1988 as R.1988 d.208, **without change**.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1.
Effective Date: May 16, 1988.
Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

16:28A-1.28 Route U.S. 40

(a) The certain parts of State highway Route U.S. 40 described in this subsection are designated and established as "no stopping or standing" zones.

1.-2. (No change.)

3. No stopping or standing in Upper Pittsgrove Township, Salem County:

i.-ii. (No change.)

iii. Along both sides from a point 800 feet west of the junction of Route N.J. 77 traffic circle, to a point 800 feet east of the Route N.J. 77 traffic circle, including all ramps and connections under the jurisdiction of the Commissioner of Transportation.

4.-8. (No change.)

(b) (No change.)

16:28A-1.41 Route 77

(a) The certain parts of State highway Route 77 described in this subsection are designated and established as "no stopping or standing" zones.

1.-4. (No change.)

5. No stopping or standing in Upper Pittsgrove Township, Salem County, along both sides:

i. Between a point 300 feet north of and 300 feet south of the intersection of County Road 666 (Monroeville-Swedeseboro Road).

ii. Between a point 400 feet north of and 200 feet south of the intersection of County Road 611 (Elmer-Shirley Road).

iii. From a point 800 feet south of the junction of Route U.S. 40 traffic circle to a point 800 feet north of the junction of Route U.S. 40 traffic circle, including all ramps and connections under the jurisdiction of the Commissioner of Transportation.

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

(b)

**Restricted Parking and Stopping
Route U.S. 130 in Burlington County
Adopted Amendment: N.J.A.C. 16:28A-1.46**

Proposed: March 21, 1988, at 20 N.J.R. 634(a).
Adopted: April 25, 1988 by John F. Dunn, Jr., Assistant Chief
Engineer, Traffic and Local Road Design.
Filed: April 25, 1988 as R.1988 d.222, **without change**.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.
Effective Date: May 16, 1988.
Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

16:28A-1.46 Route US 130

(a) The certain parts of State highway Route U.S. 130 described in this subsection are designated and established as "no stopping or standing" zones where stopping or standing is prohibited.

1.-8. (No change.)

(b) The certain parts of State highway Route U.S. 130 described in this subsection shall be established and designated as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect signs at the following established bus stops:

1.-5. (No change.)

6. Along the westerly (southbound) side in Edgewater Park Township, Burlington County:

i. Near side bus stop:

(1) Mount Holly Road—Beginning at the northerly curb line of Mount Holly Road and extending 105 feet northerly therefrom.

(c) (No change.)

(c)

**Restricted Parking and Stopping
Route U.S. 9W in Bergen County
Adopted Amendment: N.J.A.C. 16:28A-1.61**

Proposed: March 21, 1988, at 20 N.J.R. 634(b).
Adopted: April 25, 1988 by John F. Dunn, Jr., Assistant Chief
Engineer, Traffic and Local Road Design.
Filed: April 25, 1988 as R.1988 d.223, **without change**.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.
Effective Date: May 16, 1988.
Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

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Full text of the adoption follows.

16:28A-1.61 Route US 9W

(a) The certain parts of State highway Route US 9W described in this subsection 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.-5. (No change.)
- 6. Within Alpine Borough, Bergen County:
 - i. Along the easterly (northbound) side:

- (1) (No change.)
- (2) Near side bus stops:
- (A)-(B) (No change.)

(C) Alpine Scout Camp (entrance to Palisades Parkway, southbound)—Beginning at the prolongation of the southerly curb line of the entrance to the Alpine Scout Camp and extending 140 feet southerly therefrom.

- ii. Along the westerly (southbound) side:

- (1) (No change.)
- (2) Near side bus stops:
- (A) (No change.)

(B) Alpine Scout Camp—Beginning at the northerly curb line of the entrance to the Alpine Scout Camp and extending 140 feet northerly therefrom.

- 7.-8. (No change.)

- (b) (No change.)

(a)

**Restricted Parking and Stopping
Route N.J. 439 in Union County**

Adopted Amendment: N.J.A.C. 16:28A-1.70

Proposed: March 21, 1988, at 20 N.J.R. 635(a).
Adopted: April 25, 1988 by John F. Dunn, Jr., Assistant Chief
Engineer, Traffic and Local Road Design.

Filed: April 25, 1988 as R.1988 d.221, **without change**.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.

Effective Date: May 16, 1988.
Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

16:28A-1.70 Route 439

(a) The certain parts of State highway Route 439 described in this subsection are designated and established as "no stopping or standing" zones.

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

(c) The certain parts of State highway Route 439 described in this subsection 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. Along the eastbound (southerly) side in the City of Elizabeth, Union County:
 - i. Far side bus stop:
 - (1) North Broad Street—Beginning at the easterly curb line of North Broad Street and extending 100 feet easterly therefrom.

(b)

**Miscellaneous Traffic Rules
Mid-Block Crosswalks
Routes N.J. 37 and N.J. 35 in Ocean County
Adopted New Rules: N.J.A.C. 16:30-10.6 and 10.7**

Proposed: March 7, 1988, at 20 N.J.R. 509(a).
Adopted: April 7, 1988 by John F. Dunn, Jr., Assistant Chief
Engineer, Traffic and Local Road Design.

Filed: April 14, 1988 as R.1988 d.207, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-34.

Effective Date: May 16, 1988.
Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

16:30-10.6 Route 37

(a) The certain parts of State highway Route 37 described in this subsection shall be designated as a mid-block crosswalk.

- 1. In the Borough of Seaside Heights, Ocean County:
 - i. Westbound entrance ramp from a point 550 feet west of the junction of Route N.J. 35 northbound and Route N.J. 37 westbound to a point seven feet westerly therefrom.

16:30-10.7 Route 35

(a) The certain parts of State highway Route 35 described in this subsection shall be designated as a mid-block crosswalk.

- 1. In the Borough of Seaside Heights, Ocean County:
 - i. Northbound and southbound lanes:
 - (A) From a point 270 feet south of the junction of Route 35 southbound and Route 37 eastbound to a point eight feet southerly therefrom; and
 - (B) From a point 350 feet north of the northerly curb line of Hancock Avenue to a point seven feet northerly therefrom.

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CASINO CONTROL COMMISSION

(c)

**Accounting and Internal Controls; Gaming
Equipment
Utilization of Slot Tokens Which Are Not
Redeemable for Cash**

**Adopted Amendments: N.J.A.C. 19:45-1.34, 1.36,
1.37 and 1.44; 19:46-1.5, 1.25, 1.26 and 1.33**

Proposed: March 7, 1988 at 20 N.J.R. 516(a).
Adopted: March 22, 1988 by the Casino Control Commission,
Walter N. Read, Chairman.

Filed: April 25, 1988 as R.1988 d.224, **with substantive changes**
not requiring additional public notice and comment (see
N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 5:12-45, 5:12-63(c), 5:12-69, 5:12-70, 5:12-99
and 5:12-100.

Effective Date: May 16, 1988.
Expiration Dates: N.J.A.C. 19:45, March 23, 1993; N.J.A.C.
19:46, April 28, 1993.

Summary of Public Comments and Agency Responses:

COMMENT: The Division of Gaming Enforcement (Division) suggests that a definition of "acceptor device" be included in N.J.A.C. 19:45-1.1 and used throughout the amended rules in lieu of what it characterizes as the "nebulous" term "any device connected thereto". In its comments, the Division defines "acceptor device" as:

... any mechanical, electrical or other device attached to a slot machine to interface mechanically, electrically or electronically with a slot machine for the purpose of accepting noncash redeemable slot tokens in order to activate play. Such devices shall contain, at a minimum, a drop meter which shall record the acceptance of noncash redeemable slot tokens. The acceptor device shall not provide for the payouts.

The Division also avers that the proposed language is unclear concerning which devices may invoke related security requirements, such as the

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pedestal light (N.J.A.C. 19:45-1.37(a)6 and 19:46-1.26(a)6) and the Machine Entry Authorization Log (N.J.A.C. 19:45-1.36(d)). The commenter expressed concern that activation of such security and surveillance systems occasioned by the opening of peripheral devices unrelated to the operation of the slot machine would impose unnecessary burdens on casinos and jeopardize important regulatory controls.

RESPONSE: The Division's comments are rejected. First, the Commission does not believe the Division's proposed definition of "acceptor device" appropriately defines what is generally identified as an acceptor mechanism. Second, limiting the amended rules in the suggested manner would preclude their application to other devices connected to slot machines which should invoke the regulatory concerns embodied in those rules (for example, bill changers which interact with slot machine hoppers, see 20 N.J.R. 765(a)). However, to address the Division's concern over the vagueness of the phrase "any device connected thereto," the Commission has amended its original proposed text upon adoption to add clarifying language to N.J.A.C. 19:45-1.36(d), 19:45-1.37(a)6, 19:46-1.25(d) and 19:46-1.26(a)6. The clarifying language expressly states that the relevant regulatory requirements only apply to "any device connected thereto which may affect the operation of the slot machine"

COMMENT: The Division suggests that the proposed amendments require complimentary coupons redeemable for goods and services to be issued at slot booths and argues that the slot booth is an inappropriate place for the issuance or exchange of a coupon redeemable for goods or services unrelated to gaming activity. Moreover, the Division states that non-cash redeemable slot tokens should not be exchangeable in any manner.

RESPONSE: The proposed amendment to N.J.A.C. 19:45-1.34(a)6 does not require that coupons redeemable for goods and services which are distributed in accordance with a complimentary distribution program authorized under N.J.A.C. 19:45-1.46 be issued at a slot change booth. The proposed amendments simply state that slot tokens can only be redeemed at a coin redemption booth or cashier's cage, N.J.A.C. 19:46-1.5(c), and that slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2 (non-cash redeemable tokens) can be exchanged for a coupon which is redeemable for goods or services (see N.J.A.C. 19:46-1.5(f)2). This exchange requirement was a lynch pin of the Commission's conceptual approval of the use of non-cash redeemable slot tokens in complimentary distribution programs. In order to protect the public from undue inducements to gamble, approval of the concept included the requirement that patrons holding tokens issued under N.J.A.C. 19:46-1.33(c)2 be given the opportunity to exchange them for coupons redeemable for goods or services. To assure that these exchanges take place in a secure area, the proposed amendment adds to the responsibilities of the slot booth the function of exchanging tokens issued under N.J.A.C. 19:46-1.33(c)2 for coupons redeemable for goods and services. All other operational aspects of the complimentary distribution program, including the initial issuance of coupons redeemable for goods and services, are governed by internal control procedures required under N.J.A.C. 19:45-1.46. Accordingly, the Division's comments are rejected.

COMMENT: The Division of Gaming Enforcement proposes that the two types of slot tokens be defined in N.J.A.C. 19:45-1.1, rather than in N.J.A.C. 19:46-1.33. It also suggests that the terms "cash redeemable slot token" and "noncash redeemable slot token" be used throughout the applicable rules to refer to the two types of tokens.

RESPONSE: N.J.A.C. 19:47-1.33 is entitled: "Issuance and use of tokens for gaming in slot machines." All the characteristics of a slot token, including its dimensions, content, appearance, specifications and identifying language are set forth therein. The fact that a token may be designated as either redeemable for cash or only exchangeable for a coupon which is in turn redeemable for goods or services is merely one characteristic of a slot token, not a feature warranting a separate definition under internal control regulations. For ease of usage throughout the rules, slot tokens should not be described by reference to a single characteristic, but rather by reference to the relevant section or subsection which identifies the particular type of slot token being addressed; therefore, the comment is rejected.

COMMENT: International Game Technology (IGT), a licensed casino service industry, offered several comments in support of its contention that the proposed amendments present problems for manufacturers of slot machines. First, IGT contends that the proposed amendments mandate redesign of slot machines intended for use in New Jersey. Second, the company suggests that the amendments appear to be written with a particular manufacturer in mind. Third, IGT states that the cost associated with the redesign of its equipment to conform with the rules

as amended outweighs the benefits to be gained by the authorization of the new token. Fourth, IGT asserts that the rules as amended will require manufacturers of slot machines to develop machines specifically for use in New Jersey as opposed to other jurisdictions. And finally, IGT expresses its concern that each of these problems will be exacerbated if the new tokens may be used to replace Eisenhower dollars.

RESPONSE: Each of IGT's comments is rejected. The proposed amendments, despite IGT's concerns, do not require casino licensees or slot machine manufacturers to do anything. The amendments simply provide a casino licensee with an alternative type of slot token which may be used in complimentary distribution programs. If a casino licensee chooses to offer slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2, then machines that accept the tokens must meet the basic requirements set forth in the rules as amended. These basic requirements will apply to any slot machine which accepts tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2 and therefore are neutral in effect. Whether a slot machine manufacturer wishes to compete to supply slot machines which meet the requirements of the rules is a matter of management discretion. Finally, the tokens authorized by these amendments are not intended to replace coins or other tokens, but rather supplement other means currently used to activate slot machines for play.

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

19:45-1.34 Slot booths

(a) Each establishment may have on or immediately adjacent to the gaming floor a physical structure known as a slot booth to house the slot cashier and to serve as the central location in the casino for the following:

1. The custody of the slot booth inventory comprising currency, coin, slot tokens, forms, documents, and records normally associated with the operation of a slot booth;
2. The exchange by patrons of coin for currency or slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)1;
3. The exchange by patrons of currency for coin or slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)1;
4. The exchange by patrons of gaming chips or slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)1 for currency or coin;
5. The exchange by patrons of coupons for currency, coin or slot tokens in conformity with N.J.A.C. 19:45-1.46(i);
6. The exchange by patrons of slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2 for coupons which are redeemable for goods or services offered by, or on behalf of, the casino licensee in accordance with N.J.A.C. 19:46-1.5(f)2;
7. The issuance of Hopper Fills in conformity with N.J.A.C. 19:45-1.41;
8. The issuance of Payouts in conformity with N.J.A.C. 19:45-1.40; and
9. The exchange with the cashiers' cage of any coin, currency, slot tokens, chips, plaques and documentation and the related preparation of a Slot Booth Exchange Slip, which shall be a two-part, serially prenumbered form signed by the cage cashier, slot cashier, and the security department member responsible for transporting the funds. Except for the exchanging of change with changepersons the slot booth shall not be allowed to obtain coin, from other than patrons, through exchange or otherwise, from any source other than the cashiers' cage. Exchanges with the cashiers' cage must be accompanied by the Slot Booth Exchange Slip or by a Fill Slip authorizing the distribution of coins or slot tokens to the slot booths.

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

19:45-1.36 Slot machines, coin and slot token containers; keys

(a) Each slot machine located in a casino shall have the following coin or slot token containers:

1. A container, known as a payout reserve container ("Hopper"), in which coins or slot tokens are retained by the slot machine to automatically pay jackpot, provided, however, that the hopper shall not retain slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2; and
2. A container, known as a drop bucket, to collect coins or slot tokens that are retained by the slot machine and not used to make automatic jackpot payouts. Each drop bucket shall be identified by a number, corresponding to the Casino number of the slot machine,

which shall be at least two inches in height, and permanently imprinted, affixed or impressed on the outside of the bucket.

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

(d) Keys to each slot machine or any device connected thereto ***which may affect the operation of the slot machine***, other than the compartment housing the drop bucket, shall be maintained in a secure place and controlled by the slot department.

1. Whenever it is required that a slot machine or any device connected thereto ***which may affect the operation of the slot machine*** be opened, an entry shall be made on a form to be entitled "Machine Entry Authorization Log." The entry shall include, at a minimum, the date, time, purpose of opening the machine or device, and signature of the authorized employee opening the machine or device. The Machine Entry Authorization Log shall be maintained in the slot machine.

2. If a computer is connected to slot machines in the casino which automatically records the information required in (d)1 above, it is not necessary to maintain the Machine Entry Authorization Log.

(e) (No change.)

(f) Each slot machine equipped to accept slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2 shall contain a separate drop bucket to collect and retain all such slot tokens that are inserted into the slot machine. The separate drop bucket shall comply in all respects with the requirements set forth in this section.

19:45-1.37 Slot machines; identification; signs; meters

(a) Unless otherwise authorized by the Commission, each slot machine in a casino shall have the following identifying features:

1.-5. (No change.)

6. A light on the pedestal above the slot machine that automatically illuminates when the door to the ***slot*** machine or any device connected ***[to the machine]* *which may affect the operation of the slot machine*** is opened.

(b) Unless otherwise authorized by the Commission, each slot machine in a casino shall be equipped with the following:

1. A mechanical, electrical or electronic device, to be known as an "in-meter" that continuously and automatically counts the number of coins or slot tokens placed by patrons into the machine for the purpose of activating play;

2. A mechanical, electrical or electronic device, to be known as a "drop meter", that continuously and automatically counts the number of coins or slot tokens dropped into the machine's drop bucket, provided, however, for machines equipped to accept tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2, a separate "drop meter" shall count the number of such gaming tokens dropped into the separate drop bucket required by N.J.A.C. 19:45-1.36(f) and 19:46-1.25(f);

3. A mechanical, electrical or electronic device, to be known as a "jackpot meter", that continuously and automatically counts the number of coins or slot tokens automatically paid by the machine from the hopper; and

4. A mechanical, electrical or electronic device, to be known as a "win meter", visible from the front of the machine that advises the player the number of coins or slot tokens that have been paid to him by the machine upon hitting a winning combination.

(c) Unless otherwise authorized by the Commission each slot machine which does not totally and automatically pay the full amount of a jackpot to a patron shall be equipped with a mechanical, electrical or electronic device to be known as a "manual jackpot meter" that continuously and automatically records a pulse(s) for a predetermined number of coins or slot tokens to be paid manually, provided, however, that the manual payout shall not include slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2.

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

19:45-1.44 Computer recordation and monitoring of slot machines

(a) (No change.)

(b) The computer permitted by (a) above shall be designed and operated to automatically perform the function relating to slot machine meters in the casino as follows:

1. Record the number and total value of coins or slot tokens placed in the slot machine for the purpose of activating play;

2. Record the number and total value of coins or slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)1 deposited in the drop bucket of the slot machine;

3. Record the number and total value of slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2 deposited in the separate drop bucket of the slot machine required by N.J.A.C. 19:45-1.36(f) and 19:46-1.25(f);

4. Record the number and total value of coins or slot tokens automatically paid by the slot machine as the result of a jackpot; and

5. Record the number and total value of coins or slot tokens to be paid manually as the result of a jackpot.

(c) (No change.)

19:46-1.5 Nature and exchange of gaming chips, slot tokens and plaques

(a) All gaming in a casino shall be conducted with gaming chips or plaques, provided, however, that slot tokens or coins shall be permitted for use in slot machines.

(b) Gaming chips or plaques shall be issued to a person only at the request of such person and shall not be given as change in any other but a gaming transaction. Gaming chips and plaques shall only be issued to casino patrons at the gaming tables and shall only be redeemed at the cashiers' cage; provided, however, that gaming chips may be exchanged by a patron at the slot booths for coin or slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)1 to play the slot machines.

(c) Slot tokens shall only be issued to a patron from a slot booth, cashiers' cage, bill changer or by a slot change person. Slot tokens shall only be issued upon the request of a patron; provided, however, complimentary slot tokens may be issued by a casino licensee in accordance with a complimentary distribution program authorized pursuant to N.J.A.C. 19:45-1.46. Slot tokens shall only be redeemed at a coin redemption booth or cashiers' cage.

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

(f) Each casino shall redeem promptly its own genuine gaming chips and plaques by cash or by check dated the day of such redemption on an account of the casino licensee as requested by the patron, except when the gaming chips or plaques were obtained or being used unlawfully. Slot tokens shall be redeemed or exchanged in the following manner:

1. Slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)1 shall be redeemed promptly by the issuing casino at the request of the patron for:

i. Cash; or

ii. Check dated the day of such redemption on an account of the casino licensee;

2. Slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2 shall be exchangeable for a coupon which is redeemable for goods or services offered by, or on behalf of, the casino licensee; provided, however, that a casino shall require that the amount of tokens exchangeable be equal to the face value of the coupon, the denomination of which shall be approved by the Commission.

(g) Each casino shall have the right to demand the redemption of its gaming chips, slot tokens or plaques from any person in possession of them and such person shall redeem said chips, slot tokens or plaques upon presentation of an equivalent amount of cash by the casino; provided, however, that slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2 shall be exchanged in accordance with (f)2 above.

(h)-(k) (No change.)

19:46-1.25 Slot machines; coin and slot token containers; keys

(a) Each slot machine located in a casino shall have the following coin or slot token containers:

1. A container, known as a payout reserve container ("hopper"), in which coins or slot tokens are retained by the slot machine to automatically pay jackpots; provided, however, that the hopper shall not retain slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2;

2. A container, known as a drop bucket, to collect coins or slot tokens that are retained by the slot machine and not used to make automatic payouts.

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

(d) Keys to each slot machine or any device connected thereto ***which may affect the operation of the slot machine***, other than the compartment housing the drop bucket, shall be maintained in a secure place and controlled by the slot department.

(e) (No change.)

(f) Each slot machine equipped to accept slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2 shall contain a separate drop bucket to collect and retain all such tokens that are inserted into the slot machine. The separate drop bucket shall comply in all respects with the requirements set forth in this section.

19:46-1.26 Slot machines; identification; signs; meters; other devices

(a) Unless otherwise authorized by the Commission, each slot machine in a casino shall have the following identifying features:

1.-5. (No change.)

6. A light on the pedestal above the slot machine that automatically illuminates when the door to the machine or any device connected ***[to the machine]* *thereto which may affect the operation of the slot machine*** is opened.

(b) Unless otherwise authorized by the Commission, each slot machine in a casino shall be equipped with the following:

1. A mechanical, electrical or electronic device, to be known as an "in-meter," that continuously and automatically counts the number of coins or slot tokens placed by patrons into the machine for the purpose of activating play;

2. A mechanical, electrical or electronic device, to be known as a "drop meter," that continuously and automatically counts the number of coins or slot tokens dropped into the machine's drop bucket, provided, however, for machines equipped to accept slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2, a separate "drop meter" shall count the number of such slot tokens dropped into the separate drop bucket required by N.J.A.C. 19:45-1.36(f) and 19:46-1.25(f);

3. A mechanical, electrical or electronic device, to be known as a "jackpot meter," that continuously and automatically counts the number of coins or slot tokens automatically paid by the machine from the hopper;

4. A mechanical, electrical or electronic device, to be known as a "manual jackpot meter," that continuously and automatically records the number of coins or slot tokens to be paid manually; provided, however, that the manual payout shall not include slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2;

5. A mechanical, electrical or electronic device, to be known as a "win meter," visible from the front of the machine that advises the player the number of coins or slot tokens that have been paid to him by the machine upon hitting a winning combination; and

6. An on/off switch located in an accessible place in the interior of the slot machine which will control the current utilized in the operation of the slot machine.

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

19:46-1.33 Issuance and use of tokens for gaming in slot machines

(a) A casino licensee may, with the approval of the Casino Control Commission, issue metal tokens designed for gaming use in its slot machines provided that such tokens:

1.-6. (No change.)

7. Are not manufactured from a three-layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core nor from a copper based alloy except if the total zinc, nickel, aluminum, magnesium and other alloying metal exceeds 25 percent of the tokens' weight; nor from a ferromagnetic material;

8. Comply with the following specifications:

i.-ii. (No change.)

iii. Be no less than 0.060 inch thick; and

9. For tokens issued pursuant to (c)2 below, contain a statement which indicates that the slot tokens are not redeemable for cash.

(b) (No change.)

(c) Slot tokens approved for issuance by a casino licensee pursuant to this section shall either be:

1. Issued to a patron upon request or in accordance with a complimentary distribution program authorized pursuant to N.J.A.C. 19:45-1.46 and:

i. Capable of insertion into designated slot machines operated by the casino licensee for the purpose of activating play;

ii. Available as a payout from the payout reserve container (hopper) of such slot machines; and

iii. Redeemable by the patron in accordance with N.J.A.C. 19:46-1.5(f)1; or

2. Issued in accordance with a complimentary distribution program authorized pursuant to N.J.A.C. 19:45-1.46 and:

i. Capable of insertion into designated slot machines operated by the casino licensee for the purpose of activating play;

ii. Retained in a separate drop bucket contained in such slot machines in accordance with N.J.A.C. 19:45-1.36(f) and 19:46-1.25(f);

iii. Not available as a payout from the payout reserve container (hopper) of such slot machines; and

iv. Exchangeable only for a coupon in accordance with N.J.A.C. 19:46-1.5(f)2.

(a)

Accounting and Internal Controls Control of Non-coupon Complimentary Distribution Programs

Reporting of Complimentary Items and Services

Adopted Amendments: N.J.A.C. 19:45-1.2 and 1.46

Proposed: November 2, 1987, at 19 N.J.R. 1975(b).

Adopted: April 14, 1988 by Casino Control Commission,
Walter N. Read, Chair.

Filed: April 15, 1988, as R.1988 d.209, **with substantive change**
not requiring additional public notice and comment (see
N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 5:12-63(c), 5:12-69(a) and 5:12-70(l), (m) and
(n).

Effective Date: May 16, 1988.

Expiration Date: March 24, 1993.

Summary of Public Comments and Agency Responses:

Comments were received from the Division of Gaming Enforcement which are in all respects supportive of the proposed rules. The Division, however, does not object to an increase in the threshold amounts established by these rules, provided the industry can demonstrate that higher figures are more reasonable.

Comments were also received from Resorts, joined in by Trump Plaza, Atlantis, Tropicana, Claridge and Showboat. Additional comments were received from Trump's Castle, Caesars and Sands.

COMMENT: Resorts claims that the proposed regulations are burdensome with no concomitant benefit to the Division, and that the reporting requirements should apply only to discretionary complimentaries. Additionally, Resorts suggests that, should the Commission determine that it is appropriate to capture the names of individuals receiving theater or entertainment tickets on daily complimentary reports that the proposed threshold amount of \$25.00 be raised to a more suitable level, such as \$100.00.

RESPONSE: The Commission has rejected the comments because it believes that the Act requires the reporting of all complimentary services and that the published reporting requirements have been tailored in an appropriate fashion. The Commission has already held in an earlier petition filed by Resorts that a "complimentary service or item" within the purview of the Act and the regulations refers to any complimentary service or item issued by a casino licensee under any circumstance. This conclusion vitiates any claim by Resorts that N.J.A.C. 19:45-1.46(b) promotional prizes and awards are not "regulated complimentary services" subject to the reporting requirements of the Act and the Commission's regulations.

N.J.A.C. 19:45-1.2(c)3 is concerned with discretionary complimentaries, where the casino is attempting to curry favor with a patron in order to obtain gaming participation by that patron. Pursuant to N.J.A.C. 19:45-1.2(c)3, the Commission believes that it is entirely appropriate to capture the names of individuals receiving theater or entertainment tickets on daily complimentary reports having a retail value which equals or exceeds \$25.00. These tickets can be of considerable value. The Division and the Commission have a legitimate interest in, and a need to know,

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the names of all the intended beneficiaries of a casino's goodwill. It is the value which the casino places on its relationship with that gaming patron which the complimentary reporting system seeks to identify and which a casino must be prepared to justify if called upon to do so. The \$25.00 threshold is entirely reasonable when viewed in the context of the general complimentary reporting requirements of N.J.A.C. 19:45-1.2(c)3, which captures all complementaries, regardless of amount.

COMMENT: Both Trump's Castle and Sands indicate that the individual reporting requirements of N.J.A.C. 19:45-1.46(l) will be unduly burdensome because of the aggregation requirement.

RESPONSE: These casinos appear to be misinterpreting the required individual reporting imposed by the proposed amendment to N.J.A.C. 19:45-1.46(l). The proposed amendments to N.J.A.C. 19:45-1.46(l) establish a monetary threshold to be applied in determining whether casino licensees shall be required to report the names of individuals receiving N.J.A.C. 19:45-1.46(b) complementaries. Under the proposal, casinos would be required to include in the monthly report the name of each person receiving a complimentary item or service the dollar amount of which equals or exceeds \$100.00. There is no need to capture data from all patrons who receive N.J.A.C. 19:45-1.46 complimentary items or services during any particular month and then aggregate the items or services in order to determine who has met the regulatory threshold for the reporting month. Both Sands and Trump's Castle stated that casinos seldom, if ever, issue N.J.A.C. 19:45-1.46 complimentary items or services which equal or exceed the \$100.00 threshold. That being so, the administrative burden imposed by N.J.A.C. 19:45-1.46(l) should be negligible. The Commission acknowledges that the existing language of N.J.A.C. 19:45-1.46(l) may be ambiguous and has incorporated a substantive change not requiring additional public comment, for purposes of clarity and comprehension.

COMMENT: Caesars claims that it is unfair to require the reporting, by individual name, of patrons receiving tickets for entertainment events with a face value of \$25.00 or more, which, in effect, discriminates against those casino hotels that have headliner events. Caesars indicates that virtually no ticket for any featured headliner event bears a retail ticket price of less than \$25.00.

RESPONSE: Caesars' comments buttress rather than diffuse the need to capture the names of patrons receiving tickets to headliner events. These tickets are of great value and are handed out to a significant number of patrons. The Commission and the Division have a legitimate interest in, and a need to know, the names of these patrons.

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

19:45-1.2 Accounting records

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

(c) The detailed, supporting, and subsidiary records shall include, but not necessarily be limited to:

1.-2. (No change.)

3. Records supporting the accumulation of the costs and number of persons, by category of service, for regulated complimentary services. Such records shall include, on a daily basis, the name of each person provided with complimentary services, the category of services provided, the retail value of the aggregate of each category of service provided to such person, and the person authorizing the receipt of such service. A copy of this record shall be submitted to the Division of Gaming Enforcement's office located on the casino premises no later than two days subsequent to its preparation. Excepted from this requirement are the individual names of persons authorizing or receiving complimentary tickets for theatre or other entertainment events with a face value of less than \$25.00, parking, beverages served in bars and the casino or complimentary services or items, including cash or slot tokens, issued pursuant to a complimentary distribution program regulated by N.J.A.C. 19:45-1.46.

4.-9. (No change.)

19:45-1.46 Procedure for control of coupon redemption and other complimentary distribution programs

(a) (No change.)

(b) Detailed procedures controlling all programs entitling patrons to complimentary cash or slot tokens not regulated by (a) above shall be submitted by the casino licensee to the Commission and Division at least 15 days prior to implementing the program. The procedures

for all such programs shall be deemed acceptable by the Commission unless the casino licensee is notified in writing to the contrary. Detailed procedures controlling all programs entitling patrons to complimentary items or services other than cash or slot tokens shall be prepared prior to implementation as an accounting record by the casino licensee. Complimentary items or services, including cash or slot tokens, distributed through programs regulated by this subsection shall be reported in accordance with the procedures contained in (l) and (n) below.

(c)-(k) (No change.)

(l) Each ***casino*** licensee shall file a monthly report with the Commission and Division which shall include the following information:

1. For all programs regulated by (a) above, each licensee shall list by type of coupon, the total number of coupons used, the total number of coupons redeemed, the total value of the complimentary cash or slot tokens given to patrons in redemption of coupons and any liability to patrons remaining on unredeemed coupons; and

2. For all programs regulated by (b) above, each licensee shall list, by program offered during the month, a description of the complimentary items and services provided, the total number of persons receiving complimentary items or services, the total dollar amount of complimentary items or services provided, and the names of all persons receiving ***a*** complimentary item*[s]* or service*[s]* in a dollar amount equal to or greater than \$100.00.

(m) (No change.)

(n) In addition to the monthly report required to be filed in (l) above, the casino licensee shall accumulate both the dollar amount of and the number of persons redeeming coupons pursuant to (a) above, and the dollar amount of and the number of persons receiving complimentary items or services pursuant to (b) above, and shall include this information on the quarterly complimentary report required by N.J.A.C. 19:45-1.9. Complimentary items or services, including cash and slot tokens, distributed through programs regulated by this section shall not be subject to the daily complimentary reporting requirements imposed pursuant to N.J.A.C. 19:45-1.2.

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

(a)

**Administration Manual, JerseyCare Manual
Medical Assistance for the Aged, Blind or Disabled
Adoption of Concurrent Proposal: N.J.A.C. 10:49-1.1
and 1.2; 10:72-1.1, 1.2, 2.1, 2.3, 3.4, 3.5, 4.3, 4.4
and 4.5**

Proposed: March 7, 1988 at 20 N.J.R. 548(a).

Adopted: April 19, 1988, by Drew Altman, Commissioner,
Department of Human Services.

Filed: April 20, 1988, as R.1988 d.212, **without change**.

Authority: N.J.S.A. 30:4D-3, 30:4D-6, 30:4D-7a, b, and c,
30:4D-12; and section 1902(m) of the Social Security Act.

Effective Date: May 16, 1988.

Expiration Date: N.J.A.C. 10:49, August 12, 1990. N.J.A.C.
10:72, August 27, 1992.

**Summary of Public Comments and Agency Responses:
No comments received.**

Full text of the adoption follows.

10:49-1.1 Who is eligible for Medicaid

(a) (No change.)

(b) 1.-8. (No change.)

9. An individual 65 years of age and older, or an individual who is blind or disabled pursuant to federal regulations (either 42 CFR 435.530 et seq. or 42 CFR 435.540 et seq.), who meets the income

and resource standards of the Optional Categorically Needy Program (OCN) (see N.J.A.C. 10:72-4.1) is eligible under JerseyCare.

i. An individual is determined eligible by the County Welfare Agency/Board of Social Services. The individual's income cannot exceed 100 percent of the federal poverty level adjusted for family size. Resources cannot exceed the limits of N.J.A.C. 10:72-4.5.

10. (No change in text.)

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

10:49-1.2 How to identify a covered person

Note: (No change.)

(a) An HSP (Medicaid) Case Number, as currently assigned, consists of 12 digits.

1.-2. (No change.)

3. The third and fourth digits of the 12-digit HSP (Medicaid) Case Number designate the category under which a person is determined eligible for the New Jersey Medicaid Program.

10—Aged-(65 years of age or older) SSI related and Optional Categorically Needy (OCN) eligible individuals.

15—Aged-Medically Needy related

20—Disabled (under 65 years of age) SSI related and Optional Categorically Needy (OCN) eligible individuals.

25-35 (No change.)

50—Blind-SSI related and Optional Categorically Needy.

4.-6. (No change.)

(b) (No change.)

10:72-1.1 Program scope

(a) This chapter contains the criteria for Medicaid eligibility for certain pregnant women and children not eligible under the provisions of N.J.A.C. 10:81 and 82, as well as, certain aged, blind, and disabled persons not eligible under the provisions of N.J.A.C. 10:71. The provisions of this chapter relating to pregnant women and children are effective July 1, 1987. The provisions of this chapter relating to the aged, blind, and disabled are effective February 2, 1988.

1. Because the eligibility criteria established by the rules contained within this chapter are more liberal than those applicable under AFDC-related Medicaid and SSI-related Medicaid, children (of the applicable ages), pregnant women, and aged, blind or disabled individuals losing Medicaid eligibility because of financial reasons should be evaluated under the provisions of this chapter for the possibility of continuing Medicaid eligibility.

2. Persons financially ineligible for Medicaid under the provisions of N.J.A.C. 10:71, 81 and 82 and who are income ineligible for Medicaid under the provisions of this chapter shall be evaluated for eligibility as Medically Needy under the provisions of N.J.A.C. 10:70.

(b) Medicaid eligibility under the provisions of this chapter is limited to:

1.-2. (No change.)

3. Effective February 2, 1988, aged, blind, and disabled individuals (as defined by Title XIX of the Social Security Act). For purposes of this chapter, an aged individual is a person who is 65 years of age or older.

(c) Retroactive Medicaid eligibility is available beginning with the third month prior to the month of application for Medicaid for any month during which the applicant meets all eligibility criteria and during which the applicant has unpaid medical expenses for covered services. In order to qualify for retroactive coverage, an individual need not be determined eligible at the time of application for Medicaid benefits. Application for retroactive Medicaid coverage may be made on behalf of a deceased person so long as the person was alive during a portion of the three month period immediately prior to the month of application and he or she has unpaid medical expenses for Medicaid covered services.

i. Retroactive Medicaid coverage is not available under the provisions of this chapter for pregnant women and children for any period prior to July 1, 1987 and for aged, blind, and disabled individuals for any period prior to February 2, 1988.

10:72-1.2 Purpose

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

(c) The director of the county welfare agency shall assign copies of this chapter to administrative staff, all staff responsible for the determination of Medicaid eligibility for pregnant women, children, aged, blind, and disabled individuals and to social service staff as appropriate and shall ensure that each staff member is thoroughly familiar with its requirements in order to apply the policy and procedures consistently.

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

10:72-2.1 Application

(a) Application for Medicaid benefits for pregnant women and children shall be accomplished by the completion and signing of Form PA-1J as well as any addenda to that form as prescribed by the Division of Medical Assistance and Health Services. Applications for Medicaid benefits for aged, blind, and disabled individuals shall be accomplished by the completion and signing of Form PA-1G as well as any addenda to that form as prescribed by the Division of Medical Assistance and Health Services.

1. The application for the program shall be executed by:

i. The pregnant woman (regardless of age);

ii. The parent, guardian, or caretaker relative of a child (including a blind or disabled child) for whom Medicaid is sought; or

iii. The aged, blind, or disabled individual.

2. (No change.)

3. A legal guardian shall be recognized as an authorized agent to execute an application on behalf of any individual.

(b) (No change.)

(c) As part of the application process, an applicant for Medicaid has the responsibility to:

1. (No change.)

2. Assist the county welfare agency in securing evidence that verifies his or her statements regarding eligibility;

3. Provide medical confirmation of pregnancy when Medicaid benefits are sought on that basis; and

4. Submit to necessary medical tests and examinations to determine disability or blindness and provide the county welfare agency with evidence relating to that determination.

(d) For any application for Medicaid benefits under the provisions of this chapter, the county welfare agency must accomplish disposition of the application as soon as all factors of eligibility are met and verified but not later than 30 days from the date of application (or from the date of the inquiry form PA-1C, if applicable) for pregnant women, children, and aged individuals. For disabled and blind individuals, the standard for application disposition is 60 days. Exceptions to the timeliness standard appear in (d)2 below.

1. "Disposition of the application" means the official determination by the county welfare agency of eligibility or ineligibility of the applicant(s) for Medicaid.

2. Disposition of the application may exceed the applicable processing standard when substantially reliable evidence of eligibility or entitlement for benefits is lacking at the end of the processing period. In such circumstances, the application may be continued in pending status. The county welfare agency shall fully document in the case record the circumstances of the delayed application processing. The processing standard may be exceeded for any of the following:

i.-iv. (No change.)

3.-4. (No change.)

(e) (No change.)

10:72-2.3 Verification requirements

(a) The county welfare agency is required to verify all factors related to eligibility for the Medicaid program. Factors subject to verification include:

1. (No change.)

2. Disability and blindness: For individuals seeking Medicaid benefits because of disability or blindness, the condition must be established in accordance with the definitions, verification requirements, and processes set forth at N.J.A.C. 10:71-3.10 through 3.13.

Renumber 2. through 6. as 3. through 7. (No change in text.)

8. The county welfare agency must verify all sources of income of any person whose income must be counted in the determination

of program eligibility. While resources are not a factor of eligibility for benefits for pregnant women and children under this chapter, resources must be identified and verified to determine if income is derived from the resources. For the aged, blind, and disabled, resources must be verified.

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

10:72-2.5 Redetermination of eligibility

(a) Eligibility for Medicaid under this chapter shall be re-determined, including a face-to-face interview and the completion of a new application form, as follows:

1.-2. (No change.)

3. For an aged, blind, or disabled individual, eligibility must be redetermined no later than 12 months following the month of initial eligibility or the last redetermination.

(b) (No change.)

10:72-2.7 Retroactive eligibility

(a) Persons may be eligible under the provisions of this chapter for retroactive Medicaid eligibility for the three months preceding the month of application. Retroactive Medicaid coverage is available for any of the three months prior to application so long as eligibility existed and there are unpaid medical bills for services in that month. In the case of a pregnant woman, in order to be eligible for a retroactive month, the medical verification of pregnancy must have occurred in the retroactive month or in a previous month. In the case of a disabled or blind individual, the disability or blindness must be confirmed to have begun in a retroactive month or earlier.

(b) (No change.)

10:72-3.4 Eligible persons

(a) The following persons who meet all eligibility criteria of this chapter are eligible for Medicaid benefits:

1.-5. (No change.)

6. Aged individuals: Persons who are age 65 years or older.

7. Disabled individuals: Persons who have been medically determined to meet the criteria of disability as set forth at N.J.A.C. 10:71-3.10 through 3.13.

8. Blind individuals: Persons who have been medically determined to meet the criteria of blindness as set forth at N.J.A.C. 10:71-3.10 through 3.13.

10:72-3.5 Household unit

(a) The term "household unit" means those persons whose income is counted in the determination of eligibility under the provisions of this chapter. The following persons, if they reside with the program applicant or recipient, shall be considered members of the household unit:

1. In the case of a pregnant woman:

i.-ii. (No change.)

iii. The pregnant woman's natural or adoptive children under the age of 21;

iv. The blood-related siblings (including those of half blood) of the pregnant woman's children who are under the age of 21; and

v. The natural or adoptive father of any children in the household unit.

2. (No change.)

3. In the case of an aged, blind, or disabled individual, the household unit will consist of that individual and his or her spouse if the spouse resides with the aged, blind, or disabled individual. In the case of a blind or disabled child, the household unit will consist of only that child, however, the income and resources of the child's parents will be deemed to that child in accordance with N.J.A.C. 10:72-4.4(d).

4. Any person who is in receipt of AFDC or SSI or who has applied for and been found eligible for Medicaid based on eligibility for those cash assistance programs will not be included in the household unit. Any person whose income and resources have been deemed to an eligible SSI recipient shall likewise not be included in the household unit unless that person is applying for benefits under this chapter.

5. Any person in (a)1 and 2 above shall be included in the household unit even though he or she is in an AFDC-related Medically Needy budget unit in accordance with N.J.A.C. 10:70-3.5. Likewise,

any person in (a)1 and 2 above required by N.J.A.C. 10:70-3.5 to be included in an AFDC-related Medically Needy budget unit, shall be included in that budget unit even if he or she is included in a household unit under the provisions of this section. Any aged, blind, or disabled person eligible under the provisions of this chapter or who is eligible for Medically Needy (or pending spend-down) will not be included in the household unit of a pregnant woman or child.

6. A spouse shall not be included in the household unit of an aged, blind, or disabled individual if the spouse is himself or herself in the household unit of an eligible pregnant woman or child under the provisions of this chapter, or is in the budget unit of an eligible AFDC-related Medically Needy case (including eligible pending spend-down). Note: Resources of a spouse of an aged, blind, or disabled individual will be deemed to that individual in accordance with N.J.A.C. 10:72-4.5 even though the spouse is not in the household unit.

10:72-4.1 Income eligibility limits

(a) (No change.)

(b) In order to be eligible for Medicaid under the provisions of this chapter, monthly income (as determined by this chapter) must be equal to or less than the income limit established in (a) above.

1. If a pregnant woman is determined to be income eligible during any month prior to the end of her pregnancy, she, if otherwise eligible, will continue eligible without regard to changes in the household unit's income for the term of her pregnancy, including the 60-day period beginning with the last day of the pregnancy whether or not the pregnancy results in a live birth. If the income change results from the addition of a new household member, the new income is not considered through the 60-day period beginning with the last day of the pregnancy.

i. (No change.)

ii. A pregnant woman who, during the course of the pregnancy, was eligible for and received AFDC, Medicaid Special, or Medicaid for the Unborn is deemed to have met the income requirements of this chapter.

2. With the exception in (b)1 above, income eligibility exists for each month in which the household unit's income is equal to or less than the income limits.

10:72-4.3 Countable income; pregnant women and infants

(a) Except as specified below, countable income for pregnant women and infants under the provisions of this chapter shall include the income of all members of the household unit as determined at N.J.A.C. 10:72-3.5(a)1 and 2, and shall be determined in accordance with regulations applicable to income in the AFDC-C program (see N.J.A.C. 10:82).

1.-4. (No change.)

(b) Nonrecurring lump sum income received by a household unit of a pregnant woman or child shall be added to any other income received by the household unit in that month. The total shall be divided by the income eligibility limit applicable to the household. The result will be the number of months the eligible members of the household unit shall be ineligible to receive Medicaid under the provisions of this chapter. Any remaining income from this calculation is treated as if it were unearned income in the first month following the period of ineligibility. No period of ineligibility shall apply to a pregnant woman eligible under the provisions of this chapter.

1.-2. (No change.)

(c) (No change.)

(d) The parents of children and the spouse of a pregnant woman are legally responsible relatives to pregnant women and children applying for or eligible for benefits under the provisions of this chapter. When a legally responsible relative resides in the same household, his or her income is considered in the determination of eligibility and no further action is required. When a legally responsible relative does not reside in the same household, the county welfare agency shall pursue support from that relative in accordance with the provisions of N.J.A.C. 10:82-3.8 et seq.

1. (No change.)

10:72-4.4 Income eligibility; aged, blind, and disabled individuals

(a) Except as specified below, countable income for aged, blind, and disabled individuals shall be determined in accordance with rules applicable to income in Medicaid Only—Aged, Blind, and Disabled (see N.J.A.C. 10:71-5).

1. The disregard of cost-of-living increases in Social Security benefits provided for in N.J.A.C. 10:71-5.3(a)7x and xi do not apply.

2. The deeming of the income of an alien's sponsor as provided for at N.J.A.C. 10:71-5.7 does not apply.

(b) Nonrecurring lump sum income received by the household unit of an aged, blind, or disabled individual shall be counted as income in the month received and any portion retained shall be counted as a resource in subsequent months.

(c) An aged, blind, or disabled individual shall have the value of in-kind support and maintenance counted as unearned income in the following circumstances.

1. An aged, blind, or disabled adult, who would in accordance with rules at N.J.A.C. 10:71-5.6(c) be determined to be "living in the household of another", shall be considered to have unearned income in the amount specified at N.J.A.C. 10:71-5.4(a)12 less \$20.00. The amount of income so assigned is not rebuttable by the applicant or recipient.

2. Any aged, blind, or disabled person other than those addressed in (c)1. above, to whom food, clothing, or shelter is given or paid for by someone other than a spouse, parent, or minor child residing in the same household, shall be presumed to receive in-kind support and maintenance. The presumed value of the support and maintenance will be the values specified at N.J.A.C. 10:71-5.4(a)12. The presumed value so assigned may be rebutted in accordance with the provisions of that subsection.

(d) In accordance with the rules at N.J.A.C. 10:71-5.5, the income of the spouse of an aged, blind, or disabled individual shall be deemed to the aged, blind, or disabled individual if they are residing in the same household. Income of the parent(s) of a blind or disabled child under the age of 18 residing in the same household shall be deemed available to the child in determining income eligibility for benefits under this chapter. No income shall be deemed to an aged, blind, or disabled individual from a person who is a member of a household unit of an eligible pregnant woman or child under the provisions of this chapter or who is in the budget unit of eligible AFDC-related Medically Needy cases (including a case that is eligible pending spend-down.)

1. If the countable income (before income deeming) of the aged, blind, or disabled individual exceeds the poverty income guideline for one person he or she is ineligible for benefits and income deeming does not apply.

2. When income of a spouse is deemed to an aged, blind, or disabled individual, the total countable income after deeming is compared to the poverty income guideline for two persons.

3. In determining income eligibility of a child, the child's income after deeming is compared to the poverty income guideline for one person.

4. When the income of a spouse must be deemed to both an aged, blind, or disabled individual and a blind or disabled child, the income is first deemed to the aged, blind, or disabled spouse. If the income (after deeming) of the aged, blind, or disabled spouse does not exceed the poverty income guideline, he or she is income eligible and there is no income to be deemed to the blind or disabled child. If the poverty income guideline is exceeded, the aged, blind, or disabled adult is income ineligible and the excess income is deemed to the blind or disabled child.

5. When parental income must be deemed to more than one blind or disabled child, the deemable income shall be divided equally among such children.

10:72-4.5 Resource eligibility

(a) Pregnant women and infants seeking Medicaid benefits under the provisions of this chapter are eligible without regard to the value of the household unit's resources. The county welfare agency shall inquire about the household unit's resources only in order to establish income that may result from the household unit's resources.

(b) Aged, blind, or disabled persons must meet resource eligibility criteria as specified below in order to be eligible for benefits under this chapter. Eligibility for benefits does not exist in any month in which the countable resources of an aged, blind, or disabled person exceeds the limits below:

| | Individual | Couple |
|--|------------|--------|
| January 1, 1988 through
December 31, 1988 | 3,800 | 5,700 |
| January 1, 1989 and thereafter | 4,000 | 6,000 |

1. The resource provisions of the Medicaid Only Manual apply in the determination of countable resources for aged, blind, or disabled individuals except that, the provisions requiring the deeming of the resources of an alien's sponsor (N.J.A.C. 10:71-4.6(f)) do not apply in this chapter.

2. The spouse-to-spouse and parent-to-child deeming of resources found at N.J.A.C. 10:71-4.6 apply to eligibility under this chapter. In the deeming of resources from one parent to a child, the countable parental resources in excess of the Medicaid Only resource limit for an individual shall be deemed to the blind or disabled child. When the resources of two parents must be deemed to a child, the countable parental resources in excess of the Medicaid Only resource limit for a couple shall be deemed to the child.

3. For aged, blind, or disabled persons, the policy concerning transfer of resources within 24 months of the date of application (see N.J.A.C. 10:71-4.7), applies equally to eligibility under this chapter.

(a)

Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual

Readoption with Amendment: N.J.A.C. 10:69A

Proposed: February 16, 1988 at 20 N.J.R. 369(a).

Adopted: April 19, 1988, by Drew Altman, Commissioner, Department of Human Services.

Filed: April 20, 1988 as R.1988 d.211, **without change**.

Authority: N.J.S.A. 30:4D-20, 24.

Effective Date of Readoption: April 20, 1988.

Effective Date of Amendment: May 16, 1988.

Expiration Date: April 20, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readopted rules may be found in the New Jersey Administrative Code at N.J.A.C. 10:69A.

Full text of the adopted amendment to the readopted rules follows.

SUBCHAPTER 6. ELIGIBILITY REQUIREMENTS

10:69A-6.1 Age

(a) (No change.)

(b) The following are acceptable proofs of age.

1. Primary proof: The applicant is required to submit a photocopy of one of the following documents:

i.-iv. (No change.)

v. Railroad retirement letter (can be obtained from Railroad Retirement Board);

vi. (No change.)

2. (No change.)

(c) (No change.)

(a)

Statewide Respite Care Program**Adopted New Rules: N.J.A.C. 10:14 (proposed as N.J.A.C. 10:69C)**

Proposed: September 21, 1987 at 19 N.J.R. 1712(a).

Adopted: April 22, 1988 by Drew Altman, Commissioner, Department of Human Services.

Filed: April 25, 1988 as R. 1988 d.226, with substantive and technical changes not requiring additional public notice and comment (N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 30:4F-7 et seq., specifically 30:4F-12 (P.L. 1987 c.119).

Effective Date: May 16, 1988.

Expiration Date: May 16, 1993.

Summary of Public Comments and Agency Responses:

The proposed rules for the administration of the Statewide Respite Care Program elicited comments from representatives of HIP of New Jersey, Visiting Homemaker Service of Hunterdon County, Visiting Homemaker Service of Ocean County, the Eastern Paralyzed Veterans Association, Discharge Planning Nurse Coordinators of New Jersey, Bergen County Department of Human Services, Middlesex County Board of Social Services, Ocean County Human Resources Department, Somerset County Office on Aging and the Division on Aging in the Department of Community Affairs.

The Department has compiled the comments and recommendations it has received and responded to each comment individually by letter. The listing of the comments received by the Department and the corresponding Departmental responses are on file with the Office of Legal and Regulatory Liaison of the Department of Human Services. Consideration of comments received and recommendations by commentors along with further internal review of the proposed rules have led the Department to make substantive and technical changes not requiring re-proposal. Where changes have been made, they are intended to clarify the intent of the rules, to render the rules more technically accurate, and to provide the greatest possible clarification of the rights and responsibilities of clients, sponsor agencies, and provider agencies.

The Department has also determined to make a technical change re-codifying the adopted rule from N.J.A.C. 10:69C to a more appropriate location (N.J.A.C. 10:14).

COMMENT: The proposed rules do not provide for an appeals process for clients to appeal an eligibility determination or decision to terminate services.

RESPONSE: On the basis of this comment, a subchapter has been added which provides an appropriate appeals process for applicants to the program and clients receiving services. (See N.J.A.C. 10:14-7). This subchapter provides an opportunity for the applicant to appeal a decision regarding eligibility determination within 21 days of receiving a notice to that effect. When services are terminated or suspended, the eligible person shall be given written notice of the proposed action and the right to a hearing 14 days prior to the proposed effective date for such action.

COMMENT: With regard to the sliding fee scale, commentors responded that the scale did not provide enough benefit to low-income families, particularly those making less than \$500.00 per month.

RESPONSE: As a result of these comments and in further consideration of the limited resources of potential participants, the sliding fee scale has been revised to provide for free services for all eligible persons below the poverty line and a reduced required cost share for those with incomes up to \$1062 per month. The revised co-payment schedule is published elsewhere in this issue of the Register as a proposed amendment to these adopted rules.

COMMENT: Several commentors recommended that the billing procedures be changed from retroactive billing of co-payment to collection at the time services are rendered. The reasons cited for this recommendation were that it would be less expensive to administer and more efficient for all involved.

RESPONSE: Due to the nature of the program and the division of responsibilities between sponsor and provider agencies, it is not feasible for this change to be implemented. The sponsor agency, according to the authorizing legislation, is responsible for the collection of all co-payments, but the agency is not responsible for the direct provision of respite care services. The sponsor agency sub-contracts with other provider agen-

cies in the region being serviced for that aspect of the program. Those sub-contractor agencies, then, will be the ones servicing the client; they do not have the responsibility for collection of co-payment, and, in fact, the Department feels this responsibility would be extremely difficult for the provider agency to administer and control.

COMMENT: There is confusion over the difference between the target population and "eligible persons." The rules do not seem to refer to these populations as being the same group of people.

RESPONSE: There is a clear distinction made in the enabling legislation between the eligible person and the target population. They are not meant to be the same group of people; the target population is the caregivers who are providing care for an elderly or disabled person without benefit of remuneration (see N.J.A.C. 10:14-1.3). The elderly or disabled person receiving care is the eligible person and it is his or her income that is used to determine financial eligibility (see N.J.A.C. 10:14-1.4 and 10:14-4.1).

COMMENT: Concern about the waiting list for the program was expressed by one commentor. Questions were raised as to how the waiting list will be organized (for example, first-come, first-served) and how a person's position on such a waiting list will determine his or her eligibility for other programs or services.

RESPONSE: The waiting list will be arranged on a first-come, first-served basis, with a proviso for prioritization of service to those cases that need immediate attention. This particular qualification was not deemed a necessary addition to the proposed rules and will be handled through the policy and procedures manual for the sponsor agencies. Eligibility for other services should not be affected by a person's participation in the Statewide Respite Care Program or a position on its waiting list since the proposed rules state it is to be the second or final payee when all other sources of respite services have been exhausted (see N.J.A.C. 10:14-4.3).

COMMENT: Several commentors indicated their concern that the cap on services of \$1200 per year is too low and will not allow families to receive sufficient services.

RESPONSE: The cap on services has been imposed because of the limited amount of funding available for the program during its first year. The added funding provided by anticipated federal financial participation will allow the program to expand and increase this cap on services.

COMMENT: A question was raised as to the role of the Department of Human Services in this program. Clarification of its role was requested.

RESPONSE: The Department of Human Services, while not responsible for the day-to-day management of client services, will be responsible for the overall administration of the program. The sponsor agencies in each county will serve as local administrators of the program; they have been nominated by the Human Services Advisory Councils in each county. The Commissioner of the Department of Human Services is responsible for the overall administration of the program. The sponsor agencies in each county will serve as local administrators of the program; they have been nominated by the Human Services Advisory Councils in each county. The Commissioner of the Department of Human Services will make the final selection of those sponsor agencies. (See N.J.A.C. 10:14-2.1-2.2).

COMMENT: One comment was received concerning the provision for an authorized agent acting on behalf of an eligible person in the event an eligible person is "incompetent." The commentor recommended the rules include a definition of "incompetent."

RESPONSE: The Department of Human Services has opted not to include a definition of "incompetency" because of the concern that the two different populations and their individual needs do not necessitate them to be judged "incompetent" in order to have an authorized agent act on their behalf. The provision for an agent to act on behalf of an eligible person extends to the situation where the eligible person is not physically capable of making appropriate application for services. In this case, it is not a question of competence, but physical limitations, and the Department is hesitant to define parameters for either situation.

COMMENT: The proposed rules do not stipulate under what conditions the income and/or resources of the caregiver will be considered in determining the resources available to the eligible person. There has also been concern raised about what the term "other resources" means in the context of N.J.A.C. 10:14-6.3(a).

RESPONSE: The determination of financial eligibility for participation in this program is based only on the income and resources of the eligible person (see N.J.A.C. 10:14-4.1). The income and resources of the caregiver are not to be considered in determining a person's eligibility for service. The payment of the co-payment, to which N.J.A.C.

10:14-6.3(a) refers, can be made out of the resources of the eligible person, his or her family or the caregiver. This will not affect the amount of service or amount of co-payment a person will be required to pay. This requirement is derived from the authorizing legislation (P.L. 1987, c.119-2(i)).

COMMENT: One commentator noted that "emergency care" is defined as providing respite care in the case of a sudden or unexpected event and is also listed as a service in N.J.A.C. 10:14-5.1(a)2; the commentator stated that its inclusion as a service is out of place in the context of Subchapter 5.

RESPONSE: The Department is bound by the law in this instance again. P.L. 1987, C.119 lists "emergency care" as a necessary service to be offered under this program and as such was included in the list of services in N.J.A.C. 10:14-5.1(a)2.

COMMENT: A request was made to add "personal care (assistant) services" to N.J.A.C. 10:14-5.2(f) and to correct the term "home health/homemaker aides" to "homemaker/home health aides."

RESPONSE: N.J.A.C. 10:14-5.2(f) has been amended to reflect these changes to comply with the language and terminology of the Division of Medical Assistance and Health Services, since their rate structures and licensing requirements are referenced and reflected in these rules.

COMMENT: A request was made to add a subsection to N.J.A.C. 10:14-5.2 to require the use of licensed medical day care facilities.

RESPONSE: The Department has added subsection (h) to N.J.A.C. 10:14-5.2 to specify that medical day care centers utilized for the Statewide Respite Care Program must be licensed to provide medical day care. Licensing rules currently exist at N.J.A.C. 8:43F-2.

COMMENT: One commentator pointed out the lack of clarity in N.J.A.C. 10:14-5.2(c) which states that provider agencies shall agree to provide services at rates set by the Department "unless negotiated rates are clearly allowed in the rate schedule." Concern was raised that the rates could conceivably exceed those set by the Department of Human Services and would be in direct competition with the rates set by the Division of Medical Assistance and Health Services.

RESPONSE: In order to clarify this section, it has been re-worded. The intention of the section is to parallel the Medicaid system. Medicaid rates for medical day care, intermediate care facilities, and skilled nursing facilities are based on individual facility costs and services. The rate a facility receives for services to their regular clientele will be used as the rate of reimbursement for the Statewide Respite Care Program. The section has been re-worded to state that provider agencies shall agree to provide services at the rates set by the Department of Human Services. References to Medicaid rates are further elaborated in N.J.A.C. 10:14-6.1.

COMMENT: One commentator noted that in N.J.A.C. 10:14-5.1(b), the sponsor can estimate the number of eligible persons to be served, though not admitting or serving more eligible persons could be a problem. The commentator suggested that the sponsor be required to demonstrate how it will control limiting services to available resources.

RESPONSE: The Department has determined that the main concern of the argument, that of comparability, is waived by the federal legislation which is a complement to the Statewide Respite Care Program, (P.L. 99-509, see 9414, g). From the outset, the Department has tried to match the major aspects of the federal legislation with those of the state program. Thus, there should not be a problem in admitting or serving more eligible persons. Procedures and guidelines for sponsor agencies to limit the services they provide to the resources available have been developed at this time for use in the implementation of the program.

COMMENT: Concern was raised that, while the obligation of a sponsor agency to process a filed application is covered in the rules, the obligation of the agency to accept an application from a prospective client is not addressed. This would, in the eyes of the commentator, give sponsor agencies the temptation to discourage applications.

RESPONSE: This point is well-taken and a simple correction has been made to N.J.A.C. 10:14-3.2(b)2 to provide clarification.

COMMENT: Concern was raised about the confidentiality policy, indicating that the Commissioner should have the right to perform audits and that right should be clearly stated.

RESPONSE: The wording of the confidentiality policy was adopted from other Department of Human Services programs and seems to make clear the intent of the Department. In light of this comment, however, it was determined that greater clarification could be achieved by adding the term "Commissioner of the Department of Human Services" to N.J.A.C. 10:14-4.2(b)3.

COMMENT: One commentator noted that the right of the Commissioner to terminate both sponsors and providers should be more firmly worded.

RESPONSE: The Department feels that N.J.A.C. 10:14-5.1(c) and 5.2(g) adequately deal with the Department's ability to cancel contracts with both sponsors and providers, should that be deemed necessary. Because all contracts with sponsor agencies will be negotiated through the Department of Human Services, there is little concern about seeking approval on all contracts. Part of the contract negotiating process will include a review of all subcontracts in which sponsors will be engaged.

COMMENT: A commentator expressed concern that the clients will not understand the obligation to report "annual income changes to an amount that will change their eligibility for services or their co-payment requirement." (See N.J.A.C. 10:14-3.2(d)2). The commentator suggested that the eligible person be required to report all changes in income and the sponsor agency would determine eligibility.

RESPONSE: This comment is well-taken. There are two provisions in the proposed rules for dealing with the reporting of income for clients. The sponsor agency is required to document annual verification of income for each client enrolled in the program. The clients are required to provide information to the sponsor agency in the interim, only if their income changes during that one year interval. These two factors are described in two different sections of the rules because the burden of action is on two different parties. The requirement concerning the sponsors is noted in N.J.A.C. 10:14-5.1(b)4 and that concerning the client is noted in N.J.A.C. 10:14-3.2(d)2.

COMMENT: "Income" should be defined for the purposes of this program. The concern raised in the comment is that the eligible person know what will be included in his or her income determination for eligibility.

RESPONSE: The proposed rules reflect not only the state program, but also the anticipated federal legislation that will complement this program. The definition of income includes all sources of income to the eligible person. Inclusion of Social Security payments, disability income, pension payments, and other cash income is anticipated to be used during a determination of eligibility. Non-cash (in-kind) benefits will not be included as part of an income determination. Determination of eligibility will also include a declaration by the eligible individual that his or her liquid resources do not exceed \$40,000. Liquid resources includes any checking accounts, savings accounts, Individual Retirement Accounts, certificates of deposit, stocks, and bonds, that can be converted into cash within twenty working days.

COMMENT: One commentator indicated a concern that when his wife is the caregiver in a two person household her income is often far less than that of her husband and the fee for respite service will be prohibitive for her.

RESPONSE: The rules establishing income eligibility for the New Jersey Respite Care Program conform to those established by federal legislation. Such conformity makes the New Jersey Respite Care Program eligible for federal matching funds that will be used to augment the State program. In order to maintain consistency between the State and Federal respite programs, it is necessary for the Department of Human Services to follow Federal guidelines. The example provided is of some concern, but the Department assumes that the financial resources of the husband will be available for payment of respite care services.

COMMENT: Several comments were received concerning the proposed reimbursement levels for the services provided under this program. The comments stated that reimbursement levels were too low for adequate service provision. Those services specifically highlighted were companion/sitter services, homemaker/home health aide services, and adult day care.

RESPONSE: Because of the complementary nature of the Statewide Respite Care Program with the Community Care Program for the Elderly and Disabled (CCPED) administered by the Division of Medical Assistance and Health Services, the Department has felt it essential to make the reimbursement rates for the Respite Program comparable with those offered by Medicaid for CCPED services. In those cases where the CCPED program did not have rates set for a service, the Department sought information from provider agencies across the state to develop a state-wide reimbursement rate based on average rates paid for these services across the State.

The rates for companion/sitter services received the most comment and, in light of concerns that were raised by the commentators, the Department of Human Services has decided to raise the reimbursement rate from \$5.00 per hour to \$5.50 per hour on weekdays and from \$6.00 to \$6.50 per hour on weekends. (See N.J.A.C. 10:14-6.1(c)).

COMMENT: The sliding fee scale imposes an undue burden on the sponsor agencies, according to one commentator, because the proposed

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rules do not make allowance for uncollected co-payments, indicating that the sponsor agency will be responsible for these uncollected amounts.

RESPONSE: The Department wants to assure all sponsor agencies that they will not be held liable for uncollected co-payment amounts, given that the agency has expended all reasonable efforts to collect these amounts. In order to guarantee that this concern is addressed in the rules, a sentence has been added to N.J.A.C. 10:14-6.3(c).

COMMENT: A comment from a prospective sponsor agency expressed concern about the administrative cost allowance granted to each county to administer the program.

RESPONSE: This comment did not relate to the proposed rules since the rules contain no reference to the administrative cost break-down. This aspect of the program was outlined in the enabling legislation and in the Request for Proposal sent out to prospective applicants for sponsor agencies.

COMMENT: One commentor suggested re-evaluation of the certification of homemaker/home health aides to enable student nurses to serve as respite care providers under the Statewide Respite Care Program.

RESPONSE: While this may be a valid proposal, the Department felt it was outside of its purview to look at certification of homemaker/home health aides in light of the Statewide Respite Care Program. The commentor was referred to the Department of Health.

COMMENT: The concern for having respite beds available in nursing homes when they are needed prompted one commentor to propose that the Department consider purchasing permanent bed space which could then be used only for the Statewide Respite Care Program.

RESPONSE: The Department has determined that the lack of resources available for this program makes it difficult to purchase permanent respite bed space in facilities such as nursing homes and hospitals. A study was done of such a proposal at the time the legislation was drafted for this program; the costs were found to be prohibitive.

COMMENT: One commentor suggested that the 30 day time period for eligibility determination be shortened to 14 days and that this time frame be waived in emergency situations.

RESPONSE: The proposed rule (N.J.A.C. 10:14-3.1) is meant to set up a maximum limit for the determination of eligibility. It is not meant to preclude more expeditious processing of applicants. However, because of the various agencies involved in the development and provision of services, the Department feels it is only fair to allow these agencies this maximum of 30 days to provide written notification of an applicant's eligibility determination.

COMMENT: One comment received indicated that the sponsoring agency should have the ability to waive the co-payment requirement in special situations.

RESPONSE: A revised co-payment schedule allowing greater flexibility in assessing co-payment requirements for lower income individuals can be found elsewhere in this issue of the Register as a proposed amendment to these adopted rules.

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

CHAPTER ***[69C]**14*** STATEWIDE RESPITE CARE PROGRAM

SUBCHAPTER 1. GENERAL PROVISIONS

10:***[69C]**14*-1.1** Purpose

Pursuant to N.J.S.A. 30:4F-7 et seq., the Department of Human Services intends to use the Statewide Respite Care Program to provide relief and support to family or other uncompensated caregivers from the demands of the daily care of frail elderly and other functionally impaired persons.

10:***[69C]**14*-1.2** Scope of service

(a) This chapter shall apply to all activities and persons participating in the Statewide Respite Care Program, including but not limited to applicants, recipients, caregivers and sponsors.

(b) Pursuant to N.J.S.A. 30:4F-7 et seq., the New Jersey Statewide Respite Care Program is limited to the provision of and payment for short-term, intermittent respite care for frail elderly and functionally disabled adults.

10:***[69C]**14*-1.3** Target population; priority of services

(a) The target population is limited to those individuals providing the basic, daily care of the eligible person, who are at risk of severe

illness, fatigue, or stress due to the demands of their caregiving responsibilities.

(b) Situations to be given priority in receiving services are those where the eligible person is at risk of institutionalization due to incapacity of a caregiver.

10:***[69C]**14*-1.4** Definitions

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

"Caregiver" means a spouse, parent, child, relative, or other person who is 18 years of age or older and who has the primary responsibility of providing daily care for the eligible person and who does not receive financial remuneration for the care.

"Co-payment" means financial participation in service costs by the eligible person according to a sliding fee scale.

"Companion and sitter services" means a non-medical, basic supervision service which is provided for the eligible person in his or her home on a short-term, intermittent basis. Companion and sitter services are intended for those eligible persons who do not require any personal care assistance, medical assistance, or house-keeping services during the time when respite care services are provided.

"Department" means the New Jersey Department of Human Services.

"Eligible person" means a functionally impaired person 18 years of age or older who would be at risk of long-term institutional placement if his or her regular caregiver could not continue in that role without the assistance of temporary home and community support services, including respite care.

"Emergency care" means providing respite care in the case of a sudden or unexpected event that impairs the ability of the caregiver to continue in that role. Such circumstances include, but are not limited to, sudden illness of a caregiver, the caregiver's spouse or children; a natural disaster; a death in the family of the caregiver; or an accident affecting the caregiver, the caregiver's spouse, or the caregiver's children.

"Functionally impaired" means the presence of a chronic physical or mental disease, illness, or disability as certified by the physician or a sponsor-provided assessment team, which causes physical dependence on others, and which leaves a person unable to attend to his or her basic daily needs without the substantial assistance or continuous supervision of a caregiver.

"Home health services" means the provision of services by a licensed home health agency which may include skilled nursing care, homemaker/home health aide service, physical, occupational, medical social services, and speech/language pathology services. Covered home health services are provided according to medical, nursing, and other health-related needs, as documented in the individual service plan.

"Homemaker services" means services which include personal care, household tasks, and activities provided to recipients in their homes by a homemaker or home health agency.

"Medical day care" means a program of medically supervised, health and health related services provided in an ambulatory care center to persons who are nonresidents of that center.

"Peer support" means the provision of mutual support services for caregivers involved in the Statewide Respite Care Program. The sponsor agency selected in each county is responsible for setting up a program of peer support.

"Personal care" means the provision of services to assist a person to provide for his or her personal needs (that is, eating, grooming, hygiene, toileting) and activities of daily living.

"Provider" means a person, public agency, private nonprofit agency, or proprietary agency which is licensed or certified or otherwise approved by the Commissioner to supply any service or combination of services described under "respite" as defined below.

"Respite" or "respite care" means the provision of temporary, short-term care for, or the supervision of, an eligible person on behalf of the caregiver in emergencies or on an intermittent basis to relieve the daily stress and demands of caring for the functionally impaired adult. Respite may be provided hourly, daily, overnight, or on week-

ends and may be provided by paid or volunteer staff. The term includes, but is not limited to, companion or sitter services, home-maker and personal care services, adult day care, short-term inpatient care in a facility licensed or certified to provide intermediate care or skilled nursing care, emergency care, and peer support and training for caregivers.

"Service plan" means a written document agreed upon by the eligible person, the caregiver, and the sponsor which specifies the type(s), frequency, and duration of services to be provided. The service plan shall take into account other services available to the eligible person and his or her caregiver.

"Social adult day care" means a program, for six or more people, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or younger disabled adults who need care in a group setting outside the home.

"Sponsor" means a county or regional agency, either public or private non-profit, which contracts with the Department of Human Services to administer the local program and arranges for services for eligible applicants after making an eligibility determination.

SUBCHAPTER 2. ADMINISTRATIVE ORGANIZATION

10:[69C]**14*-2.1 Department of Human Services

The Department of Human Services is the administrative unit of the State government which has control over the administration of the Statewide Respite Care Program. Under the terms of N.J.S.A. 30:4F-7 et seq., the Department is responsible for the general policies governing administration of the New Jersey Statewide Respite Care Program, for effecting the issuance of rules and procedures in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) for implementing the statutory provisions and for statewide coordination of the program.

10:[69C]**14*-2.2 County administration

The Human Service Advisory Council in each county shall be responsible for choosing the sponsor agency in its respective county subject to confirmation by the Department. The sponsor agency shall administer the Statewide Respite Care Program in that county and process applications for services.

SUBCHAPTER 3. APPLICATION PROCESS

10:[69C]**14*-3.1 General provisions

(a) The application process includes all activity related to a request for eligibility determination under the Statewide Respite Care Program. The process begins with the receipt of an application by a sponsor agency and continues in effect until there is an official disposition of the eligibility request from that sponsor agency.

(b) All applications for eligibility determination shall be made with the sponsor agency in each county. The sponsor agency shall make a determination of eligibility and perform appropriate assessments within 30 days after the receipt of an application.

10:[69C]**14*-3.2 Authorized agent

(a) Where the eligible person is incompetent or incapable of filing an eligible application on his or her own behalf, the sponsor agency shall recognize any of the following persons, listed in order of priority, as an authorized agent for the purpose of initiating such application:

1. A close relative of the eligible person by blood or marriage, such as parent, spouse, son, daughter, brother or sister;
2. A representative payee designated by the Social Security Administration;
3. A staff person of a public or private social service agency, of which the person is a client, who has been designated by the client to so act; or
4. A friend of the eligible person.

10:[69C]**14*-3.3 Responsibilities in the application process

(a) Pursuant to statutory authority, the Department of Human Services establishes procedures for the application process consistent with law and supervises the operation with the policy and procedures so established.

(b) The sponsor has the responsibility in the application process to:

1. Explain the purposes and eligibility requirements of the program and indicate the applicant's rights and responsibilities under its provisions;

2. *[Process]* ***Accept and process*** applications; and

3. Maintain files including applications and supporting documents for all applicants.

(c) The applicant has the responsibility to:

1. Complete the eligibility application forms truthfully, legibly, and accurately; and

2. Assist the sponsor agency in obtaining documentation that supports statements made on the eligibility application, when required.

(d) The beneficiary has the responsibility to notify the sponsor agency whenever one of the following occurs:

1. He or she moves out of the State of New Jersey;

2. His, her or their annual income changes to an amount that will change their eligibility for services or their co-payment requirement;

3. His or her marital status changes; or

4. He or she moves anywhere within the State of New Jersey.

***(e) The sponsor agency shall provide the applicant with a copy of the written determination of eligibility within 30 days of receipt of the application.**

1. When the respite services are terminated or suspended, the "eligible person" shall be given written notification of the determination and the right to a hearing as provided in N.J.A.C. 10:14-7.*

SUBCHAPTER 4. ELIGIBILITY

10:[69C]**14*-4.1 Eligibility standards

(a) For the purposes of the Statewide Respite Care Program, an eligible person shall meet the following eligibility standards:

1. An eligible person shall be 18 years of age or older, functionally impaired, and being cared for at home by a caregiver who is not remunerated for his or her services; and is at risk of long-term institutional placement if his or her regular caregiver could not continue in that role;

2. The maximum income level, not including the income of the spouse or family of the individual, shall be 300 percent of the Federal Supplemental Security Income standard for an individual living alone, in effect under section 1611(a)(1)(A) of the Social Security Acts (as increased pursuant to section 1617 of such Act). In the case of an individual and a spouse who are both dependent on the caregiver, the couple's combined income shall be subject to this same income standard; and

3. The eligible person shall be a resident of the State of New Jersey.

10:[69C]**14*-4.2 Confidentiality and disclosure of information

(a) All personally identifiable information regarding applicants or beneficiaries obtained or maintained under the Statewide Respite Care Program shall be confidential and shall not be released without the written consent of the applicant or beneficiary or their authorized agent.

(b) The prohibition against unauthorized disclosure in (a) above shall not be construed to prevent:

1. The release of statistical or summary data or information in which applicants or beneficiaries cannot be identified.

2. The release to the Attorney General, or other legal representative of the State, of information or files relating to the claim of any applicant, beneficiary, or their authorized agent challenging the program's statute, rules, or a determination made pursuant thereto, or against whom an action or proceeding for the recovery of incorrectly paid benefits has been instituted.

3. The release of information or files to the State Treasurer*, the Commissioner of the Department of Human Services* or other governmental agency, or to their duly authorized representatives, for an audit, review of expenditures or similar activity authorized by law.

4. The release of information or files to any law enforcement authority charged with the investigation or prosecution of violations of the criminal laws of this State.

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10:*[69C]**14*-4.3 Primary and secondary payment

If an eligible person's respite service costs are covered in whole or in part by another State or federal government program or insurance contract, the government program or insurance carrier shall be the primary payer and the Statewide Respite Care Program shall be the secondary payer.

SUBCHAPTER 5. SPONSORS AND PROVIDERS

10:*[69C]**14*-5.1 Qualifications and requirements of sponsors

(a) The Commissioner shall designate one sponsor agency for the Statewide Respite Care Program in each county in New Jersey, subject to the following qualifications:

1. A sponsor agency shall be a public or private nonprofit agency and shall contract annually with the Department of Human Services to administer the local respite program.

2. Each sponsor agency shall demonstrate its ability to purchase respite services from provider agencies and individuals in the county and shall provide evidence of its capability to deliver the full range of respite services mandated by the program. These respite services shall include, but not be limited to, companion or sitter services, homemaker and personal care services, adult day care, short-term inpatient care in a facility meeting standards for licensing or certification as a skilled nursing or intermediate care facility, emergency care, and peer support and training for caregivers.

(b) Each sponsor agency shall satisfy the following requirements:

1. Annually determine the maximum number of eligible persons to be served in its respective county based on the financial allocation made by the Department of Human Services. The sponsor shall not admit or serve more eligible persons than can be afforded with available resources.

2. Maintain a waiting list of those persons eligible for respite care, but not able to receive it.

3. Determine sources of payment for respite services for each eligible person, for collecting all co-payments through retrospective billing, and for determining the eligibility of all individuals who apply for services under the Statewide Respite Care Program.

4. Verify the income of each eligible person applying for services under the Statewide Respite Care Program to determine the eligible person's ability to contribute to the cost of the respite services. This income verification shall be determined on an annual basis, or sooner if circumstances change.

5. Develop a Service Plan for each person served under the Statewide Respite Care Program.

6. Submit monthly statistical and/or financial reports on the respite program in its respective county to the Department of Human Services.

7. Agree to comply with the program rules contained in this chapter.

(c) Any breach of contract provisions or of (a) and (b) above by the sponsor agency may constitute grounds for contract cancellation upon reasonable notice of such by the Department of Human Services.

10:*[69C]**14*-5.2 Qualifications and requirements for provider agencies

(a) Provider agencies in each county shall be accountable to the sponsor agency for the provision of respite services and shall enter into contracts with the designated sponsor agency.

(b) Provider agencies shall have demonstrated prior experience in delivering services to families with elderly and/or disabled members.

(c) Provider agencies shall agree to provide services at the rates set by the Department of Human Services *[unless negotiated rates are clearly allowed in the rate schedule]*.

(d) Provider agencies shall submit monthly reports to the sponsor agency in their county to comply with state and federal requirements.

(e) An individual desiring to provide services under the Statewide Respite Care Program shall enter into a sub-contract with the sponsor agency as a provider and be subject to all requirements of provider agencies.

(f) All individuals providing respite care which includes *[home health or homemaker aide services]* ***homemaker/home health aide**

or personal care (assistant) services* shall be certified *[home health/homemaker]* ***homemaker/home health*** aides.

(g) The sponsor agency and/or the Department of Human Services shall reserve the right to cease purchasing services from any provider agency when any breach of the rules contained in this chapter occurs, constituting grounds for contract cancellation upon reasonable notice.

(h) All medical day care centers utilized for the Statewide Respite Care Program shall be licensed to provide medical day care in accordance with N.J.A.C. 8:43F-2.

SUBCHAPTER 6. FEES

10:*[69C]**14*-6.1 Provider reimbursement and payment levels

(a) The Department of Human Services shall determine reimbursement and payment levels for the respite services to be provided under the program. The reimbursement rates and payment levels shall be reviewed semiannually to determine appropriateness and compatibility with rates paid for similar services provided under other respite programs.

(b) Reimbursement levels for services provided under the Statewide Respite Care Program shall be those levels used by the Division of Medical Assistance and Health Services for Medicaid reimbursements for homemaker, home health aide, and personal care assistant services, N.J.A.C. 10:60-2.2(f)1.i.-ii.; nursing home and hospital inpatient care, N.J.A.C. 10:63-1.7(a) and N.J.A.C. 8:1-1 et seq.; and medical day care, N.J.A.C. 10:65-2.1(a)2.

(c) Reimbursement for companion and sitter services shall be up to *[\$5.00]* ***\$5.50*** per hour for services rendered on weekdays and *[\$6.00]* ***\$6.50*** per hour for services rendered on weekends.

(d) Reimbursement for social adult day care shall be up to \$20.00 for a full-day session.

(e) Reimbursement for emergency care shall be based on the type of service received and shall be the reimbursement level for that service under non-emergency circumstances.

10:*[69C]**14*-6.2 Service and cost limitations for eligible persons

(a) For the first year of the Statewide Respite Care Program, each eligible person shall receive not more than \$1200.00 of respite services. These service levels shall be adjusted based on funding available to the Department of Human Services.

10:*[69C]**14*-6.3 Sliding fee scale for co-payments

(a) The Department of Human Services shall establish a sliding fee schedule for co-payments by eligible persons. This fee scale shall be based on the eligible person's income and on other resources available to the eligible person to pay for respite services. The sliding fee scale shall be reviewed on an annual basis by the Department of Human Services. If any changes to the fee scale are deemed necessary, the Department shall publish the proposed changes in the New Jersey Register.

(b) The sliding fee schedule shall be as follows:

| Monthly income | Percent of service costs to be paid by the eligible person |
|----------------|--|
| below \$371.00 | 0% |
| 371.00- 459.99 | 1% |
| 460.00- 499.99 | 5% |
| 500.00- 539.99 | 10% |
| 540.00- 579.99 | 15% |
| 580.00- 619.99 | 20% |
| 620.00- 659.99 | 25% |
| 660.00- 699.99 | 31% |
| 700.00- 739.99 | 37% |
| 740.00- 779.99 | 43% |
| 780.00- 819.99 | 50% |
| 820.00- 859.99 | 55% |
| 860.00- 899.99 | 60% |
| 900.00- 939.99 | 65% |
| 940.00- 979.99 | 70% |
| 980.00-1020.00 | 75% |
| over 1020.00 | 100% |

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(c) All co-payments shall be collected by the sponsor agency retro-spectively within six weeks after the provision of the services prescribed by the service plan.

(d) The sponsor agency shall not be held liable for the uncollected co-payment, as long as the sponsor agency has expended reasonable efforts to collect any or all co-payments.

10:[69C]**14*-6.4 Procedures for reporting on implementation of program

(a) Each sponsor agency shall file monthly reports to the Department of Human Services on forms supplied by the Department of Human Services containing the following information:

1. The number of eligible persons served by all provider agencies in the county;
2. The number of hours of respite care provided per type of respite care to all eligible persons in the county;

3. Financial data on the administration of the program;
4. Financial data on the services provided; and
5. Other information necessary for successful evaluation of the program.

*SUBCHAPTER 7. APPEALS

10:14-7.1 Appeals process

An applicant who is denied participation in the program because he or she does not qualify as an eligible person has the right to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1 within 21 days of receipt of the written determination. There shall be no right to a hearing if an individual has been determined to be an "eligible person" but respite services cannot be provided under N.J.A.C. 10:14-5.1(b).*

EMERGENCY ADOPTION

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Speed Limits

Route U.S. 9 Cape May County

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 16:28-1.41.

Emergency Amendment Adopted: April 13, 1988 by
Hazel Frank Gluck, Commissioner, Department of
Transportation.

Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): April 21, 1988.

Emergency Amendment Filed: April 25, 1988 as R.1988 d.225.

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

Emergency Amendment Effective Date: April 25, 1988.

Emergency Amendment Expiration Date: June 24, 1988.

Concurrent Proposal Number: PRN 1988-275.

Submit comments by June 15, 1988 to:

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

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed for re-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 amendment becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

AGENCY NOTE: Adopted amendments to N.J.A.C. 16:28-1.41 appear in the adoption section in this issue of the New Jersey Register.

Summary

This amendment will establish "speed limit" zones along Route U.S. 9 in the Townships of Lower, Middle, Dennis and Upper, Cape May County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. Based upon the requests from the local officials expressing the urgency for the speed limit zones, engineering studies were conducted by the Department's Bureau of Traffic Engineering and Safety Programs. The engineering studies found that the establishment of speed limit zones was warranted.

The Department therefore has adopted amendments to N.J.A.C. 16:28-1.41 as an emergency rule along with a concurrent proposal, in accordance with the requests from local officials and the Department's engineering studies.

Social Impact

The amendment will establish speed limit zones along Route U.S. 9 in Cape May County, for the safe and efficient flow of traffic, the enhancement of safety and well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department 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 signing. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since this emergency rule does not affect small business, because it does not impose reporting, recordkeeping or other requirements on small business as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-19, a regulatory flexibility analysis is not required. The rule will primarily affect the motoring public.

The agency emergency adoption and concurrent proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

16:28-1.41 Route U.S. 9 including Parts of Route 35 and 444

(a) The rate of speed designated for the certain parts of State highway Route U.S. 9 described in this subsection shall be established and adopted as the maximum legal rate of speed:

[1. For both directions of traffic:

i. 40 miles per hour from the southern end of the Boesley's Point Bridge to the intersection of Harding Avenue, in Upper Township; thence

ii. 50 miles per hour to a point 400 feet south of the County Road 31-A (New Road); thence

iii. 40 miles per hour to a point 400 feet south of County Road 31 (585) at Marmora; thence

iv. 50 miles per hour to a point 400 feet north of Route 50 at Seaville; thence

v. 40 miles per hour to a point 400 feet south of Route 50 at Seaville; thence

vi. 50 miles per hour to a point 600 feet north of the Dennisville Road; thence

vii. 35 miles per hour to a point 100 feet south of the entrance to the Garden State Parkway, near Mayville; thence

viii. 50 miles per hour to a point 400 feet north of the North Wildwood Road (County Road 18), (585 Spur), south of Burleigh; thence

ix. 40 miles per hour to a point one-half mile south of Route 47; thence

x. 50 miles per hour to a point 400 feet west of the Garden State Parkway exit (also about 4,000 feet north of Cape May Ship Canal); thence

xi. 40 miles per hour to the Cape Island Creek Bridge;

xii. The legal speed limits through school zones shall be subject to the provisions of Title 39:4-98(a) of the Revised Statutes.]

1. For both directions of traffic in Cape May County:

i. Lower Township:

(1) Zone 1: 50 miles per hour between Route 109 and Creece Lane (mileposts 3.06 to 5.83); thence

(2) Zone 2: 40 miles per hour between Creece Lane and the Lower Township-Middle Township line (mileposts 5.83 to 6.53); thence

ii. Middle Township:

(1) 40 miles per hour between Lower Township-Middle Township line and 100 feet south of the exit from the Garden State Parkway (mileposts 6.53 to 10.90); thence

(2) Zone 3: 35 miles per hour between 100 feet south of the exit from the Garden State Parkway and Locust Lane (mileposts 10.90 to 11.90); thence

(3) Zone 4: 30 miles per hour between Locust Lane and 1000 feet north of Orbit Drive except with a 25 miles per hour School Speed Zone in Middle Township Elementary School Zone during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours. (mileposts 11.90 to 13.34); thence

(4) Zone 5: 40 miles per hour between 1000 feet north of Orbit Drive and 1000 feet north of County Road 609 (mileposts 13.34 to 14.34); thence

(5) Zone 6: 50 miles per hour between 1000 feet north of County Road 609 and Middle Township-Dennis Township line (mileposts 14.34 to 17.96); thence

iii. Dennis Township:

(1) 50 miles per hour between the Middle Township-Dennis Township line and the Dennis Township-Upper Township line (mileposts 17.96 to 22.30); thence

iv. Upper Township:

(1) 50 miles per hour between the Dennis Township-Upper Township line and 700 feet south of Route N.J. 50 (mileposts 22.30 to 23.46); thence

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(2) Zone 7: 40 miles per hour between 700 feet south of Route N.J. 50 and 1350 feet north of Route N.J. 50 (mileposts 23.46 to 23.86); thence

(3) Zone 8: 50 miles per hour between 1350 feet north of Route N.J. 50 and Milepost #28 (mileposts 23.86 to 28.00); thence

(4) Zone 9: 45 miles per hour between Milepost #28 and 800 feet south of County Road 631 (mileposts 28.00 to 28.35); thence

(5) Zone 10: 40 miles per hour between 800 feet south of County Road 631 and 100 feet north of Lenape Lane (mileposts 28.35 to 29.40); thence

(6) Zone 11: 45 miles per hour between 100 feet north of Lenape Lane and 200 feet south of Harbor Road (mileposts 29.40 to 30.50); thence

(7) Zone 12: 40 miles per hour between 200 feet south of Harbor Road and the southernmost end of the Beesley's Point Bridge (mileposts 30.50 to 30.70).

Renumber xiii. through xxiv. as v. through xiv. (No change in text.)

(b) (No change.)

MISCELLANEOUS NOTICES

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code

Asbestos Hazard Abatement Subcode

Asbestos Safety Control Monitor

Notice of Correction: N.J.A.C. 5:23-8.17

Take notice that errors appear in the New Jersey Administrative Code at N.J.A.C. 5:23-8.17 concerning Asbestos Safety Control Monitor. A notice of adoption for this rule appeared in the November 16, 1987 issue of the New Jersey Register at 19 N.J.R. 2136. In a subsequent adoption notice on December 21, 1987, which recodified N.J.A.C. 5:23-8.17(f) as 8.17(h), and amended 8.17(h)1 and 2, errors in the text occurred at 19 N.J.R. 2396 and 2397.

N.J.A.C. 5:23-8.17(h) should read as follows:

5:23-8.17 Asbestos Safety Control Monitor

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

(h) Authorization and reauthorization fees are as follows:

1. Authorization fee: Any asbestos safety control monitor submitting an application to the department under this subcode, for approval as an asbestos safety control monitor shall pay a fee of **\$2,500** for the authorization which is sought, plus an amount equal to six percent of the gross revenue earned from asbestos safety control monitor activities, payable quarterly. The monies obtained from the preparation of plans and specifications shall not be included in the calculation of this quarterly fee.

2. Reauthorization fee: Any asbestos safety control monitor submitting an application to the department under this subcode for reapproval as an asbestos safety control monitor shall pay a fee of **\$1,250** plus an amount equal to six percent of the gross revenue of four consecutive quarters starting with the previous year's last quarter. The fee shall be payable quarterly with the first quarter due with application. The monies obtained from the preparation of plans and specifications shall not be included in the calculation of this quarterly fee.

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. A Wastewater Management Plan has been prepared for the Town of Phillipsburg, Lopatcong and Pohatcong Townships, and Alpha Borough. The Phillipsburg Sewage Treatment Plant will be upgraded to meet effluent limitations and the sewer service area will be expanded. Phillipsburg will be designated the Wastewater Management Agency for the treatment plant and their conveyance system. Each of the municipalities will be designated as the Wastewater Management Agency for their own conveyance facilities.

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.

INSURANCE

(c)

THE COMMISSIONER

Notice of Hearing on Exportable List

Take notice that Kenneth D. Merin, Commissioner of Insurance, announces that the Department will hold a hearing to determine classes of insurance for which no reasonable or adequate market exists among authorized insurers on June 3, 1988, at 10:00 A.M., at:

Department of Insurance
Commerce Building—Room C-218, 2nd Floor
20 West State Street
Trenton, New Jersey 08625

Consideration will be given to the continued listing of the 49 classes of coverage declared eligible to export on February 21, 1987. In addition, interested persons are invited to submit other proposed classes of coverage for listing.

Interested persons may submit in writing, data, views or arguments relevant to the Exportable List on or before May 27, 1988. These submissions should be addressed to:

Department of Insurance
Financial Examinations Division
Surplus Lines Examining Office
CN-235
Trenton, New Jersey 08625

The Public Notice on the Exportable List dated March 18, 1988 and published in the New Jersey Register on April 4, 1988 at 20 N.J.R. 822(a) declaring that the current Exportable List expires on May 17, 1988 is hereby rescinded.

The current Exportable List as established on February 21, 1987 shall continue in effect until a determination based upon the June 3, 1988 public hearing is announced.

Classes of Coverage Eligible to Export

1. Amusement Devices
2. Amusement Parks and Carnivals Liability
3. Animal Mortality, Horses Only
4. Armored Cars
5. Automobiles—Race Tracks Liability
6. Auto Races
7. Aviation, Crop Dusters
8. Bowling Alleys
9. Burglary and Robbery for Check Cashing, Money Exchange and Installation Sales Houses Only
10. Business Interruption—Valued Per Diem Form Only
11. Cleaners' and Dyers' Bailee Coverage in Municipalities over 100,000 Population
12. Commercial Excess Liability Insurance
13. Differences on Condition (Parasol)
14. Environmental Impairment Liability Insurance
15. Errors and Omissions for the Following Groups:
 - a. Associations
 - b. Collection Agencies
 - c. Franchisers
 - d. Freight Forwarders
 - e. Insurance Audit and Engineering Firms
 - f. Management Consultants

INSURANCE

- g. Police Professional
- h. Seedsmans
- i. Trustees
- j. Testing Laboratories
- k. Other coverages shown as Class A Rated by an authorized rating bureau and any coverages or classes not specifically rated by an authorized rating bureau.
- 16. Excess Auto Physical Damage for Private Passenger and Commercial (value over \$39,000).
- 17. Excess of First Loss Insurance
- 18. Excess Loss and Excess Aggregate for Self-Insurers Public Liability and Workers' Compensation
- 19. Excess Property Insurance
- 20. False Arrest and Other Personal Injury Liability Classes
- 21. Fine Arts Dealers
- 22. Fire and Allied Lines on Buildings Occupied as Auction Markets, Farmers Markets and Contents of Such Buildings
- 23. Fireworks Display
- 24. First Loss Insurance
- 25. Golf Driving Range
- 26. Hole-In-One
- 27. House Movers and Building Demolition
- 28. International Movers Insurance Plan
- 29. Kidnapping Insurance
- 30. Liquor Law Liability
- 31. Manufacturers and Contractors Liability for Floor Waxers, Building Maintenance People, Window Washers and Exterminators
- 32. Mortgage Impairment
- 33. Personal Articles Floaters Only
- 34. Picnics/Excursions
- 35. Pony Rides/Riding Academies
- 36. Products Liability and Products Recall Coverage
- 37. Professional Liability for the Following:
 - a. Associated Persons (Licensed by the Commodity Futures Trading Commissions)
 - b. Chiropractors
 - c. Clinical Laboratories
 - d. Divorce Mediation
 - e. Hospices
 - f. Massage and Reducing Salons
 - g. Medical Health Care Agencies
 - h. Medical Personnel Pools
 - i. Psychologists
 - j. Real Estate Appraisers
 - k. Salon Sun Tan Beds
 - l. Stress Testing Centers
 - m. Title Abstractors
 - n. Veterinarians
 - o. Other coverages shown as Class A Rated by an authorized rating bureau and any coverage or classes not specifically rated by an authorized rating bureau.
- 38. Rain Insurance
- 39. Retrospective Penalty Indemnity
- 40. Short-Term (not over 30 days) Drive-Away Auto Insurance with \$15,000/\$30,000 Bodily Injury and \$15,000 Property Damage Limits on Vehicles owned and operated by Military Personnel except for vehicles registered in New Jersey
- 41. Short-Term Entertainment Events, Rock Festivals
- 42. Short-Term Association Meetings and Conventions
- 43. Skating Rinks, Roller and Ice Skate-Board Parks
- 44. Sporting Events (Casual)
- 45. Swim Clubs/Swim Pools
- 46. Truck Physical Damage Coverages for Non-Fleet (one to five) trucks over 7,800 pounds, including Trailers and/or Trailer Interchange

MISCELLANEOUS NOTICES

- 47. Vacant Buildings—Fire, Extended Coverage and Vandalism
- 48. Warehouseman's Legal Liability
- 49. Physical Damage Insurance for Limousines used for Public or Livery Conveyance of Passengers

(a)

**Notice of Total Direct Written Premiums for All Insurers in New Jersey for No-Fault, Liability and Physical Damage Lines
Public Notice**

Take Notice that Kenneth D. Merin, Commissioner of Insurance, pursuant to the requirement of N.J.A.C. 11:3-20.7(c), hereby lists the total calendar year 1987 direct written premiums for all insurers in New Jersey for no-fault, liability and physical damage lines. This information is to be used by insurers to calculate their market shares as required by N.J.A.C. 11:3-20.7.

| Private Passenger Automobile
Direct Written Premiums (in thousands) | | 1987† |
|--|--|--------------------|
| Lines | | 1987† |
| No-Fault | | \$ 231,111 |
| Liability | | 623,357 |
| (Subtotal) | | 854,468 |
| Physical Damage | | 555,280 |
| (Total) | | <u>\$1,409,748</u> |

†Excludes business written through the New Jersey Automobile Full Insurance Underwriting Association. (The Department is interested in voluntary market share information for the purposes of N.J.A.C. 11:3-20. Thus, only voluntary market totals are provided.)

LAW AND PUBLIC SAFETY

(b)

**DIVISION OF MOTOR VEHICLES
Division of Motor Vehicles Utilization of the Designation "Motor Vehicle Services"
Public Notice**

Take notice that W. Cary Edwards, Attorney General of New Jersey and Glenn R. Paulsen, Director of the Division of Motor Vehicles, announce that the Division of Motor Vehicles will utilize the designation "Motor Vehicle Services" in public relations and informational notices, bulletins and other formats as appropriate.

This designation reflects the results of the continuing review and analysis of the mission of the Division of Motor Vehicles. The designation "Motor Vehicle Services" is in accordance with the goals of the Department of Law and Public Safety to rebuild the structure and redirect the philosophy of the Division. The Division is directing its efforts to be more consumer sensitive to the needs of the citizens of New Jersey with the ultimate goal being the providing of all motor vehicle services in a consumer oriented and responsive manner. All official records of the Division will retain the official designation "Division of Motor Vehicles."

This notice is published as a matter of public information.

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the April 4, 1988 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(c).

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.1988 d.1 means the first rule adopted in 1988.

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 series number and supplement 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: SUPPLEMENT MARCH 21, 1988

NEXT UPDATE: SUPPLEMENT APRIL 18, 1988

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 |
|------------------------------------|--|------------------------------------|--|
| 19 N.J.R. 795 and 898 | May 18, 1987 | 19 N.J.R. 2225 and 2324 | December 7, 1987 |
| 19 N.J.R. 899 and 1006 | June 1, 1987 | 19 N.J.R. 2325 and 2510 | December 21, 1987 |
| 19 N.J.R. 1007 and 1120 | June 15, 1987 | 20 N.J.R. 1 and 124 | January 4, 1988 |
| 19 N.J.R. 1121 and 1258 | July 6, 1987 | 20 N.J.R. 125 and 220 | January 19, 1988 |
| 19 N.J.R. 1259 and 1352 | July 20, 1987 | 20 N.J.R. 221 and 320 | February 1, 1988 |
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| 19 N.J.R. 1759 and 1858 | October 5, 1987 | 20 N.J.R. 843 and 950 | April 18, 1988 |
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19 N.J.R. 675(a)
 20 N.J.R. 573(a)

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 20 N.J.R. 845(a)
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20 N.J.R. 975(a)

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| 4A:1-1.3 | State and local departments defined | 20 N.J.R. 845(b) | | |
| 4A:3 | Classification, services, and compensation | 20 N.J.R. 846(a) | | |
| 4A:4 | Selection and appointment | 20 N.J.R. 327(a) | | |
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| 7:10-16 | Maximum Containment Levels (MCLs) for hazardous contaminants in drinking water | 19 N.J.R. 2228(a) | |
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| 7:25-18.5 | Gill net seasons; staked gill net fishery: extension of comment period | 20 N.J.R. 715(a) | |
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| 7:30 | Pesticide Control Code | 20 N.J.R. 579(a) | |
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| 7:45 | Delaware and Raritan Canal review zone: extension of comment period | 20 N.J.R. 552(c) | | |
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| 8:43E-3.19, 3.20 | Inpatient screening psychiatric beds: need review | 20 N.J.R. 618(a) | | |
| 8:43E-5.20 | Intermediate adult and special psychiatric beds: need review | 20 N.J.R. 619(a) | | |
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| 8:71 | Interchangeable drug products (see 19 N.J.R. 1312(b), 1644(a), 2278(b), 2400(a); 20 N.J.R. 191(a), 654(a)) | 19 N.J.R. 615(a) | R.1988 d.161 | 20 N.J.R. 898(c) |
| 8:71 | Interchangeable drug products (see 19 N.J.R. 2279(b), 2401(a); 20 N.J.R. 190(a), 655(a)) | 19 N.J.R. 1488(a) | R.1988 d.163 | 20 N.J.R. 899(b) |
| 8:71 | Interchangeable drug products (20 N.J.R. 191(b), 654(b)) | 19 N.J.R. 1878(a) | R.1988 d.162 | 20 N.J.R. 899(a) |
| 8:71 | Interchangeable drug products | 20 N.J.R. 146(a) | R.1988 d.164 | 20 N.J.R. 900(a) |
| 8:71 | Interchangeable drug products | 20 N.J.R. 871(a) | | |

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| 9:7-4 | Garden State Scholarship Program | 20 N.J.R. 720(a) | | |
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| 9:11-1.5 | Educational Opportunity Fund: maximum income levels for undergraduate eligibility | 20 N.J.R. 722(a) | | |
| 9:11-1.7 | Equal Opportunity Fund grants: graduate awards | 19 N.J.R. 1879(a) | R.1988 d.152 | 20 N.J.R. 807(a) |
| 9:11-2 | Martin Luther King Physician-Dentist Scholarship Program | 19 N.J.R. 2374(a) | R.1988 d.153 | 20 N.J.R. 807(b) |

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| 10:4 | Communication with communities regarding development of group homes: extension of comment period | 20 N.J.R. 149(a) | |
| 10:13 | Legal Assistance for Medicare Patients (LAMP) | 20 N.J.R. 873(a) | |
| 10:44A | Licensed community residences for developmentally disabled | 20 N.J.R. 149(b) | |
| 10:49-1.1 | Presumptive Medicaid eligibility for pregnant women | 20 N.J.R. 367(a) | R.1988 d.192 20 N.J.R. 983(a) |
| 10:49-1.1, 1.2 | Medical assistance for aged, blind and disabled | 20 N.J.R. 548(a) | R.1988 d.212 20 N.J.R. 1103(a) |
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| 10:49-6.9 | Medicaid providers and administrative charges and service fees | 20 N.J.R. 518(a) | |
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| 10:51-5.6 | Pharmaceutical Assistance to Aged and Disabled: income limits | 19 N.J.R. 2375(a) | R.1988 d.174 20 N.J.R. 902(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) | |
| 10:61-2.4, 2.5 | Independent laboratories: standardized claim form | 19 N.J.R. 1779(a) | R.1988 d.145 20 N.J.R. 807(c) |
| 10:62-1, 2, 3 | Vision Care Manual | 20 N.J.R. 956(c) | |
| 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) | R.1988 d.145 20 N.J.R. 807(c) |
| 10:66-3 | Family planning services provided by independent clinics | 19 N.J.R. 2376(a) | R.1988 d.156 20 N.J.R. 809(a) |
| 10:69 | Hearing Aid Assistance for Aged and Disabled (HAAAD) | 20 N.J.R. 519(a) | |
| 10:69A | Pharmaceutical Assistance to the Aged and Disabled | 20 N.J.R. 369(a) | R.1988 d.211 20 N.J.R. 1106(a) |
| 10:69A-1.2, 6.2, 6.6, 6.10 | PAAD income limits | 19 N.J.R. 2375(a) | R.1988 d.174 20 N.J.R. 902(a) |
| 10:69C | Statewide Respite Care Program | 19 N.J.R. 1712(a) | R.1988 d.226 20 N.J.R. 1107(a) |
| 10:71-5.4, 5.5, 5.6, 5.7 | Medicaid Only computation amounts and income eligibility standards | 20 N.J.R. 207(a) | R.1988 d.193 20 N.J.R. 985(a) |
| 10:72-1.1, 1.2, 2.1, 2.3, 2.7, 3.4, 3.5, 4.3, 4.4, 4.5 | Medical assistance for aged, blind and disabled | 20 N.J.R. 548(a) | R.1988 d.212 20 N.J.R. 1103(a) |
| 10:72-6 | Presumptive Medicaid eligibility for pregnant women | 20 N.J.R. 367(a) | R.1988 d.193 20 N.J.R. 983(a) |
| 10:81-4.5 | AFDC program: transportation costs incident to education or training | 20 N.J.R. 620(a) | |
| 10:81-7.40 | AFDC program: fraudulent receipt of assistance | 20 N.J.R. 722(a) | |
| 10:81-11.7 | Child support enforcement program | 19 N.J.R. 1879(b) | |
| 10:82-5.10 | Emergency Assistance in AFDC | Emergency (expires 4-30-88) | R.1988 d.194 20 N.J.R. 933(a) |
| 10:85-1.5 | General Assistance Program audits | 19 N.J.R. 2376(b) | R.1988 d.146 20 N.J.R. 809(b) |
| 10:85-3.2, 3.3 | GAM: travel costs for job seeking or training | 20 N.J.R. 879(a) | |
| 10:85-5.2 | General Assistance: payment of inpatient hospital bills | 20 N.J.R. 521(a) | |
| 10:85-5.3 | General Assistance Manual: deadline for medical bills | 20 N.J.R. 162(a) | R.1988 d.169 20 N.J.R. 902(b) |
| 10:85-6.3 | General Assistance Program statement of refunds: preparation of Form GA-12 | 19 N.J.R. 2377(a) | R.1988 d.172 20 N.J.R. 903(a) |
| 10:85-8.4 | GAM: Pharmaceutical Assistance (PAAD) program information | 20 N.J.R. 522(a) | |
| 10:86 | AFDC Work Incentive Program | 20 N.J.R. 162(b) | R.1988 d.170 20 N.J.R. 903(b) |
| 10:87-5.9 | Food Stamps eligibility: income exclusion and utility allowance payments | 19 N.J.R. 1986(a) | |
| 10:87-11.21, 11.28 | Liability for overissuance of food stamp benefits | 20 N.J.R. 162(c) | R.1988 d.173 20 N.J.R. 903(c) |
| 10:100-3.7 | Chargeable CWA for funerals and burials | 20 N.J.R. 163(a) | R.1988 d.171 20 N.J.R. 904(a) |
| 10:100, App. A | Supplemental Security Income payment levels | 20 N.J.R. 208(a) | R.1988 d.143 20 N.J.R. 809(c) |
| 10:123-3.2 | Residential health care facilities and boarding homes: personal needs allowance of residents | 20 N.J.R. 225(b) | R.1988 d.201 20 N.J.R. 985(b) |

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CORRECTIONS—TITLE 10A

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| 10A:1-2 | Rulemaking and rule exemption authority of Commissioner | 20 N.J.R. 493(a) | |
| 10A:1-11 | Personal property of inmates | 20 N.J.R. 494(a) | |
| 10A:4-1.2, 13 | Inmate discipline: Boy's Unit at Skillman | 20 N.J.R. 496(a) | |
| 10A:4-11.9, 12 | Inmate discipline: appeal to Office of Administrative Law | 20 N.J.R. 496(b) | |
| 10A:4-11.9, 12 | Inmate appeals to Office of Administrative Law: public hearing | 20 N.J.R. 880(b) | |
| 10A:9-1.3, 5.6 | Work credits for I.S.P. violators housed in county facilities | 20 N.J.R. 879(b) | |
| 10A:9-4.6 | Open charges and reduced custody status | 20 N.J.R. 880(a) | |

| N.J.A.C. CITATION | | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R. CITATION) |
|--|--|-----------------------------------|-----------------|-----------------------------------|
| 10A:16-11 | Special medical unit | 20 N.J.R. 163(b) | R.1988 d.142 | 20 N.J.R. 810(a) |
| 10A:17-2, 5, 6 | Social services: Volunteer Service Program; religion; institutional chaplaincy | 20 N.J.R. 167(a) | | |
| 10A:18-8.7 | Use of telephone by inmates | 20 N.J.R. 496(c) | | |
| 10A:22-2 | Inmate and parolee records | 20 N.J.R. 723(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) | | |

Most recent update to Title 10A: TRANSMITTAL 1988-3 (supplement March 21, 1988)**INSURANCE—TITLE 11**

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| 11:1-8.1, 9, 12.1, 12.3, 12.4, 12.6, 14, 18, 19 | Repeal (see 11:17-1, 2, 5) | 20 N.J.R. 225(c) | R.1988 d.186 | 20 N.J.R. 904(b) |
| 11:2-1.1-1.6, 19.1-19.5 | Repeal (see 11:17-3.1-3.5, 5.7) | 20 N.J.R. 237(a) | | |
| 11:4-2 | Replacement of life insurance policy | 19 N.J.R. 1286(a) | | |
| 11:4-16.6 | Basic hospital expense coverage | 20 N.J.R. 172(a) | | |
| 11:4-18.3, 18.5, 18.10 | Individual health policies: loss ratio standards | 19 N.J.R. 1620(b) | | |
| 11:4-19 | Optional coverage for pregnancy and childbirth benefits | 20 N.J.R. 43(a) | | |
| 11:4-28 | Group coordination of health care benefits | 19 N.J.R. 845(a) | | |
| 11:4-30 | Hospital preadmission certification programs (HPCPs) | 20 N.J.R. 880(c) | | |
| 11:5-1.13 | Control of real estate brokerage files | 20 N.J.R. 883(a) | | |
| 11:5-1.15 | Real estate advertising practices | 20 N.J.R. 497(a) | | |
| 11:5-1.23 | Real estate licensee's obligation to disclose certain information concerning a property and to submit to a seller all written offers: pre-proposal | 19 N.J.R. 2238(a) | | |
| 11:5-1.23 | Real estate services to handicapped | 20 N.J.R. 725(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) | | |
| 11:5-1.27 | Educational requirements for real estate licensure | 20 N.J.R. 725(b) | | |
| 11:5-1.28 | Certification as real estate instructor; classroom procedure | 20 N.J.R. 498(a) | | |
| 11:12-1.3 | Repeal (see 11:17-1, 2, 5) | 20 N.J.R. 225(c) | R.1988 d.186 | 20 N.J.R. 904(b) |
| 11:17-1, 2, 5 | Insurance producer licensing | 20 N.J.R. 225(c) | R.1988 d.186 | 20 N.J.R. 904(b) |
| 11:17-3.1-3.5, 5.7 | Insurance producer licensing: professional qualifications | 20 N.J.R. 237(a) | | |
| 11:17-3.2 | Insurance producer prelicensing education: correction to proposal at 20 N.J.R. 237(a) | 20 N.J.R. 370(a) | | |
| 11:18 | New Jersey Medical Malpractice Reinsurance Recovery Fund Surcharge: pre-proposed new rules | 20 N.J.R. 242(a) | | |

Most recent update to Title 11: TRANSMITTAL 1988-2 (supplement February 16, 1988)**LABOR—TITLE 12**

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| 12:17-2.6 | Noncompliance with quality control reviews of unemployment insurance claims | 20 N.J.R. 884(a) | | |
| 12:45-49 | Vocational rehabilitation | 20 N.J.R. 621(a) | | |
| 12:100-4.2, 5.2, 6.2 | Public employee safety and health | 20 N.J.R. 726(a) | | |
| 12:120-5 (8:60-5) | Asbestos worker and supervisor permits | 20 N.J.R. 728(a) | | |

Most recent update to Title 12: TRANSMITTAL 1988-3 (supplement March 21, 1988)**COMMERCE, ENERGY, AND ECONOMIC DEVELOPMENT—TITLE 12A**

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| 12A:12-2 | Local Development Financing Fund | 19 N.J.R. 2381(a) | R.1988 d.180 | 20 N.J.R. 930(d) |
| 12A:12-3 | Tourism Matching Grant Program | 20 N.J.R. 172(b) | R.1988 d.215 | 20 N.J.R. 1082(a) |
| 12A:50-1 | Cogeneration: reporting by non-utility generators | 19 N.J.R. 2383(a) | | |

Most recent update to Title 12A: TRANSMITTAL 1988-1 (supplement March 21, 1988)**LAW AND PUBLIC SAFETY—TITLE 13**

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| 13:1 | Police Training Commission rules | 20 N.J.R. 622(a) | | |
| 13:3-1, 2, 3, 4, 7 | Amusement games control | 20 N.J.R. 627(a) | R.1988 d.227 | 20 N.J.R. 1085(a) |
| 13:3-3.4, 3.5, 3.6 | Amusement games: preproposal concerning player fees and value of prizes | 20 N.J.R. 44(a) | | |
| 13:4-3.4, 3.5, 8.2 | Discrimination complaints: confidentiality of parties' identities | 20 N.J.R. 499(a) | | |
| 13:21-11.13 | Temporary registration of motor vehicles | 20 N.J.R. 176(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) | | |
| 13:27-5.4 | Licensure of out-of-state architects | 20 N.J.R. 884(b) | | |
| 13:27-5.8, 8.7, 8.8, 8.15 | Certification of landscape architects | 20 N.J.R. 885(a) | | |
| 13:27A | Repeal (see 13:28) | 20 N.J.R. 370(b) | R.1988 d.214 | 20 N.J.R. 1088(a) |
| 13:28 | Board of Cosmetology and Hairstyling | 20 N.J.R. 370(b) | R.1988 d.214 | 20 N.J.R. 1088(a) |
| 13:28-5.1 | Board of Cosmetology and Hairstyling: fee schedule | 20 N.J.R. 886(a) | | |
| 13:29-5 | Board of Accountancy: Quality Enhancement Program | 19 N.J.R. 2240(a) | | |

| N.J.A.C. CITATION | | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R. CITATION) |
|--------------------------|--|-----------------------------------|-----------------|-----------------------------------|
| 13:34-3.6 | Marriage counseling: temporary permit holders | 20 N.J.R. 501(a) | R.1988 d.228 | 20 N.J.R. 1095(a) |
| 13:35-1.5 | Participation in medical residency programs | 19 N.J.R. 2243(a) | R.1988 d.203 | 20 N.J.R. 986(a) |
| 13:35-6.7 | Medical examiners board: prescribing of amphetamines and sympathomimetic amine drugs | 19 N.J.R. 1786(a) | | |
| 13:36-1.6 | Board of Mortuary Science fees | 20 N.J.R. 177(a) | R.1988 d.158 | 20 N.J.R. 912(a) |
| 13:39 | Board of Pharmacy rules | 19 N.J.R. 1952(a) | | |
| 13:39 | Board of Pharmacy rules: extension of comment period | 20 N.J.R. 244(a) | | |
| 13:40-3.1 | Professional engineers and land surveyors: conflict of interest; approval of work | 20 N.J.R. 736(a) | | |
| 13:44C | Practice of audiology and speech-language pathology | 20 N.J.R. 244(b) | | |
| 13:45A-12.1, 12.2, 12.3 | Sale of animals | 20 N.J.R. 501(b) | | |
| 13:46-1A.3 | Athletic Control Board: weighing of boxers | 20 N.J.R. 380(a) | | |
| 13:47-6.20, 7.17 | Legalized games of chance: unaffiliated organizations; unlicensed games | 20 N.J.R. 249(a) | R.1988 d.184 | 20 N.J.R. 912(b) |
| 13:70-6.55 | Thoroughbred racing: respiratory bleeders | 20 N.J.R. 506(a) | | |
| 13:70-14A.9 | Thoroughbred racing: competition by bleeders | 20 N.J.R. 506(b) | | |
| 13:71-11.9 | Harness racing: respiratory bleeders | 20 N.J.R. 507(a) | | |
| 13:71-23.8 | Harness racing: competition by respiratory bleeders | 20 N.J.R. 250(a) | R.1988 d.183 | 20 N.J.R. 912(c) |
| 13:75-1.7 | Violent crimes compensation: prosecution of offender | 20 N.J.R. 736(b) | | |
| 13:76 | Training requirements for arson investigators | 20 N.J.R. 963(a) | | |
| 13:76-1.3, 3.1, 3.2, 5.1 | Arson investigation training | 19 N.J.R. 1788(b) | R.1988 d.159 | 20 N.J.R. 913(a) |
| 13:80-1 | Hazard Waste Management Information Awards | 20 N.J.R. 507(b) | | |

Most recent update to Title 13: TRANSMITTAL 1988-3 (supplement March 21, 1988)

PUBLIC UTILITIES—TITLE 14

| | | | | |
|-----------|---|-------------------|--|--|
| 14:3-7.5 | Interest on customer deposits | 20 N.J.R. 737(a) | | |
| 14:3-7.13 | Collection activity on disputed charges; interest on overpayments | 20 N.J.R. 963(b) | | |
| 14:11-6 | Interest on fuel clause overrecoveries | 19 N.J.R. 1967(c) | | |
| 14:18-3 | Cable TV: pre-proposal for telephone service standards | 19 N.J.R. 2125(b) | | |

Most recent update to Title 14: TRANSMITTAL 1988-1 (supplement January 19, 1988)

ENERGY—TITLE 14A

| | | | | |
|---|---|-------------------|--------------|------------------|
| 14A:3-7 | Individual electric metering in residential buildings: repeal | 19 N.J.R. 2247(a) | R.1988 d.188 | 20 N.J.R. 991(a) |
| 14A:6-2 | Business Energy Improvement Program | 20 N.J.R. 250(b) | R.1988 d.197 | 20 N.J.R. 991(b) |
| 14A:22-1.2, 2.1, 3.1, 3.2, 3.8, 4.1, 5.1, 8.1 | Commercial and apartment conservation service program | 19 N.J.R. 2247(b) | R.1988 d.187 | 20 N.J.R. 995(a) |

Most recent update to Title 14A: TRANSMITTAL 1988-1 (supplement February 16, 1988)

STATE—TITLE 15

| | | | | |
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| 15:2-1 | Commercial recording: expedited services | 20 N.J.R. 522(b) | R.1988 d.202 | 20 N.J.R. 997(a) |
| 15:10-6 | Voting accessibility for elderly and handicapped | 19 N.J.R. 2249(a) | | |

Most recent update to Title 15: TRANSMITTAL 1987-1 (supplement February 17, 1987)

PUBLIC ADVOCATE—TITLE 15A

Most recent update to Title 15A: TRANSMITTAL 1987-1 (supplement April 20, 1987)

TRANSPORTATION—TITLE 16

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| 16:25 | Utility accommodation on highway rights-of-way | 19 N.J.R. 1064(a) | | |
| 16:25A | Soil erosion and sediment control on DOT projects | 19 N.J.R. 2126(a) | | |
| 16:28 | Speed limits on State highway system | 20 N.J.R. 887(a) | | |
| 16:28-1.13, 1.15, 1.30, 1.93 | Speed limit zones along Routes 13, 20, 44, and 70 | 20 N.J.R. 630(a) | R.1988 d.217 | 20 N.J.R. 1095(b) |
| 16:28-1.26, 1.41 | Speed limit zones along U.S. 9 and Route 185 | 20 N.J.R. 632(a) | R.1988 d.219 | 20 N.J.R. 1096(a) |
| 16:28-1.31 | Speed limits along Route 56 in Cumberland and Salem counties | 20 N.J.R. 964(a) | | |
| 16:28-1.41 | Speed limits along U.S. 9 in Cape May County | Emergency (expires 6-24-88) | R.1988 d.225 | 20 N.J.R. 1113(a) |
| 16:28-1.49 | Speed limits along Route 35 in Bay Head | 20 N.J.R. 965(a) | | |
| 16:28-1.112 | Speed limit zones along Route 156 in Hamilton | 20 N.J.R. 632(b) | R.1988 d.220 | 20 N.J.R. 1097(a) |
| 16:28A | Restricted parking and stopping | 20 N.J.R. 887(a) | | |
| 16:28A-1.2, 1.7, 1.15 | Bus stop zones along U.S. 1 and 9 in North Bergen, U.S. 9 in Howell, and Route 23 in Wayne | 20 N.J.R. 965(b) | | |
| 16:28A-1.7, 1.18, 1.57 | Restricted parking along U.S. 9, Route 27, and U.S. 206 | 20 N.J.R. 633(a) | R.1988 d.218 | 20 N.J.R. 1097(b) |
| 16:28A-1.7, 1.46 | Stopping restrictions along U.S. 9 in Cape May and U.S. 130 in Mercer County | 20 N.J.R. 887(b) | | |
| 16:28A-1.28, 1.41 | Restricted parking along U.S. 40 and Route 77 in Upper Pittsgrove Township | 20 N.J.R. 508(a) | R.1988 d.208 | 20 N.J.R. 1098(a) |
| 16:28A-1.33 | Route 47 in Franklin: correction | _____ | _____ | 20 N.J.R. 1001(c) |
| 16:28A-1.34 | Bus stops along Route 49 in Salem and Fairfield | 20 N.J.R. 888(a) | | |

| N.J.A.C. CITATION | | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R. CITATION) |
|-------------------|---|-----------------------------------|-----------------|-----------------------------------|
| 16:28A-1.46 | No parking bus stop along U.S. 130 in Edgewater Park | 20 N.J.R. 634(a) | R.1988 d.222 | 20 N.J.R. 1098(b) |
| 16:28A-1.61 | No parking bus stop along U.S. 9W in Alpine | 20 N.J.R. 634(b) | R.1988 d.223 | 20 N.J.R. 1098(c) |
| 16:28A-1.70 | No parking bus stop along Route 439 in Elizabeth | 20 N.J.R. 635(a) | R.1988 d.221 | 20 N.J.R. 1099(a) |
| 16:29 | No passing zones | 20 N.J.R. 887(a) | | |
| 16:30 | Miscellaneous traffic rules | 20 N.J.R. 887(a) | | |
| 16:30-3 | Pre-proposal: Exclusive bus lane on Routes 3 and 495 | 19 N.J.R. 1421(b) | | |
| 16:30-3.6 | Exclusive bus and HOV lanes along Routes 3 and 495 into Manhattan | 20 N.J.R. 737(b) | | |
| 16:30-4.2 | Bicycle restrictions along Route 88 in Point Pleasant | 19 N.J.R. 2254(a) | | |
| 16:30-10.6, 10.7 | Midblock crosswalks along Routes 35 and 37 in Seaside Heights | 20 N.J.R. 509(a) | R.1988 d.207 | 20 N.J.R. 1099(b) |
| 16:31 | No left turns | 20 N.J.R. 887(a) | | |
| 16:31A | Prohibited right turns on red | 20 N.J.R. 888(b) | | |
| 16:44 | Contract administration | 20 N.J.R. 889(a) | | |
| 16:44-1.2 | Contract administration: classification of prospective bidders | 20 N.J.R. 380(b) | R.1988 d.175 | 20 N.J.R. 913(b) |
| 16:53C | Rail Freight Program | 20 N.J.R. 966(a) | | |
| 16:55 | Licensing of aeronautical activities | 20 N.J.R. 967(a) | | |
| 16:60 | Aircraft safety: issuance of summons and designation of peace officer | 20 N.J.R. 968(a) | | |
| 16:61 | Aircraft accidents | 20 N.J.R. 968(b) | | |
| 16:75 | NJ TRANSIT: bus allocation guidelines | 20 N.J.R. 635(b) | | |

Most recent update to Title 16: TRANSMITTAL 1988-3 (supplement March 21, 1988)

TREASURY-GENERAL—TITLE 17

| | | | | |
|------------------------------|---|-------------------|--------------|------------------|
| 17:1 | Division of Pensions: general administration | 20 N.J.R. 636(a) | | |
| 17:1-2.36 | Alternate Benefit Program: transfers and interest | 20 N.J.R. 969(a) | | |
| 17:1-4.37 | Applications for disability retirement | 20 N.J.R. 510(a) | | |
| 17:2-2.2 | Public Employees' Retirement System: multiple enrollments | 20 N.J.R. 969(b) | | |
| 17:2-7.1 | Public Employees' Retirement System: transfer of service credit | 19 N.J.R. 2386(a) | R.1988 d.141 | 20 N.J.R. 812(a) |
| 17:5-6.1 | State Police Retirement System: transfer of service credit | 20 N.J.R. 47(b) | | |
| 17:9-4.2 | State Health Benefits Program: full-time employee defined | 20 N.J.R. 741(a) | | |
| 17:10 | Judicial Retirement System administrative rules | 20 N.J.R. 510(b) | | |
| 17:10-6.1 | Judicial Retirement System: transfer of service credit | 20 N.J.R. 179(b) | R.1988 d.182 | 20 N.J.R. 998(a) |
| 17:16-32.12 | Common Pension Fund A: permitted investment | 20 N.J.R. 741(b) | | |
| 17:16-36.12 | Common Pension Fund B: permitted investment | 20 N.J.R. 742(a) | | |
| 17:19-10.4, 10.5, 10.7, 10.9 | Architect/engineer selection procedures | 20 N.J.R. 180(a) | | |
| 17:20-6.3 | State Lottery: confidentiality of individual agent's operation | 20 N.J.R. 48(a) | R.1988 d.198 | 20 N.J.R. 998(b) |

Most recent update to Title 17: TRANSMITTAL 1988-2 (supplement March 21, 1988)

TREASURY-TAXATION—TITLE 18

| | | | | |
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| 18:2-2 | Post tax amnesty | 19 N.J.R. 2255(b) | | |
| 18:5-1.1, 6.2, 12.5 | Sale of tobacco to minors | 20 N.J.R. 970(a) | | |
| 18:5-12.2 | Post tax amnesty | 19 N.J.R. 2255(b) | | |
| 18:7-3.15, 11.12, 13.1, 13.7, 13.12, 13.13, 14.1, 14.3, 14.7, 14.13-14.17, 14.20 | Post tax amnesty | 19 N.J.R. 2255(b) | | |
| 18:7-3.18 | Corporation business tax: recycling equipment credit | 20 N.J.R. 48(b) | | |
| 18:8-4.5, -8 | Post tax amnesty | 19 N.J.R. 2255(b) | | |
| 18:9 | Business Personal Property Tax | 20 N.J.R. 511(a) | | |
| 18:9-8.5-8.7 | Post tax amnesty | 19 N.J.R. 2255(b) | | |
| 18:18-8.11, 12.5, 12.7 | Post tax amnesty | 19 N.J.R. 2255(b) | | |
| 18:22-2.4, 8.4 | Post tax amnesty | 19 N.J.R. 2255(b) | | |
| 18:24 | Sales and Use Tax | 20 N.J.R. 512(a) | | |
| 18:26 | Transfer inheritance tax and estate tax | 20 N.J.R. 637(a) | | |
| 18:26-8.4, 9.8 | Post tax amnesty | 19 N.J.R. 2255(b) | | |
| 18:35 | Gross Income Tax: Setoff of Individual Liability | 20 N.J.R. 514(a) | | |
| 18:35-1.24 | Gross income tax: investment fund distributions | 20 N.J.R. 742(b) | | |
| 18:35-1.9, 1.18, 1.19, 1.20 | Post tax amnesty | 19 N.J.R. 2255(b) | | |
| 18:35-1.21, 1.22, 1.23 | Gross Income Tax: employee defined; employer withholding; business expenses | 20 N.J.R. 515(a) | | |
| 18:37-2.1, 2.2, -3, -4 | Post tax amnesty | 19 N.J.R. 2255(b) | | |

Most recent update to Title 18: TRANSMITTAL 1988-2 (supplement March 21, 1988)

| N.J.A.C. CITATION | | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R. CITATION) |
|--------------------------------|---|-----------------------------------|-----------------|-----------------------------------|
| TITLE 19—OTHER AGENCIES | | | | |
| 19:3, 4, 4A | Hackensack Meadowlands Development Commission rules | 20 N.J.R. 743(a) | | |
| 19:4-4.35, 4.39, 4.41 | Residential development in waterfront recreation zones | 19 N.J.R. 2386(b) | R.1988 d.154 | 20 N.J.R. 813(a) |
| 19:4-6.28 | Rezoning in East Rutherford | 19 N.J.R. 1975(a) | | |
| 19:8 | Use and administration of Garden State Parkway | 20 N.J.R. 890(a) | | |
| 19:8-1.1, 3.1 | Tolls on Garden State Parkway | 20 N.J.R. 49(a) | R.1988 d.160 | 20 N.J.R. 913(c) |
| 19:9-1.6 | Sleeping in parked vehicles | 19 N.J.R. 1637(b) | | |
| 19:9 Exh. A | Prequalification of bidders for widening contracts | 19 N.J.R. 2129(b) | | |
| 19:17 | Appeal Board rules concerning majority representation fee in lieu of dues | 20 N.J.R. 891(a) | | |
| 19:25-19.3 | Personal financial disclosure: reporting of earned income | 19 N.J.R. 1541(a) | | |
| 19:25-19.3 | Reporting of earned income: withdrawal of proposal | 20 N.J.R. 762(a) | | |

Most recent update to Title 19: TRANSMITTAL 1987-6 (supplement October 19, 1987)

| TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY | | | | |
|--|---|-------------------|--------------|-------------------|
| 19:41 | Applications | 20 N.J.R. 763(a) | | |
| 19:41-9.9A, 9.11A | Junket enterprise and representative license fees | 20 N.J.R. 381(a) | R.1988 d.200 | 20 N.J.R. 998(c) |
| 19:42 | Hearings | 20 N.J.R. 764(a) | | |
| 19:45 | Accounting and internal controls | 20 N.J.R. 382(a) | R.1988 d.178 | 20 N.J.R. 930(a) |
| 19:45-1.1, 1.10, 1.11, 1.12, 1.16, 1.17, 1.32, 1.33, 1.36, 1.37, 1.38, 1.42, 1.44 | Slot machine bill changer system | 20 N.J.R. 765(a) | | |
| 19:45-1.1, 1.10, 1.11, 1.12, 1.16, 1.17, 1.32, 1.33, 1.36, 1.37, 1.38, 1.42, 1.44 | Slot machine bill changer system: 90-day implementation | _____ | _____ | 20 N.J.R. 769(a) |
| 19:45-1.2, 1.46 | Reporting of complimentary items and services | 19 N.J.R. 1975(b) | R.1988 d.209 | 20 N.J.R. 1102(a) |
| 19:45-1.25 | Verification of travelers checks | 20 N.J.R. 51(a) | | |
| 19:45-1.33, 1.42, 1.43 | Count times for cash and coin | 19 N.J.R. 2265(a) | | |
| 19:45-1.34, 1.36, 1.37, 1.44 | Use of slot tokens not redeemable for cash | 20 N.J.R. 516(a) | R.1988 d.224 | 20 N.J.R. 1099(c) |
| 19:46 | Gaming equipment | 20 N.J.R. 638(a) | | |
| 19:46-1.5, 1.25, 1.26, 1.33 | Use of slot tokens not redeemable for cash | 20 N.J.R. 516(a) | R.1988 d.224 | 20 N.J.R. 1099(c) |
| 19:46-1.25, 1.26 | Slot machine bill changer system | 20 N.J.R. 765(a) | | |
| 19:46-1.25, 1.26 | Slot machine bill changer system: 90-day implementation | Expires 7-10-88 | _____ | 20 N.J.R. 769(a) |
| 19:46-1.29 | Approval of slot machine modifications | 20 N.J.R. 52(a) | | |
| 19:47 | Rules of the games | 20 N.J.R. 639(a) | | |
| 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) | | |
| 19:49 | Junkets | 20 N.J.R. 181(a) | R.1988 d.177 | 20 N.J.R. 930(b) |
| 19:50 | Casino hotel alcoholic beverage control | 20 N.J.R. 770(a) | | |
| 19:53 | Equal employment opportunity and affirmative action | 20 N.J.R. 640(a) | | |
| 19:53-1.3, 1.13 | Casino licensee's EEO/AA office: reproposal | 20 N.J.R. 970(b) | | |
| 19:53-1.5 | Pre-proposal: Affirmative action employment goals for handicapped or disabled persons | 19 N.J.R. 1182(a) | | |
| 19:54 | Gross revenue tax; investment obligation alternative tax; investment tax credits | 20 N.J.R. 383(a) | R.1988 d.179 | 20 N.J.R. 930(c) |

Most recent update to Title 19K: TRANSMITTAL 1988-1 (supplement January 19, 1988)