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THE JOURNAL OF STATE AGENCY RULEMAKING

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MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: FEBRUARY 16, 1988
See the Register Index for Subsequent Rulemaking Activity.
NEXT UPDATE: SUPPLEMENT MARCH 21, 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 1, 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 6 issue:	
Proposals	May 9
Adoptions	May 13
June 20 issue:	
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July 5 issue:	
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July 18 issue:	
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NEW JERSEY REGISTER

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

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RULE PROPOSALS

AGRICULTURE

DIVISION OF REGULATORY SERVICES

The following proposals are authorized by the State Board of Agriculture and Arthur R. Brown, Jr., Secretary, Department of Agriculture.

Submit comments by June 1, 1988 to:

Robert C. Fringer, Director
Division of Regulatory Services
State Department of Agriculture
CN 330
Trenton, New Jersey 08625
Telephone: (609) 292-5575

(a)

Grades and Standards

Proposed Readoption with Amendments: N.J.A.C. 2:71.

Authority: N.J.S.A. 4:10-3, 10-6, 10-13, 10-20 and 4:3-11.12.

Proposal Number: PRN 1988-213.

The agency proposal follows:

Summary

N.J.A.C. 2:71 is scheduled to expire on September 1, 1988. The chapter was reviewed internally in February 1988 in compliance with Executive Order 66(1978) and was found to be reasonable, adequate and necessary for the purposes for which it was originally promulgated.

N.J.A.C. 2:71-1 originated with the need for an orderly marketing program for quality shell eggs. The rules relate to marketing, processing, labeling and transporting of eggs for the economic protection of the State's egg industry. The subchapter states that any eggs marketed to consumers, institutional consumers or retailers shall be edible and shall conform to the standards for consumer grades; that fees and charges for inspection and grading services by Department personnel shall be the same as those charged by U.S.D.A.; the name and address of packer or distributor shall be prominently displayed on containers of eggs; that containers of loose eggs produced in New Jersey must be properly sealed; that there must be registration of label or containers which bears the name New Jersey or Jersey. The subchapter also defines a reused egg container; prescribes that proper sanitary conditions in cleaning and handling shell eggs from the packing room to the transporting vehicle; prescribes labeling requirements for New Jersey produced eggs; prescribes use of the New Jersey map symbol on egg packages and in advertising, and defines an egg container.

The Department of Agriculture, under a cooperative agreement with the United States Department of Agriculture, has provided the fruit and vegetable industry with inspection and grading services since 1922 when the first United States Standards were promulgated. The United States Standards are a measure of quality, for example: U.S. Fancy; U.S. No. 1, and U.S. No. 2. United States Standards are used when grading all New Jersey fruits and vegetables (N.J.A.C. 2:71-2.1) with the exception of asparagus intended for canning or freezing which are graded pursuant to N.J.A.C. 2:71-2.8. The New Jersey grades for canning or freezing are described and diameter classifications for spears are specified in N.J.A.C. 2:71-2.9. Words and terms used in subchapter 2 are defined in N.J.A.C. 2:71-2.10 followed by a clarification of terms used in this section (N.J.A.C. 2:71-2.11). N.J.A.C. 2:71-2.2 through 2.7 describe the configuration of the "Jersey Fresh Logo", the application for license and licensing procedure, the license period, charges for the "Jersey Fresh Logo", labels and all imprinted containers to the program, the commodities to be marked under the "Jersey Fresh Logo" program, commodity grades, packing requirements, packer identification of terms and penalties for improper use.

The proposed amendments to N.J.A.C. 2:71-2.3 and 2.6 for the voluntary "Jersey Fresh Logo" program were developed to add an alternative labeling system for wooden crates to allow growers using wooden crates to participate in the Jersey Fresh program. Further, clarification is given to the definition of "fairly well filled" for nectarines in accordance with U.S.D.A. definitions, the term "Fairly tight" for apples, and a definition is added for the term "well trimmed".

Asparagus acceptable for New Jersey No. 1 grade is described in N.J.A.C. 2:71-2.12. Asparagus is the only vegetable graded using New Jersey Standards because scoring defects are more clearly defined. The procedure for receiving loads of asparagus after severe wind and rainstorms is stated in N.J.A.C. 2:71-2.13. The function and need for unrestricted sampling of asparagus for processing is summarized in N.J.A.C. 2:71-2.15. Unrestricted sampling is defined in N.J.A.C. 2:71-2.16 and equipment and personnel required by applicants is discussed in N.J.A.C. 2:71-2.17.

The remaining sections of the subchapter (N.J.A.C. 2:71-2.26 through 2.31) deal with the charges, fees and hourly rates charged by the Department for the inspection service.

The proposed amendments to N.J.A.C. 2:71-2.28 through 2.32 increase many of the fees charged for the inspection and grading of farm products in accordance with standards established and promulgated by the Department of Agriculture. The fees are increased as follows: the five-day week inspections from \$340.00 to \$360.00, the per hour overtime from \$12.75 to \$13.50 for the same; hourly inspection rate charge from 8:00 A.M. through 5:00 P.M., from \$15.00 to \$17.00. Hourly inspection rate charge from 6:00 P.M. through 7:00 A.M. remains at \$22.50. Trailer, carload, warehouse and storage minimum inspection fees is increased from \$15.00 to \$18.00. Container inspection other than potatoes is increased from \$0.09 to \$0.11 per container. Delayed inspections are increased from \$10.00 to \$13.00.

Excess charges are amended as follows: the excess fruit and vegetable per package charge, other than potatoes is increased from 4,000 to 6,545 packages. Inspection and grading services are provided to applicants pursuant to their request. Recipients of the services voluntarily agree to pay the fees for such charges prior to requesting the Department of Agriculture's inspection and classification.

A new section N.J.A.C. 2:71-2.29 is added to cover multiple commodity written inspections. These are higher cost inspections because of the skill needed to perform them.

N.J.A.C. 2:71-2 on inspection and grading fruits and vegetables will continue to enable farmers, packers, brokers and shippers to market loads of fresh products of uniform quality and provide an equitable basis for payment between buyer and seller. There is no need to further amend the subchapter because the State Board of Agriculture has adopted the United States Standards which are kept current to meet industry needs.

N.J.A.C. 2:71-3.1 adopts the United States Standards for asparagus plumosa, Christmas trees and tomato plants. N.J.A.C. 2:71-5 regulates the marking of packages of potatoes. The subchapter sets forth rules for grades, markings and labels, and tags; requires an invoice or manifest for each sale of potatoes in packages for processing or repacking; prohibits sale of improperly marked potato packages; and establishes responsibility for violations. Both subchapters have been reviewed and are readopted without amendment.

Social Impact

Readoption of N.J.A.C. 2:71-1 will continue to protect the egg industry and the consumers it serves by high quality standards which are uniformly applied to all packers of New Jersey produced eggs by mandatory inspections conducted at the retail and wholesale marketing levels. The results of these rules past, present, and future guarantee that the consumer receives New Jersey high quality shell eggs in properly identified containers.

Subchapter 2 affects the producer, packer and consumer. Inspection and grading of fruits and vegetables marked as to grade or standard assures the public of compliance with the grade indicated. The service enables the farmer and packer to market a high quality product. This in turn, benefits the consumer which would otherwise be unable to compare quality with price. The people affected by the rules for the "Jersey Fresh Logo" are the packers using the logo and consumers. Products packed under the logo enhance the promotion of uniformly packed high quality New Jersey farm products to the benefit of the packers and consumers. Packers gain new markets for their products, while consumers have more quality products and an identifiable larger supply of quality products available. The program so far has been well-received by the growers, buyers and consumers.

The only people affected by the proposed amendments to N.J.A.C. 2:71-2.28 through 2.32 will be the users of the voluntary inspection and grading services. These services help to maintain and promote agricultural commodities of the highest quality for the consumer. As a result of the

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grading service, perishable fresh fruits and vegetables of uniform grade and standards are more readily available for the consumer.

Readoption of N.J.A.C. 2:71-3.1 will continue to provide high quality standards, uniformly applied, for the specified plant materials.

Readoption of Subchapter 5 will continue to protect consumers and retailers or wholesalers of potatoes by providing uniform standards for marking packages of potatoes.

Economic Impact

The cost of producing a superior quality product in the past and present time is borne both by the producer and consumer. The producer or packer incurs extra costs in producing or purchasing New Jersey eggs and packaging containers. These costs are channeled to the consumer in the form of higher price per dozen charged at the retail level.

Subchapter 2 has the greatest economic impact upon the farmers, packers, brokers, shippers, processors and receivers of fruits and vegetables. These groups would be adversely affected if the inspection and grading program were discontinued. Exports and imports would be drastically curtailed because of State and Federal regulations requiring inspection and certification; also sales to the military would be completely halted. There would be no objective method to establish the true value of loads of fruits and vegetables of uniform quality commensurate with prevailing market prices. Furthermore, there would be no unbiased third party to assist in settling claims or disputes between shippers and receivers.

The applicant for the inspection and grading service is charged a minimal fee for the work performed. This fee is a marketing cost which is passed through to the product consumer. This fee is used to help the Department in the administration of the program.

The economic impact on voluntary logo packers will be very minimal. Packers' costs will be \$.01 per label, per container or \$1.00 for 1,000 imprinted containers. This cost has been proven to be offset by increases in the price received by the packers through the sale of high quality produce. The packers' cost for the rubber stamp are \$75.00 the first year and \$50.00 thereafter.

Increases in salaries and overhead costs in the past two years necessitate the proposed amendments to increase fees in N.J.A.C. 2:71-2.28 through 32. The Department of agriculture must maintain the inspection program on a "break-even basis" if it is to continue to offer this program to the users.

There will be a slight adverse economic impact on the users of these increased voluntary inspection and grading services. The increases are minimal in relation to the economic value of the product at present. The package charge and the delayed inspection charge have not been increased in at least two years.

Any costs of compliance with subchapters 3 and 5 impact both the producer and the consumer. However, the use of accepted standards, uniformly applied, promotes orderly marketing and ensures the consumer of high quality.

Regulatory Flexibility Statement

The rules in Subchapter 1 impact small businesses. However, they implement the Egg Marketing Law, which is primarily a consumer protection law designed to insure truth in packaging and quality delivered to the consumer free of defects and risk of disease. Therefore it is the Department of Agriculture's position that although the rules may be more costly for a small business to implement, they are necessary for the public health, welfare and safety. Further, by the use of uniform grades and standards all products are judged against each other intrinsically and not just on advertising budget.

N.J.A.C. 2:71-2 and the proposed amendments primarily affect farmers, most of which are small businesses; however, the rules do not impose any reporting, recordkeeping, or other compliance requirements on farmers, unless they voluntarily elect to participate in the Jersey Fresh Quality Grading Program. Should a farmer choose to participate, the costs of participating should be offset by prices received for the produce. While there is no requirement to market in conformance with these rules, to do so in the commercial market without following these grades, which are universal in the product selling area of New Jersey produce, would put the small business at a competitive disadvantage with all other states. As the New Jersey rules are for all practical purposes the Federal rules, they add no cost or complexity to the operation which has not been imposed from and by another agency. The use of accepted standards does promote the orderly marketing of similar goods in the generic sense and allows equally good produce from the small farm to compete with products of larger operations.

Similarly, although N.J.A.C. 2:71-3.1 affects small businesses, compliance with the standards adopted in that rule is voluntary.

N.J.A.C. 2:71-5 impacts upon retailers and wholesalers of potatoes, which generally are small businesses. However, the rules provide standards which must be uniformly applied and which promote the general public welfare.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 2:71.

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

2:71-2.3 Charges for Jersey Fresh Quality Grading Program logo labels and use of New Jersey Fresh Quality logo imprinted containers

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

(d) Licensees packing Jersey Fresh Quality Grading Program commodities in wooden containers may, upon payment of a \$75.00 fee in the first year and a \$50.00 in the second and subsequent years to the New Jersey Farm Products Publicity Fund, use a rubber stamp to identify those commodities as being packed under the "logo" program. The stamps shall remain the property of the New Jersey Department of Agriculture. The use of such stamps shall be restricted to containers constructed of wood.

Recodify existing (d) and (e) as (e) and (f) (No change in text).

2:71-2.6 Definitions

For the purposes of this subchapter, the following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Fairly tight" means, in the case of eggplants, that the package is sufficiently filled to prevent any appreciable movement of the eggplants and that they are in contact with the lid or cover. **In the case of apples, that the apples are of the proper size for molds or cell compartments in which they are packed, and that the molds or cells are filled in such a way that no more than slight movement of apples within molds or cells is possible. The pad over the top layer of apples shall be not more than three-quarter inch below the top edge of the carton.**

"Fairly well filled" means that cucumbers, sweet peppers, tomatoes (fresh market), summer squash or sweet potatoes are not in contact with the lid or cover, but not more than one-half inch below the lid or cover. In the case of peaches, the container is level full and there is practically no movement of the fruit when the container is closed. **In the case of nectarines, the contents of the container may be slightly below the top edge but not more than 1/2 inch.**

"Well trimmed means, in the case of asparagus that at least two-thirds of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container and that the butt is not stringy or frayed. In the case of endive and escarole, that the roots are neatly cut near the point of attachment of the outer leaf stems. In the case of romaine, that the stem is trimmed off close to the point of attachment of the outer leaves. In the case of cabbage, that the head have no more than four wrapper leaves. In the case of Sweet Anise (Fennel), that not more than one coarse outer branch is left on each side of the bulb to protect the tender inside portion, and the portion of the root remaining is not more than 1/2 inch in length. Tops may be either full length or cut back to not less than 10 inches except that not more than five of the outer branches may be cut back to less than 10 inches if necessary to facilitate proper packing, but not more than three of these may be on the same side of the bulb.

2:71-2.28 Charges for inspection or grading and certification services; written agreements

(a) Charges for inspection or grading and certification services of five or more consecutive days duration, performed pursuant to written agreements between the New Jersey Department of Agriculture and the requestor of the services, shall be made according to the following schedule:

1. (No change.)

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2. Charges for inspection or grading and certification of one fruit or vegetable other than potatoes for fresh market:

i. A charge of [\$.03] **\$0.06** will be made for all packages inspected or graded and certified in excess of [4,000] **6,545** packages during the seven day week (Saturday through Friday).

3. (No change.)

2:71-2.29 Written agreements for multiple commodity inspection

(a) Charges for written agreements shall be made according to the following schedule:

i. A charge of **\$720.00** per five day week (Monday through Friday) of 40 hours or less for each inspector for the inspection and/or grading of more than one commodity;

ii. A charge of **\$27.00** per hour, or portion thereof, for all hours worked over 40 in the five day week (Monday through Friday), or for all hours over eight hours per day;

iii. There will be at least a four hour minimum charge of **\$108.00** assessed for each inspector assigned work on Saturday and/or Sunday;

iv. A charge of **\$27.00** per hour, or portion thereof, for the hours worked by each inspector on legal State holidays occurring Monday through Friday;

v. There will be at least a four hour minimum charge of **\$108.00** assessed for each inspector assigned work on legal State holidays occurring Monday through Friday;

vi. A charge of **\$0.06** will be made for all packages (other than potatoes) inspected or graded and certified in excess of **6,545** packages during the seven day week (Saturday through Friday).

2:71-[2.29] 2.30 Charges, oral agreements; trailer, car, warehouse and storage lots

(a) Charges for inspection or grading and certification services performed to an oral agreement between the New Jersey Department of Agriculture and the requestor, for all trailer, car, warehouse and storage lots, shall be made according to the schedule detailed below. A minimum of [\$15.00] **\$18.00** for inspection or grading and certification services shall be charged. However, if the conditions listed in N.J.A.C. 2:71-2.30 are met, the charges shall be calculated according to the hourly rate schedule set out in N.J.A.C. 2:71-2.31.

1. Basic charge schedule for products other than potatoes:

i. A charge of [\$0.09] **\$0.11** per container for all containers;

2. Basic charge schedule for potatoes:

i. A charge of [\$0.10] **\$0.12** per hundredweight;

ii. All other size containers and bulk loads shall be converted to hundredweight equivalents. Charges for these equivalents shall be at the rate of [\$0.10] **\$0.12** per hundredweight.

3. (No change.)

4. Delayed inspections: delayed inspections are those inspections requiring more than two hours to complete (exclusive of travel time) due to delays of any kind not attributable to the inspector. Additional charges for delayed inspections shall be assessed according to the following schedule:

i. [\$10.00] **\$13.00** per hour charged in half hour increments.

ii. The minimum charge shall be **\$6.50**.

2:71-[2.30] 2.31 Charges; oral agreements between Department of Agriculture and requestor

(No change in text.)

2:71-[2.31] 2.32 Hourly rate charges

(a) The hourly rate charges shall be made according to the following schedule:

1. A charge of [\$15.00] **\$17.00** per hour, or portion thereof, for regular work hours, 8:00 A.M. to 5:00 P.M. on regular workdays, Monday through Friday;

2. A charge of [\$22.50] **\$25.50** per hour, or portion thereof, for work started or completed between 6:00 P.M. and 7:00 A.M. on regular workdays, Monday through Friday;

3. A charge of [\$22.50] **\$25.50** per hour, or portion thereof, for work performed on Saturdays, Sundays, or legal State holidays at the request of the requestor.

(a)

Licensing and Bonding

Proposed Readoption: N.J.A.C. 2:72

Authority: N.J.S.A. 4:11-20 and 4:11-33.1.

Proposal Number: PRN 1988-215.

The agency proposal follows:

Summary

N.J.A.C. 2:72 is scheduled to expire on September 1, 1988. The rules were reviewed internally in 1978, 1983 and in February 1988 in compliance with Executive Order No. 66(1978) and found to be necessary, reasonable and adequate for the purposes for which they were originally promulgated.

N.J.A.C. 2:72-1.1 originated with the need to protect the New Jersey growers of perishable agricultural commodities who fell victim to unscrupulous buyers of their products. The rule ensures that buyers of perishable farm products doing business with New Jersey farmers have on deposit with the Department of Agriculture sufficient security to cover their purchases. The rule has provided the New Jersey farmers a method of recovering monies owed to them by licensed agricultural commission merchants (any person engaged in the business of soliciting or receiving any perishable agricultural commodity for sale on commission on behalf of the grower thereof), brokers, agents and commodity dealers in the event of bankruptcy or default by enabling the farmer to file a verified claim against the security or deposit with the Department. The rule has been amended over the years since 1930 to update the minimum and maximum values of the bond requirement, to include additional commodities and to update payment due dates.

N.J.A.C. 2:72-3 sets forth requirements for dealer's, broker's commission merchant's records of transactions, and requires every commission merchant, dealer, broker or cash buyer dealing in hay, grain and straw to obtain a certified weight for each load brought or hauled.

Social Impact

All commission merchants, dealers, agents and brokers of perishable agricultural commodities in New Jersey are directly affected by these rules, as well as New Jersey farmers. Readoption of N.J.A.C. 2:72 will require and ensure that all credit buyers of perishable agricultural commodities continue to be uniformly bonded and licensed to buy products directly from the New Jersey farmer. All New Jersey farmers enjoy some economic protection through this process of having all buyers licensed. Unlicensed credit buyers are subject to monetary penalties pursuant to N.J.S.A. 4:11-34. N.J.A.C. 2:72-3 provides for full and clear disclosure of all transactions, pursuant to N.J.S.A. 4:11-30.

Economic Impact

Buyers of perishable agricultural commodities are annually charged an application fee of \$10.00 plus the cost of the deposited security which usually runs \$10.00 per thousand or to a maximum of \$500.00. There is also a certain economic impact upon the Department of Agriculture for administration costs. The costs of compliance with N.J.A.C. 2:72-3 are minimal, since the required records are generally already maintained for other purposes.

Regulatory Flexibility Analysis

N.J.A.C. 2:72-1.1 impacts on small businesses as all buyers, both small and large, operating on credit in New Jersey must be licensed and deposit a security to cover their transactions with farmers who are, to the best of the Department of Agriculture's knowledge, almost exclusively small businesses.

Although N.J.A.C. 2:72-3 establishes requirements that impact upon small businesses, costs of compliance are minimal, since it is probable that the records required are already maintained by the affected businesses.

The rules do provide for a different price for the security for small businesses, a \$3,000 to \$10,000 security, compared to a large business which requires a \$35,000 to \$50,000 security.

The Department of Agriculture does not believe the rules impose any more burden on the regulatory community than are necessary to insure the fiscal responsibility of the purchaser on credit.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 2:72.

AGRICULTURE

PROPOSALS

(a)

**Eggs
Official Seal****Proposed Readoption: N.J.A.C. 2:73-2**

Authority: N.J.S.A. 4:10-18, 4:10-19 and 4:10-20.

Proposal Number: PRN 1988-225.

The agency proposal follows:

Summary

In 1939 New Jersey farmers were facing serious competition from the advertising and sales promotion of egg producers in other states seeking to market their eggs in New Jersey. N.J.A.C. 2:73-2 was promulgated to promote the sale of New Jersey shell eggs and to provide for the establishment of brands to identify such product.

N.J.A.C. 2:73-2 is scheduled to expire on September 1, 1988. In accordance with Executive Order No. 66, this subchapter was internally reviewed in 1973, 1983 and again in January 1988, by the Division of Regulatory Services, Department of Agriculture. The rules set forth have been very effective in the marketing of New Jersey produced eggs.

This subchapter provides the New Jersey Seal of Quality may only be used by licensed New Jersey egg packers in marketing eggs of New Jersey production. Producers who ship New Jersey eggs must register with the New Jersey Department of Agriculture. The subchapter provides certain minimum requirements which New Jersey produced eggs must meet in order to be eligible for the Seal of Quality. Each egg container must contain a packing date or an expiration date. Either date may not be more than 28 days after packing. This guarantees that the consumer will receive fresh eggs.

The owner or packer of the brand or trade name must pay a fee to the New Jersey Farm Products Publicity Fund. Additionally, there is an annual license fee of \$30.00 to use the Seal of Quality in packaging eggs. All licensed packers must submit a monthly report about their inventory to the Department of Agriculture. The Department and the Poultry Products Promotion Council will give supervision and assistance to producers, packers and retailers. Violators of any provisions of this subchapter are subject to monetary fines and suspension of the Seal of Quality license.

N.J.A.C. 2:73-3.1 through 3.15, State Milk Seal, is not proposed for readoption and will expire on September 1, 1988.

Social Impact

The rules assure New Jersey producers and consumers that sell eggs purchased in a carton carrying the Official State Seal meet the highest standards of quality.

If this subchapter were not readopted, both New Jersey egg producers and consumers would be adversely affected in that the quality of eggs sold in the State would no longer be subject to strict control and thereby jeopardize the wholesomeness of the product.

Economic Impact

If this subchapter were not readopted, consumers and egg producers would suffer adverse economic impact. Without the seal of quality New Jersey egg producers would face competition from lower quality eggs and consumers would be unable to identify superior quality New Jersey eggs.

Regulatory Flexibility Statement

This program is a voluntary program and as such no mandatory compliance requirements are imposed on small businesses.

However, the costs to enter the program have been historically offset by the economic benefits of the higher prices received on the product.

Small businesses who choose to use the seal are proportionally affected on a per unit basis compared to large operations as to the volume they sell.

Full text of the proposal can be found in the New Jersey Administrative Code at N.J.A.C. 2:73-2.

(b)

Controlled Atmosphere Storage for Apples**Proposed Readoption: N.J.A.C. 2:74-1**

Authority: N.J.S.A. 4:10-26 et seq., specifically 4:10-30.

Proposal Number: PRN 1988-216.

(CITE 20 N.J.R. 956)

The agency proposal follows:

Summary

N.J.A.C. 2:74-1 was promulgated to promote the development of the New Jersey apple industry by regulating the use of controlled atmosphere storage facilities and the disposition of apples exposed to such storage. The controlled atmosphere process through the use of atmospheric and temperature controls preserves the quality of apples in storage and extends the marketing season of the product. N.J.A.C. 2:74-1.1 and 1.2 explain the scope of the law and give a definition of terms used. Construction requirements for controlled atmosphere facilities are described in N.J.A.C. 2:74-1.3. Registration is explained in N.J.A.C. 2:74-1.4 in addition to the fee charged for each controlled atmosphere storage room. The required atmospheric and temperature controls used in this process are then summarized in N.J.A.C. 2:74-1.5. The records kept by each owner or operator are described in N.J.A.C. 2:74-1.6. The necessity for an invoice covering the sale of controlled atmosphere storage apples is explained in N.J.A.C. 2:74-1.7 in addition to the means used by the Department in verifying the process (N.J.A.C. 2:74-1.8). Misrepresentation and the requirements for trade and the requirements for storage facilities in and outside the State of New Jersey are then outlined in N.J.A.C. 2:74-1.9 through 1.11. Penalties for violating the law or the rules and regulations are described in N.J.A.C. 2:74-1.12.

N.J.A.C. 2:74 is scheduled to expire on September 1, 1988. The subchapter was reviewed internally in 1978, 1983, and in February 1988 in compliance with Executive Order No. 66(1978) and was found to be necessary, reasonable and adequate in providing rules to regulate a process that lengthens the shelf-life of apples. The subchapter should not be allowed to expire because it has been effective in prohibiting fraudulent branding of apples which have not been stored under controlled atmosphere conditions.

Social Impact

N.J.A.C. 2:74-1 has had an impact on consumers, distributors and owners/operators of apple storage facilities. The subchapter guarantees that New Jersey consumers are supplied with high quality apples on a year-round basis by businesses which choose to participate in marketing the product. The subchapter also affects owners/operators of the storage facilities who are regulated by the provisions of the subchapter.

Economic Impact

The costs of producing controlled atmosphere apples are shared by both the owners/operators of the storage facilities and consumers. The owners/operators incur extra costs in construction and maintenance and fees for storage rooms necessary for the controlled atmosphere process. These costs are passed on to the consumer through prices charged per pound at the store level.

Regulatory Flexibility Statement

Small businesses do make use of the opportunity to market controlled atmosphere stored apples and thus are impacted by the rules and law governing them.

The law and rules are designed to orderly market a product to insure that the product is what is claimed. There is no obligation on the grower or marketer to use the controlled atmosphere process except the hope to make a larger profit over a longer period selling season. Therefore the Department of Agriculture believes regulatory flexibility analysis is not needed. It should be pointed out, however, the standards of the regulations are performance standards allowing the operation to be sized to meet the business's operation and expectations.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 2:74-1.

(c)

HUMAN SERVICES**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES****Vision Care Manual****Professional Services, Optical Appliances, Billing Procedures****Proposed Repeal: N.J.A.C. 10:62-1, 2, 3****Proposed New Rule: N.J.A.C. 10:62-1, 2, 3**

PROPOSALS

Interested Persons see Inside Front Cover

HUMAN SERVICES

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

Authority: N.J.S.A. 30:4D-6a(5)b(6)(7), 7, 7a, b, c, 42 CFR 440.50, 440.120

Proposal Number: PRN 1988-234.

Submit comments by June 1, 1988 to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN-712
Trenton, NJ 08625

The agency proposal follows:

Summary

For purposes of this summary, the term "Medicaid" shall refer to the New Jersey Medicaid Program; the term "Division" shall refer to the Division of Medical Assistance and Health Services.

The Division is proposing to repeal the existing text of the Vision Care Manual, N.J.A.C. 10:62, and replace it with new rules printed below. Providers of vision care services include ophthalmologists, optometrists, and opticians, who can provide services to Medicaid patients within the scope of their license. Covered services include screening examinations, comprehensive eye examinations, office visits, subnormal vision examination, and vision training. Some of these services require prior authorization from the Division's Vision Care Unit.

Subchapter 1 defines and describes professional services for eye care, including: scope of services; who may provide services; what services are covered and which of the covered services require prior authorization; policies for prescriptions and recordkeeping; and bases for reimbursement.

Subchapter 2 defines and describes the optical appliances that are covered by Medicaid. The appliances include optical lenses and frames, artificial eyes, and subnormal vision devices. Certain optical appliances require prior authorization. This subchapter also contains standards for lenses, frames, and recordkeeping policies.

Subchapter 3 describes the billing procedures that must be followed when submitting a claim in order to obtain reimbursement from Medicaid. The provider must use the Health Insurance Claim Form (1500 N.J.) for professional services. The provider must use the form MC-9A-C3 (10/84 edition) when submitting a claim for any optical appliance. This form (MC-9A-C3) is also used for prior authorization. Subchapter 3 also describes the Division's policy governing group practice, combination Medicare/Medicaid claims, and instructions for completing the form 1500-N.J.

Vision Care Providers are responsible for submitting claims accurately and within the time frames set forth in N.J.A.C. 10:49-1.12. This rule was recently amended to allow non-institutional providers up to one year from the date of service in which to submit a claim. If there is more than one service listed on a claim form, then the claim must be submitted within one year of the earliest date of service entered on the claim form. The adopted text of the rule appeared in the October 5, 1987 issue of the New Jersey Register at 19 N.J.R. 1800(a).

Social Impact

The proposed new rules apply to all Medicaid patients who are in need of eye care and optical appliances. The rules also apply to all providers of vision care services, who need to be aware of Medicaid policies when treating a Medicaid patient.

Economic Impact

The Division spent approximately 4 million dollars (federal-state share combined) on vision care services in State Fiscal Year 1987. The economic impact on providers varies, depending on the number of Medicaid patients being treated.

Medicaid patients are not required to pay for vision care services. Those Medicaid patients who are eligible under the Medically Needy Program may have to meet spend down requirements in order to qualify.

Regulatory Flexibility Statement

This proposal regulates small businesses, such as ophthalmologists, optometrists and opticians, who are required by law to keep and maintain sufficient records to fully disclose the name of the recipient to whom the services was rendered, the date the service was rendered, and the nature and extent of the services that were rendered (N.J.S.A. 30:4D-12(d)). However, the Division does not believe a regulatory flexibility analysis

is required because this proposal does not impose any additional recordkeeping or reporting requirements. Any reporting, recordkeeping or compliance requirements are already part of the substantive text of N.J.A.C. 10:62-1, 2, 3 which is the current Vision Care Manual.

Full text of the rules proposed for repeal can be found in the New Jersey Administrative Code, N.J.A.C. 10:62.

Full text of the proposed new rule follows.

**CHAPTER 62
VISION CARE SERVICES MANUAL**

SUBCHAPTER 1. EYE CARE: PROFESSIONAL SERVICES

10:62-1.1 Scope and purpose of vision care professional services manual

This subchapter delineates standards for examinations and care for vision defects and/or eye diseases provided by the New Jersey Medicaid Program for the purpose of maintaining or improving the public health of patients eligible for Medicaid in New Jersey.

10:62-1.2 Definitions

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

"Consultation" means advice or counsel of a qualified specialist, as recognized by New Jersey Medicaid Program, which is requested by the attending physician and includes a personal examination of the patient with a written report of the history, physical findings, diagnosis and recommendations of the consultant.

"Optometrist" means any person who is licensed by the New Jersey State Board of Optometry to engage in the practice of optometry, or similarly licensed by a comparable agency of the State in which he performs such functions.

"Specialist" means a fully licensed physician who:

1. Is a diplomate of the appropriate American Board, or Osteopathic Board; or
2. Is a fellow of the appropriate American Specialty College or a member of an Osteopathic Specialty College; or
3. Has been notified of admissibility to examination by the appropriate American Board or Osteopathic Board, or has evidence of completion of an appropriate qualifying residency approved by the American Medical Association or American Osteopathic Association; or
4. Holds an active staff appointment with specialty privileges in a voluntary or governmental hospital which is approved for training in the specialty in which the physician has privileges; or
5. Is recognized in the community as a specialist by his peers.

"Transfer" means the relinquishing of responsibility for the continuing care of the patient by one physician and the assumption of such responsibility by another physician.

10:62-1.3 Providers of services

(a) Within the restrictions of their respective licensure, the following are eligible providers of eye care:

1. Ophthalmologists and optometrists licensed in the State of New Jersey;
2. An ophthalmologist or optometrist in another state who is duly licensed in that state;
3. Independent outpatient health care facilities approved by the New Jersey Medicaid Program to render eye care services;
4. Hospitals meeting the definition of "approved hospital" as described in N.J.A.C. 52-1.1 of the Hospital Services Manual. (For information on how to identify a covered person, please refer to N.J.A.C. 10:49-1.2(b)2vi).

10:62-1.4 Covered services

(a) Professional services include screening examination, comprehensive eye examination, office visit, out-of-office visit, subnormal vision examination, subnormal vision work-up and vision training. Payment is made subject to the limitations specified under each type of service. If a service requires prior authorization, see N.J.A.C. 10:62-1.11.

HUMAN SERVICES**PROPOSALS****10:62-1.5 Screening examination**

(a) A screening examination shall consist of procedures performed to determine whether a comprehensive examination is necessary. As a minimum, the screening examination shall consist of the following:

1. External examination;
2. Visual acuity in each eye;
3. Gross muscle balance.

(b) The ophthalmologist or optometrist shall be reimbursed for either a screening examination or a comprehensive eye examination rendered to a patient, but not both. If, as a result of the screening examination, it is felt that a comprehensive examination is necessary, it shall be completed at that time or at the earliest mutual convenience of the provider and patient. The screening examination, in this instance, becomes an integral part of the comprehensive examination and the claim submitted to the program should be for a comprehensive eye examination. If, however, the screening examination reveals that no further examination is necessary, a claim shall be submitted for visual screening examination.

10:62-1.6 Comprehensive eye examination

(a) A comprehensive eye examination may include cycloplegics and a post cycloplegic visit. Negatives shall be recorded in a comprehensive eye examination. The following shall be included, as a minimum, in a comprehensive eye examination:

1. Detailed case history;
2. Complete visual acuity findings;
3. External and internal (ophthalmoscopic) examination including slit lamp;
4. Refraction (objective and subjective);
5. Extra-ocular measurement (EOM);
6. Gross visual fields (central and peripheral);
7. Tonometry (when indicated for patients under 35; mandatory for all patients over 35). The specific method used should be identified and recorded (the finger palpation test is not acceptable);
8. Binocular coordination testing (distance and near), fusion, stereopsis, and color vision;
9. The diagnosis (ocular deficiency or deformity, visual or muscular anomaly, and so forth); and
10. Recommendations.

10:62-1.7 Office visit; out-of-office visit

(a) An office visit consists of care and treatment by the physician or other practitioner and includes those procedures ordinarily performed during an office visit, dependent upon the physician's or other practitioner's discipline. The following shall be included, as a minimum, in the progress notes:

1. Purpose of visit;
2. Pertinent history obtained;
3. Pertinent physical findings including pertinent negative physical findings based on 1. and 2. above;
4. Procedures (the provider's office record shall clearly document performance of all elements of procedure code billed);
5. Lab, x-ray and ECG, etc. ordered, with results;
6. Diagnosis(es) plus treatment plan status, including drugs or other items ordered, relative to present and pre-existing illness plus pertinent recommendations and actions.

10:62-1.8 Subnormal vision examination

A subnormal vision examination may be performed when the condition is detected. For purposes of the New Jersey Medicaid Program, subnormal vision is defined as that condition where vision in the better eye is 20/70 or less with the best correction. A subnormal vision examination may be done following a comprehensive eye examination.

10:62-1.9 Subnormal vision work up (prior authorization required)

A subnormal vision work-up requires prior authorization. The subnormal vision work-up shall be documented in the patient's record.

10:62-1.10 Vision training (prior authorization required)

(a) Vision training requires prior authorization. For purposes of the New Jersey Medicaid Program, vision training is the use of certain procedures and modalities for the development of and or

increase in the vision capacity of the eye(s) with poor and/or inconsistent or distorted vision localization.

(b) Vision training is limited to orthoptics, with its acceptable procedures and/or modalities, and further limited to the following types of conditions to be treated by private practitioners approved for such training by the respective peer group:

1. Strabismus;
2. Amblyopia;
3. Heterophoria; and
4. Accommodative and/or convergence anomalies.

(c) If vision training is required following the initial comprehensive eye examination, the practitioner shall submit a written request to Vision Care Unit for prior authorization for a vision training work-up. This request shall include the preliminary findings, detailed reason(s) why it is believed a further evaluation is needed, and any history of previous vision training with the dates and the results. Upon receiving approval for a vision training work-up, the practitioner shall then submit, within 30 days of receipt of authorization, the work-up report to the Vision Care Unit. The vision training work-up report shall consist of, but not be limited to:

1. Diagnosis;
2. Findings;
3. Interpretation;
4. Recommendations;
5. Outline of training procedures and frequency of sessions with estimated duration of treatment; and
6. Prognosis.

(d) Upon completion of an approved training program, the practitioner shall submit a detailed progress report, listing the status of all parameters indicated in the original evaluation. No treatment plan shall exceed a period of 90 days or a total of 30 training visits, commencing with the inception of the treatment plan. Prior authorization is required for any extension of treatment and requires submission of a detailed progress report, as noted in this subsection.

(e) Vision training may be provided by the private practitioner. Vision training may also be provided, when a professional multi-disciplinary evaluating team indicates this need, in a licensed or certified health care facility or a "special clinic" approved by the New Jersey Medicaid Program.

10:62-1.11 Professional services requiring prior authorization

(a) Prior authorization shall be requested in writing from the Vision Care Unit, Division of Medical Assistance and Health Services, CN 712, Trenton, New Jersey 08625, for the services listed under (c) below.

(b) The written request shall be made before the service is provided and should include proper recipient identification, the diagnosis and detailed reasons why such services are being requested.

(c) The following professional services require prior authorization:

1. Vision training work-up;
2. Vision training;
3. Out-of-office visits, except nursing homes and emergencies;
4. Subnormal vision work-up;
5. All other services not specified as a covered service under N.J.A.C. 10:62-1.4.

(d) If a request for authorization is denied, the provider shall be notified of the reason, in writing, by the Vision Care Consultant.

10:62-1.12 Prescription policy

(a) A patient is entitled to have a copy of his or her prescription for eye-glasses. To prevent possible recipient overutilization, the following information shall be indicated on the prescription: Name, address, HSP (Medicaid) Case Number, and date of examination.

(b) If a patient requests a duplicate prescription from a non-dispensing provider (Ophthalmologist or Optometrist), the duplicate prescription shall clearly indicate: "This is a duplicate of the original prescription". The date of the original prescription shall also be included.

(c) The dispensing provider (Ophthalmologist or Optometrist or Optician) shall retain the original prescription. If a duplicate is requested by the patient, specify on the duplicate that it is a duplicate of a prescription, indicating the date that the glasses were dispensed.

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Interested Persons see Inside Front Cover

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10:62-1.13 Record-keeping policies

(a) Providers shall keep such legible individual records as are necessary to fully disclose the kind and extent of services provided, as well as the medical necessity for those services. Data shall include such quantitative positive and negative findings as will be meaningful in subsequent review. Check marks are not acceptable. The information shall be readily available to representatives of the New Jersey Medicaid Program, or its agents, as required.

(b) Records shall be kept and maintained by the provider for a period of at least five years from the date the service was rendered.

10:62-1.14 Basis for reimbursement

(a) The provider shall use his or her usual and customary charge when submitting a claim. Reimbursement for covered services furnished under the New Jersey Medicaid Program shall be made on the basis of the customary charge, not to exceed an allowance determined to be reasonable by the Commissioner of Human Services, and further limited by federal policy relative to payment of practitioners and other individual providers.

1. In no event shall the charge to the New Jersey Medicaid Program exceed the charge by the provider for identical services to other governmental agencies, private nonprofit agencies, trade unions or other individuals in the community.

2. If a patient receives care from more than one member of a partnership or corporation in the same discipline, the maximum payment allowance shall be the same as that of a single provider. For purposes of reimbursement, optometrist and/or physician, optometrist and physician groups, shared health care facility, or optometrist and physician sharing a common record shall be considered a single provider.

3. Reimbursement shall not be made for, and recipients may not be asked to pay for, broken appointments.

(b) For reimbursement purposes, when the optometrist or physician submits a claim for the following services, the services shall have been performed personally by the optometrist or physician submitting the claim:

1. Office visit;
2. Hospital visit;
3. Long-term care facility visit or residential health care facility visit;
4. Any and all parts of the history or eye examination.

(c) To qualify as documentation that the service was rendered by the optometrist or physician during an inpatient stay, the medical record must contain the optometrist's or physician's notes indicating that he or she personally:

1. Reviewed the patient's medical history with the patient and/or his family, depending upon the medical situation;
2. Performed an eye examination;
3. Confirmed or revised the diagnosis;
4. Visited and examined that patient on the days for which a claim for reimbursement is made.

(d) The billing physician's or optometrist's involvement must be clearly demonstrated on notes reflecting his or her personal involvement with the service rendered. This refers to those occasions when these notes are written into the medical record by interns, residents, other house staff members, or nurses. A countersignature alone is not sufficient.

(e) The New Jersey Medicaid Program utilizes the Health Care Financing Administration's (HCFA) Common Procedure Coding System (HCPCS). (See N.J.A.C. 10:62-4, Subchapter 4 of this manual, for details.)

1. Dates of service for each procedure code submitted for reimbursement must be indicated on the claim form and the practitioner's own office record.

SUBCHAPTER 2. OPTICAL APPLIANCES AND SERVICES

10:62-2.1 Scope of optical appliances and services

This subchapter covers the provision of optical appliances necessary for the correction of any eye vision defects.

10:62-2.2 Definitions

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

"Ocularist" means a provider of artificial eyes.

"Optical appliances" means those items, devices or appliances prescribed by an eligible provider and furnished by an eligible provider in order to aid or improve vision, or to replace the eye.

"Optician" means an individual licensed by the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians.

"Providers of optical appliances" means those providers who possess New Jersey licensure for supplying optical appliances to the public, and are approved by the New Jersey Medicaid Program.

10:62-2.3 Providers of services

(a) Within the restrictions of their respective licensure, the following are the only providers eligible to participate in the Vision Care Program:

1. Physicians recognized as specialists in ophthalmology by the New Jersey Medicaid Program in accordance with the Physician Services Manual or the Vision Care Services Manual;
2. Persons licensed by the State of New Jersey to practice optometry;
3. Persons licensed by the State of New Jersey as ophthalmic dispensers;
4. Independent outpatient health care facilities approved by the New Jersey Medicaid Program to render eye care services;
5. Hospitals approved for New Jersey Medicaid Program participation; and
6. An ophthalmologist, optometrist or optician in another state who is duly licensed or meets the requirements of his or her own state with regard to the dispensing of optical appliances.

(b) Persons recognized as ocularists may be considered providers of artificial eyes, upon recommendation of the prescribing practitioner and prior approval by the New Jersey Medicaid Program.

10:62-2.4 Covered services

(a) The following optical appliances are covered under the New Jersey Medicaid Program:

1. Optical lenses (see N.J.A.C. 10:62-2.6);
2. Optical frames (see N.J.A.C. 10:62-2.7);
3. Repairs of optical appliances (prior authorization required for repairs above \$5.00 (see N.J.A.C. 10:62-2.5);
4. Artificial eyes (prior authorization required, see N.J.A.C. 10:62-2.5);
5. Subnormal vision devices (prior authorization required, see N.J.A.C. 10:62-2.5);
6. Vision training devices (prior authorization required, see N.J.A.C. 10:62-2.5);
7. Replacement of optical appliances (prior authorization required, see N.J.A.C. 10:62-2.5);
8. Dual pairs of glasses instead of multifocal (prior authorization required, see N.J.A.C. 10:62-2.5);
9. Contact lenses (prior authorization required, see N.J.A.C. 10:62-2.5);
10. Intraocular lenses.

10:62-2.5 Optical appliances requiring prior authorization

(a) Form MC-9 (Request for Authorization and Payment—Optical Appliances) shall be used for requesting prior authorization. The completed form, indicating clearly the reasons for requesting prior authorization, shall be submitted to the Vision Care Unit, Division of Medical Assistance and Health Services, CN 712, Trenton, New Jersey 08625.

(b) Items requiring prior authorization should not be provided to the Medicaid patient until the authorization is received by the provider.

(c) Authorization becomes invalid upon termination of eligibility for the New Jersey Medicaid Program, except when the termination occurs between the time optical appliance is ordered and the time the optical appliance is dispensed.

(d) The following optical appliances require prior authorization:

1. Contact lenses;
2. Artificial eyes;

3. Subnormal vision devices;
 4. Vision training devices;
 5. Repair of an optical appliance exceeding \$5.00;
 6. Replacement of optical appliances:
 - i. The New Jersey Medicaid Program shall no longer pay for replacement of optical appliances which may have been lost, broken, damaged or stolen unless prior authorized.
 - ii. If prior authorization is approved due to extenuating circumstances, the replacement appliance shall be identical to the appliance being replaced.
 7. Dual pairs of glasses instead of multifocal:
 - i. A physician's statement indicating medical necessity shall be submitted when requesting two pairs of glasses in lieu of multifocal lenses.
 8. When optical appliances are requested more than once every two years for persons 19 through 59 years of age or more frequently than once a year for persons less than 19 years or over 60 years:
 - i. To justify the request, all subsequent prescriptions shall have a change of at least 0.50 diopter in spherical or cylindrical power or a change in axis of five degrees or more.
 9. Optical tints (except pink A and B, or gray, and brown plastic lenses 10 percent to 20 percent);
 10. Hilite lenses;
 11. Special base curve;
 12. All other optical appliance items not listed or requiring additional charges or not identified in N.J.A.C. 10:62-4.4, (Subchapter 4, HCPCS Code Numbers and Maximum Fee Schedule for Vision Care Appliances).
 - (e) If a request for authorization is denied, the provider shall be notified of the reason, in writing, by the Vision Care Consultant.
- 10:62-2.6 Standards and policies regarding lenses
- (a) Lenses shall be first quality ophthalmic lenses meeting the requirements published by American National Standard Institute.
 - (b) Safety lenses shall meet impact resistant standards as set forth in United States Food and Drug Administration regulations.
 - (c) When the prescription for proper distance vision is different from the prescription necessary for normal near vision, bifocals and/or multifocal lenses are recommended. If two pairs of lenses are needed, see N.J.A.C. 10:62-2.5 (d)7.
 - (d) For pricing purposes, all prescriptions shall be written in minus cylinder form.
 - (e) The total correction shall be at least 0.50 diopter in spherical or cylindrical power in the initial prescription for glasses.
 - (f) New lenses are reimbursable only if a change exists: that is, at least 0.50 diopter in spherical or cylinder power, or a change of five degrees or more in cylindrical axis.
 - (g) Contact lenses (prior authorization required as indicated in N.J.A.C. 10:62-2.5) may be approved only when recommended for:
 1. Specific ocular pathological conditions (for example Kera-toconus, monocular surgical aphakia to effect binocular vision);
 2. Patients whose vision cannot be improved to at least 20/70 with regular lenses but improvement of vision can be accomplished to 20/70 or better in the better eye.
 - (h) The policy for duplication or reproduction of the same correction is as follows:
 1. A re-examination and new prescription are required if more than one year (or two years in the case of an individual between 19 and 59 years of age) has elapsed since the date of the original prescription;
 2. The provider must determine date and type of previous vision care service.
 - (i) The New Jersey Medicaid Program will not pay for replacement of optical appliances which may have been lost, broken, damaged or stolen unless prior authorized.
 - (j) Prior authorization is required for individuals with significant pathological conditions requiring optical tints other than pink A and B.
 - (k) The following lenses are not covered under the New Jersey Medicaid Program:
 1. Gradient tint;
 2. Oversize lenses;

3. Photo-gray lenses;
4. Photochromatic lenses;
5. Prescription sunglasses;
6. Rimless lenses; and
7. Temporary glasses.

- 10:62-2.7 Standards and policies regarding frames
- (a) Plastic, non-flammable frames acceptable to the New Jersey Medicaid Program shall meet the following minimum criteria:
 1. The manufacturer's name and the size of the frame shall be properly identifiable on the frame;
 2. The temples shall be wire-reinforced;
 3. A hinge rivet shall pass through the reinforcing temple wire;
 4. The material shall contain no scratches, fissures or bubbles;
 5. There shall be no material discoloration at the time of dispensing; and
 6. The frame shall not be expanded beyond 1 mm. of the original size when the lenses are inserted.
 - (b) Replacement of a frame within two years is allowed only if the frame is lost, or broken and not repairable, and if prior authorized.
 - (c) Wire-metal frames are not covered under the New Jersey Medicaid Program.

- 10:62-2.8 Standards regarding guaranty/warranty
- All rights, benefits, and services applicable to a private patient shall apply to the same extent to the Medicaid recipient.

- 10:62-2.9 Ocular prostheses
- Artificial eyes and intraocular lenses, stock or custom-made, shall be of plastic material.

- 10:62-2.10 Approved fabricating laboratory
- (a) For purpose of the New Jersey Medicaid Program, an approved fabricating laboratory shall have the necessary equipment, licensed personnel and capability to completely surface and finish new optical glass or plastic lenses or from partially finished lenses.
 - (b) The laboratory shall be able to provide all services necessary to completely furnished eyeglasses as may be requested by an optical dispenser and is subject to approval by the New Jersey Medicaid Program. Provider may call the Vision Care Unit (609-588-2729) to ascertain if a laboratory is Medicaid approved.

- 10:62-2.11 Recordkeeping policies
- (a) Providers shall keep such legible individual records as are necessary to fully disclose the kind and extent of services provided, as well as the medical necessity for those services. Such information shall be readily available to the representatives of the New Jersey Medicaid Program or its agents as required.
 - (b) The records required by (a) above shall include the following data:
 1. Name of the recipient;
 2. Address of the recipient;
 3. HSP (Medicaid) Case number;
 4. Original prescription;
 5. Date of the prescription received; and
 6. Date of the dispensing to the recipient.
 - (c) Records shall be kept and maintained by the provider for a period of at least five years from the date the service was rendered.

- 10:62-2.12 Basis for reimbursement
- (a) The reimbursement policy of the New Jersey Medicaid Program provides for payment to the provider of the actual invoice cost of the optical appliance. Providers are requested to indicate the actual invoice cost of the material when submitting a claim. Actual invoice cost is defined as the net amount paid by the provider, reflecting all discounts or special purchase agreements. The service (dispensing) fee, to which the provider is entitled, should be indicated as a separate item.
 - (b) When submitting a claim for reimbursement, the fabricating laboratory invoice (see N.J.A.C. 10:62-2.10), when applicable, shall be attached to the claim form MC-9.
 - (c) The maximum allowable reimbursement for frames is \$5.00. However, providers shall only bill the New Jersey Medicaid Program

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for the actual invoice cost of the frame when submitting a claim for payment. Actual invoice cost is defined as the net amount paid by provider, reflecting all discounts or special purchase agreements. Frames are reimbursable only if they meet the criteria listed in N.J.A.C. 10:62-2.7.

(d) Optical appliances are reimbursable under the New Jersey Medicaid Program only when prescribed by a provider of professional eye services as defined in N.J.A.C. 10:62-1.3, that is, physicians recognized by the program as ophthalmologists, optometrists, approved independent eye clinics and hospitals, and when dispensed by a provider of optical appliances as defined in N.J.A.C. 10:62-2.2.

(e) Non-physician services and equipment/supplies furnished to hospital inpatients by outside providers shall not be billed directly to the New Jersey Medicaid Program. Providers shall submit a bill/invoice to the hospital for payment.

(f) Reimbursement by the New Jersey Medicaid Program shall be made for covered services provided to eligible recipients only; however, if the Medicaid recipient becomes ineligible between the time the optical appliance is ordered and the time the optical appliance is dispensed, the provider is still eligible for reimbursement.

(g) The cost of intraocular lenses is reimbursable to hospitals or ambulatory surgical centers where the surgery is performed or directly to the ophthalmologist.

1. Ophthalmologists can be reimbursed for the intraocular lenses; providing payment is not made to the hospital or the ambulatory surgical center. To be reimbursed, the ophthalmologist shall complete the MC-9 form and attach the purchase invoice, supplied by the lens manufacturer, and mail it to the Vision Care Unit, Division of Medical Assistance and Health Services, CN-712, Trenton, New Jersey 08625.

SUBCHAPTER 3. BILLING PROCEDURES

10:62-3.1 General billing procedures

(a) A claim is a bill which indicates a request for payment for a Medicaid-reimbursable service provided to a Medicaid-eligible individual. The claim may be submitted hard copy or by means of a method of automated data exchange which is approved by the Division of Medical Assistance and Health Services.

(b) This subchapter contains information which informs New Jersey Medicaid Vision Care Services Providers when and how to request reimbursement.

10:62-3.2 Timeliness of claim submission and claim inquiry

(a) For timeliness of claim submission and claim inquiry, see Chapter 49 of this manual, Administration, N.J.A.C. 10:49-1.12.

(b) In the case that two different dates encompassing two separate time spans occur involving optical appliances, the following shall apply:

1. From the prescribing date to the date of receipt of the prescription by the dispenser, that is, ophthalmologist or optometrist to the optician or vendors, claims for optical appliances not requiring prior authorization will be paid only when the date of receipt by the dispenser (vendor or optician) is not more than 90 days following the prescribing date;

2. Claims for optical appliances not requiring prior authorization shall be paid only when the date of receipt of the finished appliance by the eligible recipient is not more than 30 days following the date of receipt of the prescription by the dispenser;

i. If it is not possible to dispense an optical appliance within the stated time, the provider shall notify the Vision Care Unit, stating that such time limit cannot be met in a particular case, with the reason(s) why.

10:62-3.3 New Jersey Medicaid claim forms

(a) The Health Insurance Claim Form (1500 N.J.) is used for the purpose of billing for professional services, that is, diagnostic examinations, medical and/or surgical care, by physicians and optometrists. Claim form 1500 N.J. shall be completed exactly as indicated in Appendix I at the end of this manual, which is incorporated herein by reference.

(b) The Request for Authorization and Payment—Optical Appliances form (MC-9) is used for the purpose of billing for optical

appliances and also for requesting prior authorization. Claim form MC-9 shall be completed exactly as indicated in Appendix II at the end of this manual, which is incorporated herein by reference.

1. When submitting a claim for reimbursement, the fabricating laboratory invoice (see N.J.A.C. 10:62-2.10, Subchapter 2) when applicable, must be attached to the claim form MC-9.

(c) The optometrist shall submit 1500 N.J. and MC-9 claim forms for reimbursement to:

The Prudential Insurance Company of America
Post Office Box 5107
Millville, New Jersey 08332

(d) The optician shall submit MC-9 claim form for reimbursement to:

The Prudential Insurance Company of America
Post Office Box 5107
Millville, New Jersey 08332

(e) The ophthalmologist:

1. Shall submit MC-9 claim form for reimbursement to:

The Prudential Insurance Company of America
Post Office Box 5107
Millville, New Jersey 08332, and

2. Shall submit 1500 N.J. claim form for reimbursement to:

The Prudential Insurance Company of America
Post Office Box 5101
Millville, New Jersey 08332

10:62-3.4 Combination Medicare/Medicaid claims

(a) Cataract lenses and/or artificial eyes are eligible for payment under supplemental medical insurance benefits (Medicare, Part B). When these specific services are rendered to or for a New Jersey Medicaid eligible patient who is also eligible for Medicare, the Health Insurance Claim Form (1500 N.J.) shall be submitted directly to the Medicare carrier:

The Prudential Insurance Company of America
Medicare B Division
Post Office Box 2222
Linwood, New Jersey 08221
Telephone: (800) 462-9306

(b) The provider shall record both the Health Insurance Claim (Medicare) number in item 6 and the HSP (Medicaid) Case Number in item 8 of the form 1500 N.J.

1. No prior authorization by the New Jersey Medicaid Program is required for Medicare covered services. However, the responsibility by the New Jersey Medicaid Program is limited to the payment of the unsatisfied deductible. Coinsurance shall be considered for vision care appliances only.

10:62-3.5 Group practice

(a) For purposes of billing under the New Jersey Medicaid Program, providers who are in group practice or partnership shall list themselves under one name and one provider number.

(b) The instructions in Appendix I and Appendix II, where applicable, also apply to group practice. The individual practitioner or provider rendering each service or item shall complete and sign the provider certification portion of the form (Health Insurance Claim Form (1500 N.J.), Section 25) or (Request for Authorization and Payment—Optical Appliance form (MC-9), Section 23).

OFFICE OF ADMINISTRATIVE LAW NOTE: Health Insurance Claim Form 1500 N.J. was submitted with the proposal, but is not reproduced herein. Copies may be obtained from the Medicaid district offices.

APPENDIX I

HEALTH INSURANCE CLAIM FORM (1500 N.J.)

ITEM 1. Copy the patient's name EXACTLY as it appears on the validation of eligibility form.

ITEM 2. Indicate patient's date of birth. Use six (6) digits (for example, September 10, 1980 is written 09/10/80). If only the year is known, enter the year as a four-digit number (for example, 1980). If the actual birthdate is unavailable, enter the patient's age.

ITEM 3. Not applicable.

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- ITEM 4. Indicate the patient's address and telephone number.
- ITEM 5. Check the appropriate block to identify the patient's sex.
- ITEM 6. Copy the patient's Health Insurance Claim number as it appears on the Medicare Health Insurance Card when the patient is covered by both Medicare and Medicaid.
- ITEM 7. Not applicable.
- ITEM 8. Copy the patient's New Jersey Medicaid Program HSP (Medicaid) Case number and Person number EXACTLY as they appear on the validation of eligibility form.
- ITEM 8a. Not applicable.
- ITEM 9. Check the appropriate block to indicate whether the patient has any other Health Insurance Coverage. If yes, you must attach a copy of the decline notice or a copy of the explanation of payment.
- ITEM 10. Check as appropriate.
- If the patient's illness or injury is work related.
- If the patient's injury resulted from an automobile accident or other.
- ITEM 11. Not applicable.
- ITEM 12. Under ordinary circumstances, the patient must sign and date the claim form when services have been received.
- The claim form must indicate all services rendered prior to presenting it to the patient for signature.
- If the patient's signature is unobtainable, see N.J.A.C. 10:49-1.26 (Chapter 49 of this manual).
- ITEMS 13-18. Not applicable.
- ITEM 19. If patient was referred to you, indicate the name of the referring practitioner. If patient is enrolled in the Medicaid Personal Physician Plan indicate name of the Physician Case Manager.
- ITEM 19a. Enter the Individual Medicaid Practitioner (IMP) number of the referring physician/practitioner you indicated in Item 19.
- If patient is enrolled in the Medicaid Personal Physician Plan, keep the authorization form signed by the Physician Case Manager in your file.
- ITEM 20. Not applicable.
- ITEM 21. Write in the name of the institution if the place of service is other than doctor's office or patient's home.
- To be completed in addition to Item 24b.
- ITEM 21a. Not applicable.
- ITEM 22. Check "No" block when laboratory work was analyzed by you. Do not bill the Medicaid Program if laboratory work was analyzed outside your office.
- ITEM 23A. Enter the diagnosis using the codes listed in the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) for all services identified in Item 24D.
- ITEM 23B. Early and Periodic Screening, Diagnosis and Treatment Program Referral
- Complete this item for recipients under 21 years of age. Ask the patient and/or referring physician or clinic if this visit is a result of an EPSDT screening. Indicate if this patient is such a referral by checking the appropriate block.
- ITEM 24A. Enter the date(s) of each visit.
- ITEM 24B. Identify the place of service by selecting appropriate alpha code as listed on the reverse side of form under "Place of Service" Codes.
- ITEM 24C. Identify the type of service by selecting appropriate numerical codes, as listed on the reverse side of form under Type of Service Codes.
- ITEM 24D. Physicians, Optometrists:
- Identify the procedure by code number as listed in Subchapter 4 and insert the procedure code under 24D.
- A narrative description of the procedure code is not needed if that service does not require prior authorization.
- However, providers may also elect to include the narrative description, as well as the code, under the following circumstances:
1. The service is more clearly defined by the inclusion of both code and narratives;
 2. The provider is unable to locate a code relevant to the service rendered.
- ITEM 24E. Enter the reference numbers in (Item 23A) related to applicable diagnosis for that visit.

- ITEM 24F. Not applicable.
- ITEM 24G. Enter your usual and customary charge for each service or procedure.
- ITEM 24H. Not applicable.
- ITEM 24I. Leave blank.
- ITEM 25. Carefully read the Medicaid Provider Certification on the reverse side of the form.
- The Individual Practitioner who personally performed or supervised the service(s) represented on the claim must put his or her signature on each claim before submitting for payment.
- If a claim covers services performed by more than one practitioner, the group member who performed the last procedure should sign the claim.
- ITEM 26. Not applicable.
- ITEM 27. Enter the sum total of the individual charges.
- ITEMS 28-29. Not applicable.
- ITEM 30. The IMP number of the physician/practitioner who signed the form must be provided, if the services were performed by more than one group member.
- ITEM 31. If not preprinted, write provider name, address, and provider number. The telephone number should also be provided.
- ITEMS 32-33. Not applicable.
- ITEM 34. This section should be used whenever additional information will assist in the evaluation for payment of rendered services.

APPENDIX II

REQUEST FOR AUTHORIZATION AND PAYMENT—OPTICAL APPLIANCES (MC-9)

- ITEM 1. Copy the patient's name EXACTLY as it appears on the validation of eligibility form.
- ITEM 2. Indicate patient's address and telephone number.
- ITEMS 3-4. Copy the patient's New Jersey Medicaid Program HSP (Medicaid) Case number and Person number EXACTLY as they appear on the validation of eligibility form.
- ITEM 5. Indicate patient's date of birth. Use six (6) digits (for example, September 10, 1980 is written 09/10/80). If only the year is known, enter the year as a four-digit number (for example, 1980). If the actual birthdate is unavailable, enter the patient's age.
- ITEM 6. Check the appropriate block to identify patient's sex.
- ITEM 7. Check the appropriate block to indicate whether the patient has other Health Insurance or Liability Coverage. If yes, you must attach a copy of the decline notice or a copy of the explanation of payment.
- ITEM 8. Check the appropriate block.
- If the patient's illness or injury is work related.
- If the patient's injury resulted from an automobile accident.
- ITEM 9. If the form is not preprinted, write the provider name, address, and provider number. The telephone number should also be provided.
- ITEM 10. EPSDT Program Referral:
- Complete this item for recipients under 21 years of age. Ask the patient and/or referring physician or clinic if this visit is a result of an EPSDT screening. Indicate if this patient is such a referral by checking the appropriate block. If the services required prior authorization, the approval must be submitted with the billing.
- ITEM 11. A diagnosis is required. Where possible, indicate both a primary and secondary diagnosis. (Opticians: obtain diagnosis from the prescribing practitioner.) You may use the codes for diagnosis listed in the International Classification of Diseases 9th Revision Clinical Modification (ICD-9-CM).
- ITEM 12A. Indicate the date of any previous examination.
- ITEM 12B. Indicate the date of the current examination.
- ITEM 12C. Indicate the date the optical appliance was dispensed.
- ITEM 13. Prescription: A prescription for new lenses must always be given in minus cylinder.
- ITEMS 14-15. Indicate the appropriate block.
- ITEM 16. Indicate the appropriate lens information and fabricating laboratory.
- ITEM 17. Provide a complete frame description
- When HCPCS code Y5165YF is utilized, Item 17 must state "Patient's Own Medicaid Plastic Frame".

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ITEM 18. The prescribing practitioner's name and IMP number must be clearly printed or typed. If the prescriber and the dispenser are the same, write the word "same". If the prescription for the appliance comes from a hospital or an eye clinic, the name of such hospital or clinic should be clearly printed or typed in item 18.

ITEM 18A. When the recipient is enrolled in the Medicaid Personal Physician Plan, indicate the name of assigned Physician Case Manager and Individual Medicaid Practitioner number. Keep authorization form signed by Physician Case Manager in your file.

ITEM 19. Column I (Item Code):

Identify each item provided. Use HCPCS Code as listed in Subchapter 4.

Column II (Laboratory Cost):

Indicate charge, reflecting actual lab invoice cost, for each item provided. Attach invoice from fabricating laboratory, when applicable.

Columns III, IV, V, & VI:

Leave blank (For Division Use Only).

ITEM 20. Leave blank (For Division use only).

ITEM 21. This section should be used whenever additional information will assist in the evaluation of an authorization request. It should also be used for describing any repairs to be made to existing appliances.

ITEM 22. Patient's certification: Under ordinary circumstances, the patient must sign and date the claim form when services have been received. The claim form must indicate all services rendered prior to presenting it to the patient for signature.

If the patient's signature is unobtainable, see Chapter 49-1.26 of this manual.

ITEM 23. Provider's certification: Carefully read the Medicaid Provider Certification on this section.

The practitioner who personally performed or supervised the service(s) represented on the claim must put his/her signature on each claim before submitting for payment.

If a claim covers services performed by more than one practitioner, the group member who performed the last procedure should sign the claim.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CRIMINAL JUSTICE

Arson Investigators: Training Requirements

Proposed Readoption: N.J.A.C. 13:76

Authorized By: Donald R. Belsole, Director, Division of Criminal Justice.

Authority: N.J.S.A. 40A:14-7.1 and 52:17B-97 et seq.

Proposal Number: PRN 1988-235.

Submit comments by June 1, 1988 to:

Donald R. Belsole, Director
Division of Criminal Justice
Richard J. Hughes Justice Complex
25 Market Street
CN 085
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.A.C. 13:76 provides the training requirements and certification procedures for any paid members of a paid or part-paid municipal fire department or force, assigned full-time or part-time to an arson investigation unit, with the same powers and authority of police officers within the municipality, while engaged in the actual performance of arson investigation duties.

Pursuant to Executive Order 66(1978), this chapter expires on September 6, 1988. The Division of Criminal Justice (Division) has reviewed these rules and found them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. It should be noted for the purposes of this proposed re-adoption that minor amendments to certain of these rules were adopted by the Division and published

in the April 18, 1988 New Jersey Register. A synopsis of the contents of this chapter follows.

N.J.A.C. 13:76-1 sets forth the scope and applicability of these rules, and provides appropriate definitions.

The notification and reporting requirements for a municipality contemplating the creation of an arson investigation unit pursuant to N.J.S.A. 40A:14-7.1, and, in turn, a county prosecutor's notification and commentary responsibilities following receipt of such municipal notice are provided by N.J.A.C. 13:76-2.

The training prerequisites for a person assigned to an arson investigation unit, and the procedures for certification of such an individual as an arson investigator are set forth in N.J.A.C. 13:76-3. N.J.A.C. 13:76-4 contains the in-serve training requirements for a certified arson investigator and the procedures for certification renewal.

Municipal responsibility for all costs and expenses involved in the training of arson investigation unit personnel is provided for in N.J.A.C. 13:76-5. A municipality's duty to notify the county prosecutor, and the prosecutor's duty, in turn, to notify the Division, of the termination of the assignment of an arson investigator is set forth in N.J.A.C. 13:76-6.

Social Impact

By setting forth the training and certification requirements for arson investigators, these rules advance efficient law enforcement. Since their promulgation in 1983, various amendments to these rules have improved the quality of arson investigators' training. For example, under N.J.A.C. 13:76-4.1(c), investigators who carry firearms will receive training in accordance with the Gun Control Law, N.J.S.A. 2C:39-1 et seq. The re-adoption of these rules will allow the Division to continue to meet the growing demand for the training of arson investigators.

Economic Impact

The re-adoption of these rules will not impose any significant economic impact upon the State. There will be an economic impact upon those municipalities who choose to assign individuals to an arson investigation unit pursuant to N.J.S.A. 40A:14-7.1. Such impact will include municipal responsibility for the costs and expenses for enrollment and attendance in all the required prerequisite and continued in-service training.

Regulatory Flexibility Statement

These rules apply only to municipalities assigning fire department members to an arson investigation unit, and not to small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, no regulatory flexibility analysis is required.

Full text of the proposed re-adoption appears in the New Jersey Administrative Code at N.J.A.C. 13:76, with the text of the recent amendments in the April 18, 1988 New Jersey Register at 20 N.J.R. 913(a).

PUBLIC UTILITIES

(b)

BOARD OF PUBLIC UTILITIES

Disputes as to Bills

Proposed Amendment: N.J.A.C. 14:3-7.13

Authorized By: The Board of Public Utilities, Christine Todd Whitman, President.

Authority: N.J.S.A. 48:2-13 and 48:3-2.1.

BPU Docket Number: AX88030461.

Proposal Number: PRN 1988-230.

Submit comments by June 1, 1988 to:

Edward D. Beslow, Esq.
Regulatory Officer
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

The agency proposal follows:

Summary

The proposed amendment of N.J.A.C. 14:3-7.13(a) would require an electric, gas, water or telephone utility to cease all collection activity on a disputed charge that was before the Board either formally or informally. Collection activity would include, but not be limited to, discontinuance

notices, dunning letters, and telephone calls made to effect the payment of the disputed charges.

The proposed addition of N.J.A.C. 14:3-7.13(e) will implement the provisions of N.J.S.A. 48:3-2.1 by requiring that a utility pay or credit interest on all overpayments made by residential customers due to a billing error unless the overpayment is fully refunded or credited within two billing cycles after written notification by the customer to the utility of the error. The Board proposes to set the interest rate at the same rate that is applicable to deposits pursuant to N.J.A.C. 14:3-7.5. The utilities shall give written notice of the provisions of subsection (e) on an annual basis.

Social Impact

The proposed amendment of N.J.A.C. 14:3-7.13(a) will protect the customers of an electric, gas, water or telephone utility from feeling the undue pressure of receiving a demand for payment of disputed charges when payment is not required. This proposed amendment would also protect those customers who are not aware of the applicable regulation. By requiring the utility to send a seven-day written notice of discontinuance at the conclusion of a formal or informal dispute, customers will be afforded the chance to make payment or payment arrangements on any remaining outstanding balance.

The proposed addition of N.J.A.C. 14:3-7.13(e) will compensate residential customers for the loss of the use of their money in the case of overpayments due to billing errors that are not refunded or credited within a reasonable period of time.

Economic Impact

The proposed amendment of N.J.A.C. 14:3-7.13(a), would have no economic impact on the Board of Public Utilities. The customer would experience no adverse economic impact as the proposed amendment would not allow a utility to request payment of disputed charges.

The proposed amendment would require a utility to modify its collection procedures, thus causing an adverse economic impact. The extent of this expense would depend upon the sophistication of the individual utilities' collection system.

Implementation of N.J.A.C. 14:3-7.13(e) is also not expected to impose any additional costs on the Board. It will require a utility to compensate a residential customer for an overpayment due to a billing error that was held by the utility and not refunded or credited to the customer within a reasonable period of time.

Regulatory Flexibility Statement

There are no small gas or telephone utilities. There are, however, one small electric utility, in excess of 100 small water utilities and approximately 850 solid waste collection and disposal utilities that are subject to the provisions of this section.

The proposed amendment to N.J.A.C. 14:3-7.13(a) will require utilities to note accounts which are the subject of a formal or informal bill dispute before the Board. The records must be noted so that collection activity will not be taken on disputed charges. The initial capital costs and the annual cost of compliance will depend upon the billing and collection procedures of the individual utility. A utility that manually prepares and sends discontinuance notices will experience little initial or annual cost of compliance. A utility that sends computer generated discontinuance notices will incur an initial cost of reprogramming, but little cost of compliance.

The only compliance requirement imposed on the utilities by the proposed addition of subsection (e) will be the annual written notice of the provisions of the subsection to their residential customers. In order that the provisions of N.J.S.A. 48:3-2.1 may be implemented as intended by the Legislature, the Board has determined that exemptions to this proposed amendment are not warranted.

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

14:3-7.13 Disputes as to bills

(a) A utility shall not discontinue service because of nonpayment of bills in cases where a charge is in dispute, provided the undisputed charges are paid and a request is made to the Board for an investigation of the disputed charge. In such cases the utility shall notify the customer that unless steps are taken to invoke formal or informal Board action within five days, service will be discontinued for nonpayment. **Once a formal or informal dispute is before the Board, all collection activity on the charge in dispute shall cease. When the Board has determined that a formal or informal dispute has been resolved,**

the utility is required to provide at least seven days written notice before service may be discontinued.

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

(e) **A public utility shall pay or credit interest at a rate equal to that prescribed by the Board in N.J.A.C. 14:3-7.5 (Return of deposits) on any overpayment made by a residential customer due to a billing error, unless the overpayment is fully refunded or credited to the customer's account within two billing cycles after written notification by the customer to the utility of the error.**

1. For purposes of this subsection, "billing error" shall mean a charge to a residential customer in excess of that approved by the Board for the type of service supplied to that customer or in excess of the charge due for the service supplied to that customer as measured or recorded by meter or other device; except that neither the amount of any estimated bill in and of itself, nor the amount due on a budget account installment shall constitute a billing error.

2. Each public utility shall annually provide written notice of the provisions of this subsection to each of its residential customers.

TRANSPORTATION

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

Submit comments by June 1, 1988 to:

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

TRANSPORTATION OPERATIONS

(a)

Speed Limits

Route N.J. 56 in Cumberland and Salem Counties

Proposed New Rule: N.J.A.C. 16:28-1.31

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

Proposal Number: PRN 1988-233.

The agency proposal follows:

Summary

The proposed new rule will establish speed limit zones along Route N.J. 56 in the Townships of Upper Deerfield, Deerfield and Vineland City, Cumberland County and Pittsgrove Township, Salem County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon requests from 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 speed limit zones along Route N.J. 56 in the Townships of Upper Deerfield, Deerfield and Vineland City, Cumberland County and Pittsgrove Township, Salem County were warranted.

The Department therefore proposes new rule N.J.A.C. 16:28-1.31 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed new rule will establish speed limit zones along Route N.J. 56 in the Townships of Upper Deerfield, Deerfield and Vineland City, Cumberland County and Pittsgrove Township, Salem County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "speed limit" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

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Regulatory Flexibility Statement

Since the proposed new rule does not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

Full text of the proposal follows.

16:28-1.31 Route 56

(a) The rate of speed designated for the certain parts of State highway Route 56 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic in Cumberland and Salem Counties:

i. Cumberland County:

(1) Upper Deerfield Township:

(A) Zone 1: 50 miles per hour between Route N.J. 77 and the Upper Deerfield Township—Deerfield Township line (mileposts 0.00 to 2.13); thence

(2) Deerfield Township:

(A) 50 miles per hour within the corporate limits (mileposts 2.13 to 4.82); thence

(3) Vineland City:

(A) 50 miles per hour between the Pittsgrove Township—Vineland City line and 1600 feet east of the Pittsgrove Township—Vineland City line (mileposts 7.51 to 7.84); thence

(B) Zone 2: 45 miles per hour between 1600 feet east of the Pittsgrove Township—Vineland City line and Route N.J. 47 (mileposts 7.84 to 9.23).

ii. Salem County:

(1) Pittsgrove Township:

(A) 50 miles per hour within the corporate limits (mileposts 4.82 to 7.51).

(a)

Speed Limits

Route N.J. 35 in Ocean County

Proposed Amendment: N.J.A.C. 16:28-1.49

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

Proposal Number: PRN 1988-218.

The agency proposal follows:

Summary

The proposed amendment will establish speed limit zones along Route 35 in Bay Head Borough, Ocean County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon a request from the local officials, in the interest of safety the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of speed limit zones along Route 35 in Bay Head Borough, Ocean County was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28-1.49 based upon the request from the local officials and the traffic investigation.

Social Impact

The proposed amendment will establish speed limit zones along Route 35 in Bay Head Borough, Ocean County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of speed limit zone signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendment does not place any bookkeeping, 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]).

16:28-1.49 Route 35 including Higgins Avenue, Route U.S. 9 and 35 and Route 35 and 71

(a) The rate of speed designated for State highway Route 35 described [herein below] in this subsection shall be [and hereby is] established and adopted as the maximum legal rate of speed: [thereat.]

1. For both directions of traffic:

i. (No change.)

ii. Zone 6: 40 mph within corporate limits of [Bay Head Borough] **Mantoloking Borough, Ocean County** (mileposts 9.1 to 11.3); thence iii. Zone 7: [35 mph to Route 88 (milepost 13.0);] **In Bay Head Borough, Ocean County:**

(1) 35 mph between the Mantoloking Borough-Bay Head Borough line and Johnson Street (mileposts 11.25 to 11.62); thence

(2) 30 mph between Johnson Street and Harris Street (mileposts 11.62 to 12.20); thence

(3) 35 mph between Harris Street and the Bay Head Borough-Point Pleasant Borough line (mileposts 12.20 to 12.50).

iv. (No change.)

2.-3. (No change.)

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

(b)

Restricted Parking and Stopping

Routes U.S. 1 and 9 in Hudson County; U.S. 9 in

Monmouth County; and N.J. 23 in Passaic County

Proposed Amendments: N.J.A.C. 16:28A-1.2, 1.7 and 1.15

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

Proposal Number: PRN 1988-232.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking bus stop" zones along Routes U.S. 1 and 9 in North Bergen Township, Hudson County; U.S. 9 in Howell Township, Monmouth County; and N.J. 23 in Wayne Township, Passaic County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops.

Based upon requests from 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 Routes U.S. 1 and 9 in North Bergen Township, Hudson County; U.S. 9 in Howell Township, Monmouth County; and N.J. 23 in Wayne Township, Passaic County were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.2, 1.7 and 1.15 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no parking bus stop" zones along Routes U.S. 1 and 9 in North Bergen Township, Hudson County; U.S. 9 in Howell Township, Monmouth County; and N.J. 23 in Wayne Township, Passaic County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops. 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 local governments will bear the costs for "no parking bus stop" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendments do not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.,

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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-1.2 Routes U.S. 1 and 9

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

(c) The certain parts of State highway Routes U.S. 1 and 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.-7. (No change.)

8. Along (Tonnel Avenue) the northbound (easterly) side in North Bergen Township, Hudson County:

i. Far side bus stops:

(1) **43rd Street**—Beginning at the northerly curb line of 43rd Street and extending 100 feet northerly therefrom.

(2) **49th Street**—Beginning at the northerly curb line of 49th Street and extending 100 feet northerly therefrom.

(3) **51st Street**—Beginning at the northerly curb line of 51st Street and extending 132 feet northerly therefrom.

(4) **54th Street**—Beginning at the northerly curb line of 54th Street and extending 100 feet northerly therefrom.

(5) **83rd Street**—Beginning at the northerly curb line of 83rd Street and extending 100 feet northerly therefrom.

(6) **91st Street**—Beginning at the northerly curb line of 91st Street and extending 100 feet northerly therefrom.

ii. Near side bus stops:

(1) **Granton Avenue**—Beginning at the southerly curb line of Granton Avenue and extending 105 feet southerly therefrom.

(2) **73rd Street**—Beginning at the southerly curb line of 73rd Street and extending 105 feet southerly therefrom.

(3) **76th Street**—Beginning at the southerly curb line of 76th Street and extending 105 feet southerly therefrom.

(4) **79th Street**—Beginning at the northerly curb line of 79th Street and extending 105 feet northerly therefrom.

(5) **86th Street**—Beginning at the southerly curb line of 86th Street and extending 105 feet southerly therefrom.

9. Along (Tonnel Avenue) the southbound (westerly) side in North Bergen Township, Hudson County:

i. Near side bus stops:

(1) **91st Street**—Beginning at the northerly curb line of 91st Street and extending 105 feet northerly therefrom.

(2) **86th Street**—Beginning at the northerly curb line of 86th Street and extending 105 feet northerly therefrom.

(3) **83rd Street**—Beginning at the northerly curb line of 83rd Street and extending 105 feet northerly therefrom.

(4) **79th Street**—Beginning at the northerly curb line of 79th Street and extending 105 feet northerly therefrom.

(5) **76th Street**—Beginning at the prolongation of the northerly curb line of 76th Street and extending 105 feet northerly therefrom.

(6) **74th Street**—Beginning at the northerly curb line of 74th Street and extending 105 feet northerly therefrom.

(7) **69th Street**—Beginning at the northerly curb line of 69th Street and extending 105 feet northerly therefrom.

(8) **51st Street**—Beginning at the prolongation of the northerly curb line of 51st Street and extending 105 feet northerly therefrom.

(9) **49th Street**—Beginning at the northerly curb line of 49th Street and extending 130 feet northerly therefrom.

(10) **43rd Street**—Beginning at the northerly curb line of 43rd Street and extending 105 feet northerly therefrom.

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.-34. (No change.)

35. Along the northbound (easterly) side in Howell Township, Monmouth County:

i. Near side bus stops:

(1)-(4) (No change.)

(5) **Aldrich Road**—Beginning at the southerly curb line of [the jughandle to] Aldrich Road [east] and extending [135] **105** feet southerly therefrom.

ii. (No change.)

iii. Far side bus stops:

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

[(4) **Aldrich Road**—Beginning at the northerly curb line of the jughandle from Aldrich Road and extending 135 feet northerly therefrom.]

Renumber (5) as (4) (No change in text.)

36. Along the southbound (westerly) side in Howell Township, Monmouth County:

i. Near side bus stops:

(1)-(2) (No change.)

(3) **Aldrich Road**—Beginning at the northerly curb line of Aldrich Road and extending **105** feet northerly therefrom.

ii.-iii. (No change.)

37.-38. (No change.)

16:28A-1.15 Route 23 and Route 23 (Temporary)

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

(c) The certain parts of State highway Route 23 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 southbound (westerly) side in Wayne Township, Passaic County:

i. Mid-block bus stop: [—Black Oak Ridge Road:]

(1) **Black Oak Ridge Road**—Beginning at a point 150 feet south of the southerly curb line of Black Oak Ridge Road and extending 135 feet southerly therefrom.

ii. Near side bus stops: [—Packanack Lake Road:]

(1) **Packanack Lake Road**—Beginning at the northerly curb line of Packanack Lake Road and extending 125 feet northerly therefrom.

(2) **Meadow Road**—Beginning at the northerly curb line of Meadow Road and extending **115** feet northerly therefrom.

[iii. Near side bus stop—Willow Place:]

[(1)] (3) **Willow Place**—Beginning at the northerly curb line of Willow Place and extending 105 feet northerly therefrom.

[iv.] iii. Far side bus stops: [—Fairfield Road:]

(1) **Fairfield Road**—Beginning at the southerly curb line of Fairfield Road and extending 100 feet southerly therefrom.

(2)-(3) (No change.)

2. Along the northbound (easterly) side in Wayne Township, Passaic County:

i. Mid-block bus stop: [—Packanack Lake Road:]

(1) **Packanack Lake Road**—Beginning at a point 250 feet north of the northerly curb line of Packanack Lake Road and extending 135 feet northerly therefrom.

3.-8. (No change.)

(a)

TRANSPORTATION SERVICES AND PLANNING

Rail Freight Program

Proposed Readoption with Amendments: N.J.A.C. 16:53C

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

Proposal Number: PRN 1988-217.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66(1978), the Department of Transportation proposes to re-adopt N.J.A.C. 16:53C concerning the Rail Freight Program. This chapter is scheduled to expire on September 19, 1988.

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Interested Persons see Inside Front Cover

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This chapter has been reviewed by the Department's Division of Highway Services in compliance with Executive Order No. 66(1978) and was found adequate, reasonable, understandable and necessary for the purpose for which it was promulgated.

The chapter continues a program within the Department to oversee and assist financially in the acquisition and improvement of New Jersey rail freight facilities. The program provides assistance to parties interested in preserving rail service on lines threatened with abandonment or discontinued service due to the physical condition of the lines. Funding under this program is authorized in the State Budget to cover the cost of constructing rail related facilities for the purpose of improving the quality and efficiency of the rail freight service by the operator of a freight service or other appropriate party.

N.J.A.C. 16:53C is summarized as follows:

SUBCHAPTER 1. INTRODUCTION, provides the definitions for words and terms used throughout the Chapter.

SUBCHAPTER 2. STATE RAIL ASSISTANCE PROGRAM, outlines the general provisions of the program, the form of financial assistance and duration of assistance.

SUBCHAPTER 3. PROJECT ELIGIBILITY, establishes the general requirements for a project to be eligible for funding under the program.

SUBCHAPTER 4. STATE/LOCAL SHARE, specifies the manner in which the allowable costs under the program shall be provided by the State and local government.

SUBCHAPTER 5. REQUIREMENTS FOR THE STATE RAIL PLAN, establishes the general provisions and requirements of the State Rail Plan.

SUBCHAPTER 6. APPLICATIONS, provides guidelines and requirements in submitting applications.

SUBCHAPTER 7. ENVIRONMENTAL IMPACT, states that an environmental impact statement meeting State and Federal guidelines shall be part of an application for assistance.

SUBCHAPTER 8. GRANT AGREEMENT AND DISBURSEMENT, outlines the grant procedure to include grant agreement, disbursement of State share of project and final settlement.

SUBCHAPTER 9. RECORD, AUDIT AND EXAMINATION, stipulates that the applicant for assistance under this program shall retain and make available any and all records for audit and examination.

Social Impact

The proposed readoption will continue to provide assistance to persons and organizations interested in preserving rail service on lines threatened with abandonment or discontinued service due to the physical condition of the lines. The program preserves the economic and special environment and aesthetics of the areas affected by the rail lines.

Economic Impact

The proposed readoption will continue to impact economically on the industries served and the populace by limiting the loss of revenue and jobs. Similarly, the impact on the State and local governments is the continued prevention of increased unemployment payments and benefits and continued economic viability of the areas affected by the rail lines.

Regulatory Flexibility Statement

The proposed readoption continues reporting, recordkeeping and compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-19. However, such requirements are necessary in order to meet the objectives of the State Rail Plan, and any costs of compliance are outweighed by the benefits of improving the quality and efficiency of State rail freight facilities.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 16:53C.

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

16:53C-3.3 Rehabilitation or improvement assistance

(a) The rail freight properties eligible for rehabilitation assistance are those properties (as defined by the Department), for which a one-time investment of capital assistance will insure the continuation or creation of safe, adequate and efficient rail freight services for a period of not less than five years.

1. For a State-owned line the operation of the freight services or other appropriate party is eligible to receive a grant [not to exceed 70] of up to 100 percent of the total project cost to rehabilitate a

rail line to Federal Railroad Administration (FRA), safety standards allowing rail operations at speeds appropriate for this line. On these properties trackage rights fees [will] **may** be assessed in an amount sufficient to recoup [both] acquisition and/or rehabilitation investments;

2. An operator or other responsible party, providing rail freight services on a rail line **not owned by the State** which is part of the core rail freight system is eligible to receive a grant not to exceed 70 percent of the total cost of rehabilitating the rail line to FRA safety standards allowing rail operations at speeds appropriate for this line;

3. [At the discretion of the Commissioner, the] **The** operator or other responsible party providing rail freight service, on a rail line which is not an element of the core system is eligible to receive a grant not to exceed 50 percent of the cost of rehabilitating the line to FRA safety standards allowing rail operations at speeds appropriate for this line;

4. (No change.)

16:53C-3.4 Rail facility construction assistance

In those instances, as defined in the State Rail Plan, where an improvement in the quality and efficiency of rail freight service can be provided through construction of a rail related facility, funding will be provided in an amount not to exceed 50 percent of the total cost of project construction[.] **for non-core, 70 percent for core.**

16:53C-3.5 Substitute rail service assistance

For industries located on rail segments where the continuation of rail service through acquisition, rehabilitation or rail facility construction assistance is not warranted, a grant not to exceed 50 percent of the total cost of project construction [will] **may be made** available in order to provide non-rail alternative transportation facilities necessitated by the loss of rail service.

16:53C-8.2 Disbursement

The State share of project costs shall be provided on a cost reimbursement basis upon the submission of properly documented invoices and subject to a retainage of [10] **five** percent of the invoiced amount pending final audit.

DIVISION OF AERONAUTICS

(a)

Licensing of Aeronautical Activities

Proposed Readoption: N.J.A.C. 16:55

Proposed Amendment: N.J.A.C. 16:55-1.6

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29 and 6:1-44.

Proposal Number: PRN 1988-223.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66(1978), the Department of Transportation proposes to re-adopt N.J.A.C. 16:55 concerning the Licensing of Aeronautical Activities in the State of New Jersey. This chapter is scheduled to expire on November 7, 1988.

The chapter has been reviewed by the Department's Division of Aeronautics in compliance with Executive Order No. 66(1978) and was found adequate, reasonable, understandable, and necessary for the purpose for which it was promulgated.

N.J.A.C. 16:55 is summarized as follows:

The chapter lists and defines those aeronautical activities (also generally known as fixed base operators or airport service operators) required to be licensed in the State of New Jersey; outlines the procedures for obtaining license(s); specifies the requirements which licensees must observe; specifies the liability for failure to observe the requirements; and describes the procedures for requesting exemption from the rules.

Social Impact

The proposed readoption will continue to provide relief to the individuals involved in aviation in that there will be one registration of aircraft, by the Federal government and not the State. Additionally, the rules promote public confidence in the State, in seeing that the State is not

relieved of the responsibility of ensuring and supporting that safety requirements are met in aviation.

Economic Impact

The proposed readoption will continue the per gallon tax previously imposed on aviation fuel, which will be used to match Federal aid for general aviation facilities, and assist aviation facilities in capital funding for construction projects related to aviation safety.

Regulatory Flexibility Statement

Since the proposed readoption does not place any reporting, recordkeeping or compliance requirements on small businesses presently doing business with the State, a regulatory flexibility analysis is not required for those businesses. The rules would impose reporting, recordkeeping, and other compliance requirements on new businesses applying for a aeronautical license. However, uniform application of the licensing rules is necessary due to the overriding need to promote aviation safety.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 16:55.

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

16:55-1.6 Liability

(a) Any license issued pursuant to the provisions set forth in this chapter may be modified, suspended or revoked in the interest of public safety, or as a result of established violations of any of the provisions of Title 6 of the New Jersey Statutes Annotated or any of the provisions of this chapter, and may further subject the violator to the penalty provisions of Title 6, N.J.S.A.

(b) Prior to the suspension or revocation of a license, the licensee shall have 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.

(a)

Issuance of Summons and Designation of Peace Officer

Proposed Readoption with Amendments: N.J.A.C. 16:60

Authority: N.J.S.A. 27:1A-3, 27:1A-5, 27:1A-6, and 6:1-29.
Proposal Number: PRN 1988-222.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order 66(1978), the Department of Transportation proposes to readopt N.J.A.C. 16:60 concerning the Issuance of Summons and Designation of Peace Officer. This chapter is scheduled to expire on November 7, 1988.

The chapter has been reviewed by the Department's Division of Aeronautics in compliance with Executive Order No. 66(1978) and was found adequate, reasonable, understandable and necessary for the purpose for which it was promulgated. Several amendments are proposed to N.J.A.C. 16:60-1.2 and 1.3 to correct technical errors.

This chapter sets forth procedures for the issuance of summonses and complaints and empowers specific employees of the Division of Aeronautics with the authority to function as peace officers in compliance with the provisions of Title 6 of the New Jersey Statutes Annotated.

Social Impact

The proposed readoption will continue in force the authority to issue a complaint and summons for noncompliance with the provisions of N.J.S.A. Title 6 (Aviation) especially depicting aircraft safety, thus reinforcing the public's confidence in the State's ability to ensure the safety of the populace.

Economic Impact

The proposed readoption has no economic impact other than direct and indirect costs incurred by the Department for personnel, mileage and equipment used in the inspection of aircraft.

Regulatory Flexibility Statement

Since the proposed readoption does not place any recording, 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.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 16:60.

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

16:60-1.2 Issuance of summons

Designated peace officers of the Division of Aeronautics are hereby vested with the authority to issue a complaint and summons for noncompliance with the provisions of N.J.S.A. Title 6 (Aviation) or noncompliance with any of the provisions contained in this [Subtitle] chapter. All proceedings shall be brought before a Magistrate having jurisdiction in the municipality in which it is alleged that the violation occurred. Designated peace officers shall file the complaint and issue a summons for any violation of N.J.S.A. Title 6 (Aviation). The special form of complaint and summons is prescribed by the Administrative Director of the Courts pursuant to Rule 4:70-3 and Part VII, Rules Governing Practice in the Municipal Court.

16:60-1.3 Designation action

(a) (No change.)

(b) Each member [so] designated pursuant to (a) above [will] shall comply with the procedures established by the Administrative Director of the Courts in the issuance of summonses and complaints.

(c) (No change.)

(d) No member [so] designated pursuant to (a) above [is] shall be authorized to carry or use weapons in the execution of assigned responsibilities. Assistance, as required, [will] shall be obtained from appropriate State or local law enforcement officers.

(b)

Aircraft Accidents

Proposed Readoption with Amendments: N.J.A.C. 16:61

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29 and 6:1-44.
Proposal Number: PRN 1988-221.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66(1978), the Department of Transportation proposes to re-adopt N.J.A.C. 16:61 concerning Aircraft Accidents. This rule is scheduled to expire on November 7, 1988, and has been reviewed by the Department's Division of Aeronautics in compliance with Executive Order No. 66(1978) and was found adequate, reasonable, understandable and necessary for the purpose for which it was promulgated. Some technical amendments are proposed in subchapter 2 to correct grammatical errors.

The chapter outlines the specific steps to be followed in reporting aircraft accidents; delineates the State's responsibility and participation in Aircraft accidents; and provides guidelines used in reporting aircraft accidents.

Social Impact

The proposed readoption will continue to enhance a program of more focused and prioritized State response to aircraft accidents which may occur in the State of New Jersey. The State provides assistance to local officials who may have little or no knowledge in the correct methods for handling and coordinating aircraft accident matters in the airport site accidents.

Economic Impact

The proposed readoption will have no new or additional economic impact, but continues the savings in manhours wherein the State does not respond to all aircraft accidents, an activity of the National Transportation Board and Federal Aviation Administration.

Regulatory Flexibility Statement

Since the proposed readoption does not place any recording, 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.

Full text of the proposed re Adoption can be found in the New Jersey Administrative Code at N.J.A.C. 16:61.

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

16:61-2.1 Reporting aircraft accidents

(a) During duty hours (9:00 A.M. to 4:30 P.M.) [.] [Notify] **notify** the New Jersey Division of Aeronautics by calling [609-292-3020] **609-530-2900**.

(b) After duty hours [.] [Notify] **notify** the New Jersey Division of Aeronautics through the New Jersey State Police by calling 609-882-2000.

(c) (No change.)

(d) [When determined necessary by a law enforcement official.] New Jersey Department of Transportation Form DA-23, "Aircraft Accident Report" is to be completed[, and also] for an occurrence involving the operation of an aircraft on the ground or in the air which includes the following:

1. (No change.)

2. Emergency landings and aircraft accidents of any kind regardless of the amount, or absence, of damage to aircraft or that occur off the property of a licensed aeronautical facility: **or**

3. (No change.)

16:61-2.2 Notification of next of kin

[No release is to be made of names] **Names** of pilots or passengers who are seriously or fatally injured **shall not be released** until after positive notification of next of kin has been accomplished.

16:61-2.3 Preservation of aircraft wreckage, mail, cargo, and records

(a) The operator of an aircraft, or if **the operator is** incapable, the first law enforcement agent on the scene, is responsible for preserving, to the greatest extent possible, any aircraft wreckage, cargo and mail aboard the aircraft, and all records pertaining to the operation and maintenance of the aircraft and to persons involved in an accident.

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

TREASURY-GENERAL

DIVISION OF PENSIONS

For the following proposals, submit comments by June 1, 1988 to:
Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions
20 West Front Street, CN 295
Trenton, New Jersey 08625

(a)

Alternate Benefit Program Transfers; Interest

Proposed Amendment: N.J.A.C. 17:1-2.36

Authorized By: Douglas R. Forrester, Director, Division of Pensions.

Authority: N.J.S.A. 18A:66-192.

Proposal Number: PRN 1988-229.

The agency proposal follows:

Summary

The purpose of this proposed amendment is to provide for the payment of interest comparable to the amount actually earned on delayed transfers of reserves in State-administered retirement systems to the Alternate Benefit Program (ABP). This program is a defined contribution program which covers faculty members in public institutions of higher education in the State. It is administered by a private, nonprofit carrier, TIAA-CREF, which offers its program nationally to all higher education institutions.

Because ABP is a defined contribution program, the timeliness of transmittal of contributions to the program is very important for the participants. Their benefits are based directly upon the amount of contributions and earnings on the contributions. In defined benefit program, like the State-administered retirement systems, the retirement benefits are based upon a member's salary and service credit and are not directly related to the amount of contributions by the member and his or her employer.

The current rule provides for the addition of regular interest to reserves transferred to ABP more than one year after eligibility for transfer. In practice, interest is rarely added to reserves transferred to ABP because the reserves are almost always transferred well before a year elapses. However, delays of even a few months can be harmful to ABP participants because of the lost earning potential on the amounts involved.

Under the proposed amendment, interest would be paid on reserves which were not transferred within 30 days from the date of eligibility for transfer. This time period is usually adequate for the Division of Pensions to effect the transfer. For reserves not transferred within this time limit, interest at the average rate of return on the State Cash Management Fund would be added to the reserves. No interest would be payable if the amount of interest is less than \$10.00.

Social Impact

The proposed amendment would benefit persons who transfer from a State-administered retirement system to ABP. It would serve as an inducement for timely transmittal of reserves and insure that there is little or no loss in earning potential by providing interest on delayed transmittals.

Economic Impact

No significant economic impact is anticipated from this proposed amendment. It is anticipated that transfers to ABP will usually be done in a timely manner. The number of delayed transfers is expected to be small and the amount of interest involved will also be small.

Regulatory Flexibility Statement

The rules of the Division of Pensions affect only public employers and employees. Thus, this proposed amendment will not have any adverse effect upon small businesses or private industry in general. A regulatory flexibility analysis is not required.

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

17:1-2.36 Transfers; interest

Pursuant to the provisions of N.J.S.A. 18A:66-173, when payment of the transferred member's reserves in the State-administered retirement system is made more than [one year] **30 days** after eligibility for [such] **the** transfer, [regular] interest [shall be] is added to the reserves being transferred from [such] **the** system to the carriers of the Alternate Benefit Program. **The rate of interest is the average rate of return, to the nearest hundredth percent, of the State Cash Management Fund (State accounts) as reported by the Division of Investment for the fiscal year ending June 30 preceding the period for which interest is payable. No interest is payable if amount of interest is less than \$10.00.**

(b)

Public Employees' Retirement System Multiple Enrollments

Proposed Amendment: N.J.A.C. 17:2-2.2

Authorized By: Janice Nelson, Secretary, Public Employees' Retirement System.

Authority: N.J.S.A. 43:15A-17.

Proposal Number: PRN 1988-226.

The agency proposal follows:

Summary

The proposed amendment deletes the requirement in the current rules within the Public Employees' Retirement System (PERS) for multiple enrollees of PERS that they be paid in each of the four calendar quarters of the year in order to be eligible for PERS membership. This was a former requirement that is no longer mandated by statute. In effect, this amendment is attempting to update the current rule by eliminating this unnecessary text. The proposed amendment also provides gender neutral language to the rule.

Social Impact

The proposed amendment will only affect members of the PERS, who, as a result of being employed by one or more public employer, are multiple employees within the PERS and who are not paid in each of the four calendar quarters of a year.

Economic Impact

Since the four calendar rule has already been eliminated in the normal operations of the Division of Pensions, there is no adverse, significant economic impact that will result from the adoption of this proposed amendment.

Regulatory Flexibility Statement

Since the rules of the Division of Pensions only impact upon public employers and/or employees, this proposed amendment will not have any adverse effect upon small businesses or private industry in general. Therefore, a regulatory flexibility analysis is not required.

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

17:2-2.2 Multiple enrollments

(a) Any employee who has enrolled in a covered position must also enroll in any other position regardless of his **or her** employment status in such other position if he **or she** meets the salary and Social Security qualifications for enrollment [and is paid in each of the calendar quarters]. However, if an employee who is ineligible for membership later accepts an additional position which makes him **or her** eligible for membership in that second position, his **or her** ineligibility for membership in the earlier position is not altered by his **or her** enrollment in the Public Employees' Retirement System.

(b) An elected official must also enroll on the basis of such office if he **or she** is enrolled or is enrolling on the basis of other public employment. [However, the elected official need not be paid in each of the calendar quarters if he is otherwise eligible.]

(c) A LEO member who is also enrolled on the basis of non-LEO position will contribute at the LEO rate of pension contribution on the base wages he **or she** receives from all positions.

TREASURY-TAXATION**(a)****DIVISION OF TAXATION****Cigarette Tax****Tobacco Sales to Minors****Proposed Amendments: N.J.A.C. 18:5-1.1, 6.2, 12.5**

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

Authority: N.J.S.A. 54:40A-1 et seq., specifically 54:40A-20.

Proposal Number: PRN 1988-220.

Submit comments by June 1, 1988 to:

Nicholas Catalano
Chief Tax Counselor
Division of Taxation
50 Barrack Street
CN 269
Trenton, NJ 08646

The agency proposal follows:

Summary

This proposal amends N.J.A.C. 18:5-1.1 to include a definition for "point of sale." N.J.A.C. 18:5-6.2 is amended to require all persons who hold licenses to sell tobacco products to post a sign at a point of display and point of sale stating that the sale of tobacco products to persons under age 18 is against the law and a fine of \$250.00 will be imposed for a violation. The amendment would also condition the issuance of a license upon the posting of such a sign. N.J.A.C. 18:5-12.5 is amended by adding a \$250.00 fine as an additional penalty for the sale of tobacco products to persons under the age of 18.

Social Impact

The proposed amendments, based on P.L. 1987, c.423, will aid in safeguarding against the sale of tobacco and tobacco products to minors.

(CITE 20 N.J.R. 970)

The amendments will also place a burden on licensees to display penalty signs for sales to minors at points of display and points of sale.

Economic Impact

The proposal would make the sale of cigarette products to minors a wholly civil violation and not a disorderly persons violation, which would normally carry a fine of up to \$1,000. It is unlikely that State revenue will be noticeably affected by the proposed amendments.

Regulatory Flexibility Statement

This proposal may apply to small businesses operating in New Jersey. Small businesses cannot be excused from compliance with the rules in that the law intends the notice to dissuade the sale of tobacco products to minors. The program is one to indirectly promote public health and all cigarette tax licensees are required to participate under the legislation. The proposal will require some additional reporting and recordkeeping for many small businesses both during the year and at the time they apply for their yearly license. The initial and ongoing costs of compliance with this rule are insubstantial, however. Therefore, there is no measurable adverse impact which would result on small businesses.

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

18:5-1.1 Words and phrases defined

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

...
"Point of sale" means any place where monies are collected upon the sale of tobacco products, such as at a cash register or vending machine.

18:5-6.2 Issuance of license: Director's powers

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

(g) **Notwithstanding any other provisions of law to the contrary, a person to whom a license is issued shall, as a condition of the license, post a sign at the point of display of the tobacco products and at the point of sale. The sign shall be at least 2 inches by 2 inches square and shall read as follows:**

"A person who sells or offers to sell a tobacco product to a person under 18 years of age shall be fined \$250.00."

Recodify (g) to (h) (No change in text.)

18:5-12.5 Civil penalties

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

(d) **The sale, giving or furnishing, either directly or indirectly, as agent or otherwise, to a minor under the age of 18 years, of tobacco or of any other matter or substance which can be smoked, or any cigarette paper or tobacco in any form, including smokeless tobacco, is punishable by a fine of \$250.00.**

OTHER AGENCIES**(b)****CASINO CONTROL COMMISSION****Equal Employment Opportunity Designation, Authority and Responsibility of Equal Employment Officer****Reproposed Repeal and New Rule: N.J.A.C. 19:53-1.13****Reproposed Amendment: N.J.A.C. 19:53-1.3**

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.

Authority: N.J.S.A. 5:12-63(c), 5:12-69 and 5:12-135(f).

Proposal Number: PRN 1988-228.

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Submit comments by June 1, 1988 to:

Luis A. Fuentes, Director
Division of Affirmative Action and Planning
Casino Control Commission
1300 Atlantic Avenue
Citicenter Building, 4th Floor
Atlantic City, New Jersey

The agency proposal follows:

Summary

A proposed repeal and new rule N.J.A.C. 19:53-1.13 and proposed amendment to N.J.A.C. 19:53-1.3 were originally published in the New Jersey Register on September 8, 1987 at 19 N.J.R. 1638(b). In response to that proposal, comments were received from eight casino licensees (Sands Hotel & Casino; Claridge Casino Hotel; Resorts International, Inc.; Trump Plaza Hotel and Casino; Trump's Castle Hotel & Casino; Bally's Park Place; Atlantis Casino Hotel; and Harrah's Marina), from the Atlantic City Casino Association (Association) and from the Division of Gaming Enforcement (Division). The casino licensees and the Association generally objected to much of the proposal, while the Division generally supported it.

As a result of the Commission's review of the public comments which were submitted in response to that proposal, as well as its own internal review, the Commission determined to publish the following reproposal concerning N.J.A.C. 19:53-1.3 and 19:53-1.13. It should be noted that this reproposal supersedes the original proposal published at 19 N.J.R. 1638(b) and that any comments submitted in response thereto have either been accepted or rejected by the Commission as indicated in this summary. Accordingly, any interested person who wishes to respond to the reproposal should submit comments which are responsive to the current text of the reproposal.

The repropounded new rule, N.J.A.C. 19:53-1.13, codifies specific requirements concerning the structure, function and authority of the equal employment opportunity/affirmative action (EEO/AA) office within the organization of an applicant for or holder of a casino license. Subsections (a) and (b) of the repropounded new rule also apply to an applicant for or holder of a casino service industry license. The primary purpose of the new rule is to elevate the role and authority of the EEO/AA office and equal employment officer within a casino licensee's organization. By so doing, it is expected that casino licensees will more effectively meet the EEO/AA obligations imposed by the Casino Control Act, during the construction and operational phases of the casino hotel. Although subsections (a) and (b) of the repropounded new rule are also applicable to an applicant for or holder of a casino service industry license, they will not alter the manner in which casino service industries are currently regulated under the EEO/AA requirements of the Casino Control Act and Commission regulations. The articulation of the scope of the equal employment officer's authority and specific responsibilities, as contained in N.J.A.C. 19:53-1.13(b) however, is new for all applicants and licensees.

Some key provisions of the repropounded new rule applicable to an applicant for or holder of a casino license include:

1. Required minimum qualifications for the position of equal employment officer;
2. A requirement that the equal employment officer's sole responsibilities relate to EEO/AA compliance;
3. A requirement that the equal employment officer's title, rank and salary be comparable to those of a manager of a major department within the casino hotel;
4. A requirement that the equal employment officer report directly to the chief executive officer;
5. The establishment of mandatory full-time professional and clerical staff support for the equal employment officer;
6. The codification of the equal employment officer's authority to monitor and review all personnel practices and recommend whether such practices should be implemented; and
7. Codification of the equal employment officer's authority to monitor and review all construction workforce practices and to recommend that contractors not be paid and that contracts not be executed where workforce practices fail to comply with the EEO/AA requirements of the Act and the Commission's regulations.

The repropounded amendment to N.J.A.C. 19:53-1.3 cross-references the EEO/AA requirements being codified in N.J.A.C. 19:53-1.13, and requires that the equal employment officer be designated prior to the start of any construction by a casino licensee or an applicant for a casino license.

The Commission has carefully considered all of the comments which it received on the original proposal. As noted above, this reproposal includes several changes to the proposal as a result of those comments. A summary of the comments received on the original proposal and the Commission's responses to those comments follows.

COMMENT: The Association and many of the casino licensees objected to the overall thrust of the proposal insofar as it mandates a fixed position for the EEO/AA office in the organizational structure of the casino licensee. They argued that this regulatory approach ignores substantive issues regarding EEO/AA compliance and would actually inhibit the functioning of the office, which requires flexibility to be successful.

One casino, Trump's Castle Hotel and Casino, and the Division welcomed the additional direction the proposal would provide to casino licensees and casino personnel regarding the responsibilities and authority of equal employment officers and their staff.

RESPONSE: The Commission remains convinced that EEO/AA officers must be raised to a higher level within the industry so that personnel within the industry appreciate the need to advise and respond to equal employment officers as required to advance EEO/AA goals. The equal employment officer's ability to successfully achieve the EEO/AA goals of the casino licensee will be enhanced by the positioning of the equal employment officer at a higher organizational level and the dedication of the officer's staff exclusively to EEO/AA matters.

COMMENT: The Association, several casino licensees, and the Division advanced the view that requiring the equal employment officer to have five years of work experience in EEO/AA implementation and enforcement is unrealistically stringent. The casinos argued that work experience is not necessarily related to one's capabilities; that such a requirement would force several existing equal employment officers who are quite capable to be replaced; that the provision fails to consider a person's education or related work experience as a substitute; and that it could make it even harder to replace unqualified equal employment officers because of the difficulty in finding someone with such experience.

RESPONSE: The Commission is sympathetic to these concerns, but maintains that some work experience in EEO/AA implementation and enforcement is necessary for the equal employment officer to be effective in achieving EEO/AA goals within the industry. However, the Commission also recognizes that related work experience and educational background can also be important to the ultimate success of the equal employment officer. Thus, the reproposal reduces the requisite experience in EEO/AA implementation and enforcement to three years, provided that the equal employment officer also has either two additional years of related work experience or a bachelor's degree from an accredited institution.

COMMENT: Several casinos also objected to the requirement in the proposal that the equal employment officer report directly to the licensee's chief executive officer. Some argued that because most chief executive officers are already pressed for time and lack expertise in the day-to-day administration of EEO/AA matters, the equal employment officer will not receive the direction or support he or she requires. Others argue that such an arrangement would put the equal employment officer in an organizational limbo and that the equal employment officer should only report to the chief executive officer on policy issues, not day-to-day operational issues.

RESPONSE: Again, the Commission maintains that in order for the equal employment officer to receive the cooperation and support necessary to be effective in the casino hotel, he or she must be positioned at a high level within the organizational structure. The requirement that the equal employment officer report directly to the chief executive officer further ensures that the chief executive officer will be kept apprised of EEO/AA issues or problems within his or her organizations.

Although none of the comments raised the issue, the Commission staff deemed it appropriate to define the term "chief executive officer", recognizing that some casinos and casino service industries may not actually have a person with such a title. The definition makes it clear that, regarding casino applicants or licensees, "chief executive officer" refers to the natural person who bears ultimate responsibility for the casino hotel facility and its operations. As regards casino service industries, "chief executive officer" refers to that natural person who bears ultimate responsibility for the organization and business activity of that enterprise.

COMMENT: Still other casinos as well as the Association voiced their objection to the proposal's requirement that the equal employment officer's responsibilities be limited to the monitoring or enforcement of EEO/AA compliance. They contend that this limitation would be

detrimental to the career of the equal employment officer; that additional responsibilities in the areas of personnel or human resources actually enhance the equal employment officer's ability to monitor and advance EEO/AA compliance; and that a separate, unaffiliated office might promote misunderstanding and antagonism on the part of other departments toward the EEO/AA office.

RESPONSE: The Commission believes that this limitation is necessary to ensure that the resources of the EEO/AA office are not exhausted performing functions unrelated to EEO/AA, and also to ensure that the staff of the office not have responsibilities which might be inconsistent with EEO/AA goals. The additional changes required by this reproposal (that the equal employment officer report directly to the chief executive officer and that the salary, rank and title of the equal employment officer be comparable to that of a manager of a major department) should enable the equal employment officer and his or her staff to remain involved in the activities of all departments within the casino, including the personnel and human resources departments, and to overcome the effects of any antagonism that other departments may harbor.

The Commission staff added to the reproposal a list of the typical functions that the equal employment officer would perform, provided, of course, that these functions directly relate to or impact upon EEO/AA performance. This list resulted from a comment by Claridge Casino Hotel which indicated that the proposal might be misinterpreted by its failure to describe the particular functions which can be included under the equal employment officer's area of responsibility.

COMMENT: Some casinos objected to the requirement in the proposal that the equal employment officer's title, rank and compensation level be similar to those of a manager of a major department within the casino. They objected on the grounds that this requirement is too vague; that it would have an adverse economic impact on casinos by increasing the size of their payroll; and that it would be unfair to personnel presently at the same level as the equal employment officer who would not receive similar promotions.

RESPONSE: This provision is an essential component of the reproposal and is required to raise EEO/AA offices to a level which reflects the importance of EEO/AA in the industry.

In response to the contention that the provision is vague, the Commission modified the proposal to replace the phrase "comport with" to "comparable to", which more clearly demonstrates that the title, rank and compensation of the equal employment officer should be at least as high as those of the managers of major departments. Obviously, some minor deviations from this requirement may be permissible, but there must be a rational basis for such deviations.

The Commission regrets that some personnel presently at the same level as the equal employment officer may perceive an elevation of the equal employment officer to be unfair. However, the Commission is confident that any resentment caused by this provision will be only temporary, and will cease after all of the changes involved in the reproposal are put into place.

The Commission does not intend any economic hardship to the casino licensees, but notes that any such hardship should be minimal and that the anticipated improvement in the casinos' EEO/AA performance makes any such hardship justified.

COMMENT: The proposal's requirement that a sufficient EEO/AA office staff be provided drew objections from two casinos—one arguing that it was too vague and another that it would increase the casino's payroll without any resulting benefit to EEO/AA programs. However, a comment submitted by the affirmative action officer of the Sands Hotel Casino acknowledged that staffing presently can be a problem, especially at the time when quarterly and annual reports are due.

RESPONSE: The vagueness objection is addressed in the reproposal by establishing a minimum staff requirement of one professional and one clerical person in addition to the equal employment officer. The Commission appreciates that this may result in increased payroll costs, but disagrees with the comment that no benefits would result. A full staff is a necessary prerequisite to an EEO/AA office that is capable of fulfilling the enhanced responsibilities required in the reproposal.

COMMENT: The Association and several casinos also expressed their objections to those portions of the proposal that authorized the equal employment officer to unilaterally suspend personnel procedures and the execution or payment of contracts with contractors or subcontractors as a result of EEO/AA noncompliance. One casino, Trump Plaza, noted that such a determination would often involve legal analysis and a legal conclusion, and that few equal employment officers would have the requisite legal background to perform these functions. Another casino, Resorts International, stated that a contractor's or subcontractor's non-

compliance with EEO/AA programs is only one factor to be considered when making a determination as to whether to pay or execute a contract, and that other factors not within the province or expertise of the equal employment officer are also involved. The Association argued that it is inappropriate to make casinos responsible for a problem which is the result of trade or union practices.

RESPONSE: The Commission concedes that, with regard to contracts with contractors and subcontractors, the proposal may require the granting of authority to equal employment officers in areas not necessarily within their expertise. Thus, the reproposal has been revised to permit the equal employment officer to recommend the discontinuance of the execution or payment of such contracts. Similarly, with regard to personnel procedures or decisions within the organizations, the reproposal provides the equal employment officer with the authority to review and make recommendations concerning such procedures or decisions prior to their implementation. The Commission views such authority as necessary to ensure that decisions and procedures inconsistent with EEO/AA goals, which actions often may be irrevocable, are not put into effect prior to review by the equal employment officer.

Finally, the Commission believes that it is appropriate for the casinos to bear responsibility for the actions of their contracting parties in EEO/AA matters. The casinos are typically in a unique position to influence the activities of such contractors.

COMMENT: Bally's Park Place objected to that part of the proposal which required the casino licensee or applicant for a casino license to designate an equal employment officer prior to the actual start of construction, and stated that the use of an outside planning consultant should be sufficient at that time.

RESPONSE: The Commission believes that the early formation of an equal employment office is critical to the achievement of EEO/AA goals. This early formation gives the equal employment officer the opportunity to make sure that EEO/AA programs are addressed in all policies and procedures prior to their being finalized and further emphasizes to the entire organization the importance of EEO/AA from the start of the casino's business activities.

Social Impact

The repropose new rule, N.J.A.C. 19:53-1.13, concerning the designation, authority and responsibilities of the equal employment officer, is designed to improve the effectiveness of the casino licensee's EEO/AA office, thus enabling casino licensees to better satisfy the EEO/AA requirements imposed by the Casino Control Act. Concomitant to that increased effectiveness, social benefits should redound to persons who are protected by section 134 of the Casino Control Act, N.J.S.A. 5:12-134, and by the Law Against Discrimination, N.J.S.A. 19:5-1 et seq, particularly those persons who are applicants for employment or employees of the casino industry.

Economic Impact

The primary economic impact of the reproposal will be on applicants for and holders of casino licenses. Given the current status and size of many casino licensee EEO/AA offices, the repropose rule's requirements concerning support staff for the equal employment officer, the elimination of multiple roles for the equal employment officer, and the requirement that the equal employment officer be compensated at a level equivalent to a manager of a major department, will impose some financial costs on most members of the casino industry.

In order to assess the exact economic impact of the reproposal on casino licensees, it would be necessary to examine in detail the circumstances currently existing in each casino licensee's EEO/AA office. For example, as of July 1987, the highest paid equal employment officer in the industry earned approximately \$51,000 while the lowest paid equal employment officer received \$18,500. At that time, the median salary for equal employment officers was \$32,000. To the extent that the reproposal requires casino licensees to compensate equal employment officers at a level comparable to that for a manager of a major department, those casino licensees currently below the median industry salary will be affected more significantly than those currently above the median. Similarly, those casino licensees which do not currently provide full time staff support for their equal employment officer will be more directly affected by the reproposal than those which do. For example, as of July 1987, the only staff supplied to the equal employment officer by four casino licensees was a part-time secretary (a secretary shared with other departments).

Consistent with the regulatory intent to elevate the stature of the EEO/AA office and equal employment officer within the casino licensee's

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organization, proposed N.J.A.C. 19:53-1.3(d)1 imposes a minimum qualification requirement for equal employment officers. This requirement has the potential to adversely affect some of the equal employment officers currently employed in the casino industry since they may not satisfy the minimum qualifications. It is anticipated, however, that casino licensees will retain any such persons in newly required staff positions within their EEO/AA offices.

With respect to applicants for or holders of casino service industry licenses, the two subsections of the repropoed amendments applicable to them do not impose any significant additional obligations and therefore should not result in any increase in economic cost to the firms. Similarly, it is not anticipated that the proposed amendments will have any significant economic impact on the Commission or the Division of Gaming Enforcement.

Regulatory Flexibility Statement

The regulatory obligations imposed by the repropoed rules will primarily affect casino licensees, businesses which are not protected by the Regulatory Flexibility Act. While some applicants for or holders of casino service industry licenses are small businesses within the meaning of the Regulatory Flexibility Act, as noted above, the repropoed amendments and new rule do not impose any significant new obligations on casino service industries and it is not anticipated that they will incur any additional expense as a result of the repropoal. Although the repropoed new rule N.J.A.C. 19:53-1.13(b) clarifies the Commission's authority to impose reporting requirements on casino service industries, the amendment does not impose any specific requirements. Such requirements either already exist in other rules or will be addressed in specific regulatory propoals as necessary reporting obligations are identified.

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

19:53-1.3 Affirmative action requirement

(a) Rules concerning construction contracts and written guaranty are:

1.-3. (No change.)

4. An applicant for a casino license shall be required to designate an equal employment officer in accordance with the provisions of N.J.A.C. 19:53-1.13 prior to the start of actual construction by the applicant or any affiliated entity of any structure or facility to be used as an approved hotel or casino.

(b) (No change.)

[19:53-1.13 Designation of equal employment officer]

[Each applicant and licensee who is an employer or who intends to contract for the construction of any structure or facility to be used as an approved hotel or casino shall designate a principal member of the applicant's or licensee's organization to serve as an equal employment officer. Said designee may be an existing employee. The equal employment officer will be directly responsible for implementing any affirmative action program required of the applicant or licensee. The equal employment officer will, among other duties, provide liaison and assistance to the commission and the division. Such officer will continue to perform these duties after the applicant receives a license from the commission.]

19:53-1.13 Designation, authority and responsibility of equal employment officer; responsibility of applicant or licensee and chief executive officer

(a) Each applicant for or holder of a casino license or casino service industry license shall designate a principal member of the applicant's or licensee's organization to serve as an equal employment officer. An applicant for a casino license shall designate its equal employment officer prior to the start of actual construction by the applicant or any affiliated entity of any structure or facility to be used as an approved hotel or casino, or the recruitment and employment of personnel necessary to undertake the business of the casino or the hotel, whichever occurs first. The chief executive officer shall be ultimately responsible for insuring that equal employment opportunity is afforded to all prospective and actual employees and for implementation of any affirmative action program required of the applicant or licensee. The equal employment officer shall be directly responsible for the organization and effective and continuing implementation of any affirmative action program established pursuant to the Act and this chapter. As used in this Section, the term "chief executive officer" means the following:

1. With regard to a casino license applicant or licensee, that natural person who bears ultimate responsibility for the applicant's or casino licensee's New Jersey casino hotel facility and operations;

2. With regard to a casino service industry, that natural person who bears ultimate responsibility for the casino service industry's organization and business activities.

(b) The authority and responsibilities of the equal employment officer required pursuant to (a) above shall include, without limitation, the following:

1. The authority to monitor and review all aspects of the applicant's or licensee's personnel procedures and decisions;

2. The authority to review, prior to implementation, all personnel procedures, decisions or transactions to assure their compliance with any affirmative action program approved by the Commission or with any federal or state law regarding equal employment opportunity or affirmative action, and to recommend to the chief executive officer, or, in his or her absence, to the chief legal officer, whether those procedures, decisions or transactions should be implemented;

3. The responsibility to act as a liaison and to provide assistance to the Commission and the Division in the enforcement of the requirements imposed by section 134 of the Act and this chapter, which responsibility shall include, but not be limited to, the obligation to prepare and submit such reports, documentation and statistical information as the Commission shall require concerning the applicant's or licensee's:

- i. Workforce composition;
- ii. Good faith efforts to meet the affirmative action employment goals established by the Act and this chapter;
- iii. Employment, upgrading, demotion or transfer decisions;
- iv. Recruitment and recruitment advertising efforts;
- v. Layoff, recall or termination decisions;
- vi. Rates of pay or other forms of compensation;
- vii. Training programs and selection procedures; and
- viii. Grievance procedures for, and disposition of, equal employment opportunity related complaints; and

(c) In addition to the authority and responsibilities required pursuant to (b) above, the equal employment officer of a casino license applicant or licensee shall have the following authority and responsibilities:

1. The authority to monitor and review the employment and recruitment practices of all contractors and subcontractors used in connection with the actual construction, renovation or reconstruction of any structure or facility to be used as an approved hotel or casino or related facility;

2. The authority to recommend to the chief executive officer or, in his or her absence, to the chief legal officer, suspension of the execution or payment of any contract or subcontract where the contractor or subcontractor is engaging in any employment or recruitment practice which is not consonant with an applicable affirmative action program approved by the Commission or with any federal or State law regarding equal employment opportunity or affirmative action;

3. The responsibility to accompany the Commission and the Division during on site inspections authorized pursuant to N.J.A.C. 19:53-1.4; and

4. The responsibility to prepare and submit to the Commission and Division such reports, documentation and statistical information as the Commission shall require concerning any contractor or subcontractor used by the applicant or licensee in connection with the construction, renovation or reconstruction of any structure or facility to be used as an approved hotel or casino or related facility including, but not limited to, information concerning:

- i. Workforce composition;
- ii. Good faith and efforts to meet the affirmative action employment goals established by the Act and this chapter;
- iii. Employment, upgrading, demotion or transfer of skilled construction workers;
- iv. Recruitment or recruitment advertising;
- v. Layoff, recall or termination of construction workers;
- vi. Rates of pay or other forms of compensation;
- vii. Selection for training programs; and
- viii. Grievance procedures for, and disposition of, equal employment opportunity related complaints.

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(d) In addition to any other requirements imposed by this Section, a casino license applicant or licensee shall comply with the following requirements:

1. The equal employment officer designated by the applicant or licensee shall have a minimum of three years experience in equal employment opportunity and affirmative action program implementation and enforcement, which experience may not be waived, and either:

i. Two years of related experience drawn from any of the following areas: employment, recruitment, training, labor relations, employee relations, employee development, compensation and benefits administration, law, and statistics; or

ii. A Bachelor's degree from an accredited institution.

2. The sole area of responsibility of the equal employment officer shall be the monitoring and enforcement of the equal employment opportunity and affirmative action requirements established by the Act and this Chapter which may include, without limitation, the following functions: recruitment; equal employment opportunity awareness training; legal and statistical analysis of workforce composition and utilization; grievance counselling and fact-finding; career advancement counselling; assessment and adaptation of all personnel and compensation

policies and procedures for conformity with the equal employment opportunity program approved by the Commission and with any federal or State equal employment opportunity laws; monitoring and coordinating purchasing and construction activities; and developing and maintaining the applicant's or casino licensee's involvement in the community in support of equal employment opportunity and affirmative action goals;

3. The equal employment officer's title, rank and level of compensation shall be comparable to that of a manager of a major department within the applicant's or licensee's organization;

4. The equal employment officer shall be provided with a staff sufficient to achieve full and timely implementation and enforcement of the affirmative action program approved by the Commission and the monitoring of construction workforce compliance with the affirmative action program established by the Act and this chapter, which staff shall include, at a minimum, one full-time professional and one full-time secretarial employee; and

5. The equal employment officer shall report directly to the applicant's or licensee's chief executive officer or, in his or her absence, to the applicant's or licensee's chief legal officer.

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF MARKETS

New Jersey Sire Stakes Program

Adopted Amendments: N.J.A.C. 2:32-2.1, 2.3, 2.5, 2.10, 2.12, 2.13, 2.14, 2.19, 2.20, 2.22, 2.25, 2.27 and 2.33

Adopted Repeal: N.J.A.C. 2:32-2.8

Proposed: February 16, 1988 at 20 N.J.R. 323(a).

Adopted: March 24, 1988 by Arthur R. Brown, Jr., Secretary, Department of Agriculture.

Filed: March 30, 1988 as R.1988 d.189, **without change.**

Authority: N.J.S.A. 5:5-91.

Effective Date: May 2, 1988.

Expiration Date: June 1, 1992.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

2:32-2.1 Adoption of by-laws

(a) The by-laws of the New Jersey Sire Stakes Board of Trustees are hereby adopted as follows:

1. (No change.)

2. Those horses eligible to race under the Sire Stakes Program shall be any foal of any registered New Jersey stallion standing at a New Jersey breeding farm and either owned by a resident of the State of New Jersey or leased by a resident thereof for a period of not less than 10 years to stand the full season on a New Jersey breeding farm. A copy of any such lease shall be filed with the Standardbred Breeders and Owners Association of New Jersey and the New Jersey Sire Stakes.

3.-15. (No change.)

2:32-2.3 Registration of stallions

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

(c) The registration must be returned by December 1. The Certificate of Good Health must be completed by a licensed New Jersey veterinarian on the farm where the stallion is standing, between January 1 and January 21 of the year the stallion is registered and standing. The Certificate of Good Health, when signed by the veterinarian, is to be sent along with a copy of the EIA-AGID test chart to the Director of Animal Health, New Jersey Department of Agriculture, CN 330, Trenton, New Jersey 08625.

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

2:32-2.5 List of mares bred

When a mare is bred to a New Jersey registered stallion, the stallion owner must supply the New Jersey Standardbred Breeders and Owners Association, the New Jersey Sire Stakes, and the United States Trotting Association a list of mares bred, on a form prescribed by the Sire Stakes Board of Trustees, stating that the mare has been bred to said stallion. The certificate is to be supplied by September 15 of the breeding season.

2:32-2.8 (Reserved)

2:32-2.10 Sustaining fees

In 1988, the sustaining fee schedule will be as follows:

PARI-MUTUEL DIVISION

Age	First Sustaining Fee	Second Sustaining Fee
2	\$300.00 (Feb. 15)	\$500.00 (Apr. 15)
3	\$350.00 (Feb. 15)	\$600.00 (Apr. 15)
4	\$250.00 (Feb. 15)	\$400.00 (Apr. 15)

FAIR DIVISION

Age	First Sustaining Fee	Second Sustaining Fee
2	\$100.00 (Jan. 15)	\$150.00 (Mar. 15)
3	\$100.00 (Jan. 15)	\$150.00 (Mar. 15)
4	\$100.00 (Jan. 15)	\$150.00 (Mar. 15)

2:32-2.12 Eligibility

(a) In order for Sire Stakes eligible two-year-old horses to remain eligible as three-year-olds, their owners must have made the yearling nomination and the first two-year-old sustaining payment. In order for eligible three-year-old horses to remain eligible as four-year-olds, their owners must also have made the first three-year-old sustaining payment as well as the nomination and the first two-year-old sustaining payment. This condition applies to both the Fair and Pari-mutuel Divisions.

(b) A two-year-old's owner who makes the nomination payment but fails to make the first sustaining payment in either the Fair or Pari-mutuel Program may regain his or her horse's eligibility for its three-year-old season by payment of a penalty of \$1,000 plus the amount of the first sustaining payment within 30 days of the original due date of the payment. The horse will not be eligible to compete as a two-year-old in the program to which the payment was missed but will be able to compete as a three-year-old provided those payments are made in a timely fashion.

2:32-2.13 Dishonored checks

An individual whose check for a sustaining payment, nominating payment, or starting fee is dishonored by the bank will be turned over to the New Jersey Racing Commission for appropriate action and the horse or horses will be immediately declared ineligible for all future Sire Stakes events until the check is made good. A \$50.00 administrative fee must be paid for each dishonored check.

2:32-2.14 No cash or partial payments

The New Jersey Sire Stakes Program will accept no cash payment on nominating and sustaining payments. All fees must be paid in United States funds. No post-dated checks or partial payments on a nominating, sustaining, or entry fee will be accepted on individual horses.

2:32-2.19 Entry fee deadlines

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

(d) The starting fee will not be refunded unless the horse dies between the time of declaration and the start of the race.

(e) When an owner has outstanding debts owed to the New Jersey Sire Stakes, every horse owned in whole or part by that owner shall be subject to be declared ineligible by the Board of Trustees or its representatives to be entered or to start in any New Jersey Sire Stakes Race until such time that debt is collected.

2:32-2.20 Starting fees

Starting fees will be added to the basic purse only in Fair and Pari-mutuel series races. Starting fees for the 1988 season will be:

	Pari-mutuel Division	Fair Division
2 year olds	\$500.00	2 year olds \$75.00
3 year olds	\$500.00	3 year olds \$75.00
4 year olds	\$200.00	4 year olds \$75.00

2:32-2.22 Qualifying standards

(a) All starters in the New Jersey Sire Stakes Pari-mutuel Division must meet the following qualifying standards for the 1988 racing season.

1. (No change.)

2. The 1988 New Jersey Sire Stakes qualifying times at the Pari-mutuel tracks will be as follows:

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	One Mile Track	5/8 Mile Track	1/2 Mile Track
Two-Year-Old Trot	2:06	2:07	2:08
Three-Year-Old Trot	2:03	2:04	2:05
Four-Year-Old Trot	2:02	2:03	2:04
Two-Year-Old Pace	2:03	2:04	2:05
Three-Year-Old Pace	2:01	2:02	2:03
Four-Year-Old Pace	2:01	2:02	2:03

NOTE: When racing at the mile track, two seconds are allowed off the half mile, but when racing on a 1/2 mile track, two seconds are subtracted.

3.-4. (No change.)

(b) All starters in the New Jersey Sire Stakes Fair Division must meet the following conditions for the 1988 racing season.

1. All starters in the New Jersey Sire Stakes Fair Division shall have raced within 30 days of the race in which they have been entered. A three-year-old shall show a satisfactory racing line in one of their last two starts. A two-year-old shall show a satisfactory racing line in one of their last three starts. A satisfactory racing line is defined as a qualifying or racing line in the following times or better with allowances for track conditions.

	Trotters	Pacers
Two-Year-Olds	2:12	2:10
Three-Year-Olds	2:10	2:08
Four-Year-Olds	2:09	2:07

2. In the event a horse competes in an uncharted race or races, he will be eligible to race in the Fair Program provided he has a satisfactory charted line within 30 days.

3. Horses may be placed on the stewards list for subsequent poor performance.

2:32-2.25 Eligibility papers

(a) At a fair track where a horse is entered to race and his eligibility papers are not available at post time, said horse will be ordered scratched by the presiding judge. If, however, the New Jersey Sire Stakes Race Secretary or a New Jersey Sire Stakes Official has signed for or accepted the trainer's eligibility papers, and the papers are subsequently lost, the horse may be allowed to start.

(b) At a Pari-mutuel event, eligibility papers should be on file in the racing office or the horse may be ordered scratched by the presiding judge.

2:32-2.27 Final races

(a) There will be a two- and three-year-old "Final" race in each Pari-mutuel Division at the Pari-mutuel raceways as scheduled by the New Jersey Sire Stakes Board of Trustees. There will be a minimum \$10,000 Fair "Final" race in each Division for two- and three-year-olds. Consolation races in the Pari-mutuel program may be scheduled at the option of the tracks and shall be conducted under track rules.

(b)-(i) (No change.)

2:32-2.33 Dress requirements

Racing colors, helmet, and white pants, in accordance with the New Jersey Racing Commission rules, will be required to be worn by any person warming up a horse on a New Jersey fair track one and one-half hours before post time. Violators will be subject to a fine or suspension.

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DIVISION OF HOUSING AND DEVELOPMENT

(a)

**Continuing Care Retirement Community Rules
Application Fees; Nonbinding Reservation
Agreements**

Adopted Amendment: N.J.A.C. 5:19-6.3

Adopted New Rules: N.J.A.C. 5:19-8

Proposed: February 16, 1988 at 20 N.J.R. 347(a).
Adopted: March 25, 1988 by Leonard S. Coleman, Jr.,
Commissioner, Department of Community Affairs.
Filed: March 30, 1988 as R.1988, d.190, **without change**.
Authority: N.J.S.A. 52:27D-332 and 338.
Effective Date: May 2, 1988.
Expiration Date: February 1, 1993.

**Summary of Public Comments and Agency Responses:
No comments received.**

Full text of the adoption follows.

5:19-6.3 Deposits and application fees

(a) All deposits, downpayments, or other funds paid to a provider by a purchaser shall be held in an interest bearing separate trust account in a banking or similar institution located within this State or deposited with an attorney licensed to practice law in this State, or until occupancy or cancellation of the contract, as governed by N.J.A.C. 5:19-7.4.

(b) Application fees shall not exceed \$500.00 unless the provider can demonstrate that the actual cost of processing exceeds \$500.00.

**SUBCHAPTER 8. NONBINDING RESERVATION
AGREEMENTS**

5:19-8.1 Scope

Upon application to and certification by the Department as provided in N.J.A.C. 5:19-8.2 below, a provider may accept a nominal sum, not to exceed 10 percent of the entrance fee, which sum shall be held in trust, as a nonbinding reservation for the purpose of determining the market demand for a proposed continuing care retirement community and shall not be deemed to be an offer or disposition of an interest therein, provided the provider shall do so under the terms and conditions contained in this subchapter.

5:19-8.2 Application

(a) Prior to accepting any nonbinding reservation agreements, the provider shall submit an application to the Department for certification that contains the following information:

1. The name and address of the provider;
2. The location and description of the facility to be developed;
3. The number and types of living units to be contained in the continuing care retirement community as well as a description of the services and facilities;
4. The selling price at which each living unit will be offered, together with a general description of the living unit or interest offered at that price and the estimated periodic charges;
5. The name and address of the person or firm holding the deposits and the name and location of the banking or similar institution wherein the deposits will be deposited;
6. A statement that no binding contract for a living unit will be offered or accepted until the continuing care retirement community is certified by the Department in accordance with this chapter;
7. A copy of the most recent financial statement of the provider, certified to be true and accurate by an independent public accountant;
8. A copy of all advertising material;
9. A copy of the proposed reservation agreement form;
10. Any other material deemed necessary by the Department in furtherance of the provisions of this chapter.

(b) The application shall be accompanied by a filing fee in the amount of \$250.00.

5:19-8.3 Advertising standards

(a) All nonbinding reservations advertising material shall conform to the provisions of N.J.A.C. 5:19-5 and, in addition, shall contain the following:

1. A statement that the purpose of the advertising is to solicit nonbinding reservations;
2. A statement that the nonbinding reservation is not a contract and may be cancelled by the prospective purchaser at any time, without cause;

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3. A statement that any money paid to the developer shall be refunded to the prospective purchaser upon request and cancellation of the nonbinding reservation.

5:19-8.4 Reservation form

(a) Every provider accepting any nonbinding reservation agreement shall be given a reservation form to all prospective purchasers, which shall contain the following items:

1. The name and location of the project;
2. The name and address of the provider;
3. The name and address of the prospective purchaser;
4. A description of the particular living unit reserved;
5. The purchase price and terms;
6. A notice in 10-point bold face type that the nonbinding reservation agreement does not obligate the purchaser in any way; that there is or is not, as the case may be, a guarantee by the provider that the purchase price and terms will not be changed for such period of time as may be specified in the agreement; that there is or is not, as the case may be, a guarantee that the living unit described in the agreement will be built or otherwise made available for purchase by the prospective purchaser; and that he or she may receive a refund of the deposit, upon request, at any time prior to the execution of a contract or agreement of sale;
7. All nonbinding reservation agreements shall be signed by the party reserving the unit and the provider or the provider's agent;
8. A statement of the period of time for which the nonbinding reservation agreement is effective.

5:19-8.5 Effective period

Unless cancelled by the prospective purchaser, the nonbinding reservation agreement shall be effective for a period of not less than 30 days after notice to the prospective purchaser that the application for certification and the disclosure statement have been certified by the Department as provided in this chapter or until the provider withdraws the proposal to establish a continuing care retirement community.

5:19-8.6 Notice

The provider shall give written notice to the prospective purchaser that the application for certification and the disclosure statement have been certified by the Department, enclosing a copy of the disclosure statement, and shall notify the prospective purchaser that he or she must enter into a contract or agreement of sale within a specific period of time, but not less than 30 days, or the nonbinding reservation will expire and all deposit money will be refunded.

5:19-8.7 Period of validity of certification

The certification of an application to accept nonbinding reservations shall be valid for a period of one year from the date of certification unless an application for certification pursuant to N.J.A.C. 5:19-3 is submitted during that time, in which event the certification of the application to accept nonbinding reservations shall automatically be extended for the entire certification period and may be further extended from time to time by the Department.

(a)

Uniform Construction Code Code Interpretations

Adopted New Rules: N.J.A.C. 5:23-9.1 and 9.2

Proposed: February 1, 1988 at 20 N.J.R. 224(a).

Adopted: March 31, 1988 by Leonard S. Coleman, Jr.,
Commissioner, Department of Community Affairs.

Filed: April 6, 1988 as R.1988, d.195, **without change**.

Authority: N.J.S.A. 52:27D-124.

Effective Date: May 2, 1988.

Expiration Date: March 1, 1993.

Summary of Public Comments and Agency Responses:

COMMENT: State Board of Architects and Certified Landscape Architects expressed its objection to the requirement, in N.J.A.C. 5:23-9.2(b)4, that "the drawings shall bear the seal and signature of an

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architect or engineer who prepared the plans and is registered in the State of New Jersey" and urged that the language be brought into conformity with "N.J.A.C. 13:27-7.1" (actually, N.J.A.C. 13:27-6.3), a rule of the State Board of Architects that makes it clear that certain work is reserved to architects, rather than engineers.

RESPONSE: The Department takes the position that it cannot become a party to the ongoing dispute between the architectural and engineering professions, and their respective State Boards, over who can do what, and must allow the State Board of Architects to be responsible for the enforcement of its own rules. Even if the Department were inclined to make construction officials enforcers of the statutes and rules governing the practice of architecture, it would not be proper to make a change of this scope, which might be deemed by engineers to affect their rights, in the context of an adoption.

COMMENT: The New Jersey Manufactured Housing Association asked that N.J.A.C. 5:23-9.1 be amended to make reference to Bulletin No. 80-6, a document issued by the Department in 1980 which concerns the approval and installation of mobile homes.

RESPONSE: Since Bulletin No. 80-6 has not been adopted as a rule, it cannot be included by reference in this rule. However, the commenter may be assured that the Department continues to be guided by Bulletin No. 80-6.

For the record, the Department wishes to advise the public that Bulletin No. 80-6 states as follows:

"The Department has become increasingly aware of a problem involving mobile homes. In many cases, mobile homes have not been provided with the proper support and anchorage system.

"All codes enforcement officials should make themselves aware of the applicable provisions of the **Federal Mobile Home Construction and Safety Standards** (24 CFR Part 3280). [Note: These are now entitled the "**Federal Manufactured Home Construction and Safety Standards**." They have been adopted as the manufactured home subcode of the State Uniform Construction Code pursuant to N.J.A.C. 5:23-3.19.] Especially where they relate to the Uniform Construction Code. This standard is available from the Department of Housing and Urban Development, Office of Mobile Home Standards, 451 Seventh Street, S.W., Washington, D.C. 20410.

"The following rules apply to the approval and installation of mobile homes located in mobile home parks and on an individual's property:

1. Mobile homes built after June 15, 1976, are required to be built to the Federal Mobile Home Standards. They are required to have a Federal insignia located on the rear of the unit.

Mobile homes built after December 7, 1972 and prior to June 15, 1976, were required to be built to N.J. State Standards and as such required State insignias.

Mobile homes built prior to December 7, 1972 are subject to inspections by the appropriate subcode officials.

2. A construction permit is required for all on-site construction work required in connection with the installation of the mobile home. Such work shall include support and anchorage systems, electrical and plumbing systems, site grading, etc.

3. The support and anchorage system including foundation for a mobile home shall be designed by a licensed professional engineer or registered architect in accordance with the corresponding provisions of the Federal Standards and the Uniform Construction Code. As per the provisions in N.J.A.C. 5:23-2.5(b)5:7 [Note: This is now 5:23-2.15(e)vii.], an owner may design the support and anchorage system for his or her mobile home. However, the Construction Official should caution the owner about possible complications which may void the manufacturer's warranty on the mobile home.

4. The proposed site for installation of a mobile home shall meet all the applicable requirements for fire separation in the Uniform Construction Code."

Full text of the adoption follows:

SUBCHAPTER 9. CODE INTERPRETATIONS

5:23-9.1 Application of the Plumbing Subcode to certain mobile homes

(a) Chapter 18 of the Plumbing Subcode (National Standard Plumbing Code) is not applicable to permanently installed mobile homes meeting the Federal Manufactured Home Construction and Safety Standards, 24 C.F.R. Part 3280.

(b) An approved structure placed on a site for use as a permanent dwelling shall meet the requirements of the State Plumbing Subcode, excluding Chapter 18 of the Plumbing Subcode (National Standard

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Plumbing Code), or, if applicable, the Federal Manufactured Home Construction and Safety Standards.

5:23-9.2 Interpretation: Construction Permit for a single family residence

(a) Any application for a construction permit for a single family residence shall be accompanied by at least two copies of plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the work to be performed. Plans submitted shall not be required to show more detail or include more information than is reasonably necessary to assure compliance with the requirements of the Uniform Construction Code and rules in this chapter.

(b) Plans containing the following information shall be considered to meet the requirements of (a) above:

1. Site diagram consisting of a site plan showing size and location of all new and existing construction on the site with distances from lot lines and indicating new building services, location and size.

2. Construction plans consisting of a scale drawing showing foundation, floor plans, and elevations, including structural framing notes for all floors, ceilings and roofs. Only girders and columns need be identified and located on the plan. Included on the drawings shall be a loading schedule indicating the live loads for which the structure is designed.

3. The following details shall be required:

i. A cross section through one typical wall showing construction details from footing to and including roof framing. This section shall indicate all construction materials used including roofing, vapor barriers, sheathing type and thickness, insulation type and thickness, windows, glazing type if other than standard window glazing is used, interior finish material, floor type and thickness, structure, foundation and footings. Decorative material shall not be required to be shown unless it contributes to the structural integrity of the section.

ii. Electrical details indicating lighting; receptacles; motors and equipment; smoke detectors; service entrance locations; size and type (overhead or underground); panel size, location; number of proposed circuits. A symbol legend shall be included.

iii. Plumbing details indicating the locations of fixtures and a notice or table listing water and drainage pipe sizes. A note stating if sewage disposal is to public sewer or individual septic system shall be included.

iv. Mechanical details indicating the type of heating system; location, size and type of heating unit, noting the distribution method and indicating design rates, location of fire dampers and safeguards; and location, type and size of flue.

4. The drawings shall bear the seal and signature of an architect or engineer who prepared the plans and is registered in the State of New Jersey. The seal and signature shall appear on each sheet of each copy of the plans submitted.

i. The construction official shall waive the requirements for sealed plans in the case of a single family home owner who prepares his or her own plans for the construction, alteration or repair of a structure used or intended to be used exclusively as the owner's private residence, and which is to be constructed by the owner, providing that the owner shall submit an affidavit attesting to the fact that he has prepared the plans and that the plans are, in the opinion of the construction official and appropriate subcode officials, legible and complete for the purpose of ensuring compliance with the regulations.

ii. Plumbing plans, electrical plans and mechanical plans may be prepared by licensed plumbers, licensed electrical contractors and mechanical contractors, respectively, in accordance with these regulations.

5. Construction plans, and electrical, plumbing, and mechanical details may be shown on more than one drawing.

6. Where a prototype plan has been approved pursuant to existing regulations, only a site diagram and reference to the approved prototype plan shall be required. This site diagram must be signed and sealed by a registered architect or licensed professional engineer.

7. The Construction Official, upon the advice of the appropriate subcode official, may waive any or all of the requirements for plans in (b)1 through 6 above when the work is of a minor nature.

(a)

Senior Citizen and Disabled Protected Tenancy Application Procedure: Taxable Income Adopted Amendment: N.J.A.C. 5:24-2.3

Proposed: February 16, 1988 at 20 N.J.R. 349(a).

Adopted: March 25, 1988 by Leonard S. Coleman, Jr., Commissioner, Department of Community Affairs.

Filed: March 30, 1988 as R.1988, d.191.

Authority: N.J.S.A. 2A:18-61.38.

Effective Date: May 2, 1988.

Expiration Date: September 1, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

5:24-2.3 Application procedure

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

(c) Taxable income shall include all income subject to the New Jersey Gross Income Tax, without allowance for any deductions or exemptions. Non-taxable income shall include, without limitation, any excluded pension payments (exclusive of moneys designated as refunded employee contributions), any Social Security, SSI or Railroad Retirement payments, any payments from any public assistance program and any interest on tax exempt securities or accounts. Any lump-sum, non-repeated distribution shall be considered as income only to the extent of the amount of annuity actuarially available to a person of the recipient's age and sex, at the prevailing interest rate, during the year in question, out of the lump-sum payment after there has been subtracted from such lump-sum payment any contributions made by the recipient or by a person who designated the recipient as his or her beneficiary.

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(b)

STATE BOARD OF EDUCATION

Adopted Amendments: N.J.A.C. 6:3-2

Proposed: January 19, 1988 at 20 N.J.R. 133(b).

Adopted: April 6, 1988 by Saul Cooperman, Secretary and Commissioner, Department of Education, State Board of Education.

Filed: April 7, 1988 as R.1988 d.199, **without change.**

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:36-19, 18A:36-19a and Public Law 94-142.

Effective Date: May 2, 1988.

Expiration Date: August 18, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows:

SUBCHAPTER 2. PUPIL RECORDS

6:3-2.1 Definitions

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

... "Pupil record" means information related to an individual pupil gathered within or outside the school system and maintained within the school system, regardless of the physical form in which it is maintained. Essential in this definition is the idea that any information which is maintained for the purpose of second party review is considered a pupil record. Therefore, information recorded by any certified school personnel solely as a memory aid, not for the use of a second party, is excluded from this definition.

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6:3-2.2 General considerations

(a) (No change.)

(b) Each district board of education shall have the responsibility to compile and maintain pupil records and to regulate access, disclosure or communication of information from educational records in a manner that assures the security of such records in accordance with this subchapter.

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

(f) The parent shall either have access to or be specifically informed about only that portion of another pupil's record that contains information about his or her own child.

(g) Each district board of education shall establish written policies and procedures for pupil records which:

1.-6. (No change.)

7. Assure limited access to pupil records by secretarial and clerical personnel pursuant to N.J.A.C. 6:3-2.5; and

8. (No change.)

(h) (No change.)

(i) The chief school administrator or his or her designee shall require all permitted pupil records of currently enrolled pupils to be reviewed annually by certified school personnel to determine the educational relevance of the material contained therein. The reviewer shall cause data no longer descriptive of the pupil or educational situation to be deleted from the records. Such information shall be destroyed and not be recorded elsewhere. No record of any such deletion shall be made.

(j) (No change.)

(k) When the parents' dominant language is not English or the parent is deaf, the district board of education shall make every effort to:

1. (No change.)

2. Assist the parent in securing an interpreter.

6:3-2.3 Mandated and permitted pupil records

(a) The district board of education shall not compile any other pupil records except mandated and permitted records as herein defined.

1. Mandated pupil records are those pupil records which the schools have been directed to compile by New Jersey statute, regulation or authorized administrative directive. Mandated pupil records shall include the following:

i. Personal data which identifies each pupil enrolled in the school district. These data shall include the pupil's name, address, date of birth, name of parent(s), citizenship and sex of the pupil. The district board of education is prohibited from recording the religious or political affiliation of the pupil and/or parent unless requested to do so in writing by the parent or adult pupil. The district is also prohibited from labeling the pupil illegitimate.

ii.-vi. (No change.)

2. (No change.)

6:3-2.5 Access to pupil records

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

(c) Authorized organizations, agencies and persons shall include only:

1. The parent of a pupil under the age of 18 and the pupil who has the written permission of such parent;

2. (No change.)

3. The adult pupil and the pupil's parent who has the written permission of such pupil, except that the parent shall have access without consent to the pupil as long as the pupil is financially dependent on the parent and enrolled in the public school system or if the pupil has been declared legally incompetent by a court of appropriate jurisdiction;

4.-8. (No change.)

9. Officials of other district boards of education within the State of New Jersey in which the pupil is placed, registered or intends to enroll, subject to the following conditions:

i. Mandated pupil records shall be forwarded to the receiving district with written notification to the parent or adult pupil.

ii. (No change.)

iii. All records to be forwarded shall be sent to the chief school administrator or his or her designee of the school district to which the pupil has transferred within 10 days after the transfer has been verified by the requesting school district.

iv. The chief school administrator or his or her designee shall request all pupil records in writing from the school district of last attendance within two weeks from the date that the pupil enrolls in the new district.

v. Proper identification, such as a certified copy of the pupil's birth certificate, shall be requested at the time of enrollment in a new school district.

10. Officers and employees of a State agency who are responsible for protective and investigative services for pupils referred to that agency, pursuant to N.J.S.A. 9:6-8.40. Wherever appropriate, district boards of education shall ask such State agency for its cooperation in sharing the findings of the investigation;

11. Organizations, agencies and persons from outside the school if they have the written consent of the parent or adult pupil, except that these organizations, agencies and persons shall not transfer pupil record information to a third party without the written consent of the parent or adult pupil:

12-13. (No change.)

6:3-2.6 Conditions for access to pupil records

(a) All authorized organizations, agencies and persons defined in this subchapter shall have access to the records of a pupil, subject to the following conditions:

1. No pupil record shall be altered or destroyed during the time period between a written request to review the record and the actual review of the record.

2. Authorized organizations, agencies and persons from outside the school whose access requires the consent of parents or adult pupils must submit their request in writing together with any required authorization, to the chief school administrator or his or her designee.

3. The chief school administrator or his or her designee shall be present during the period of inspection to provide interpretation of the records where necessary and to prevent their alteration, damage or loss. In every instance of inspection of pupil records by persons other than parents, pupils or individuals who have assigned educational responsibility for the individual student, an entry shall be made in the pupil record of the names of persons granted access, the reason access was granted, the time and circumstances of inspection, the records studied and the purposes for which the data will be used.

4. Unless otherwise judicially instructed, the district board of education shall, prior to the disclosure of any pupil records to organizations, agencies or persons outside the school district pursuant to a court order, give the parent or adult pupil at least three days' notice of the name of the requesting agency and the specific records requested. Such notification shall be provided in writing if practicable. Only those records related to the specific purpose of the court order shall be disclosed.

5. (No change.)

6:3-2.7 Rights of appeal for parents and adult pupils

(a) Pupil records are subject to challenge by parents and adult pupils on grounds of inaccuracy, irrelevancy, impermissible disclosure, inclusion of improper information or denial of access to organizations, agencies and persons. The parent or adult pupil may seek to:

1. (No change.)

2. Insert additional data as well as reasonable comments as to the meaning and/or accuracy of the records; and/or

3. (No change.)

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

6:3-2.8 Retention and destruction of pupil records

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

(c) Upon graduation or permanent departure of a pupil from the school system:

1. (No change.)

2. Information in pupil records, other than that described in (e) below, may be destroyed but only in accordance with the Destruction

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of Public Records Law, N.J.S.A. 47:3-15 et seq. Such destruction shall be accomplished only after written parental or adult pupil notification and written parental or adult pupil permission has been granted, or after reasonable attempts at such notification and reasonable attempts to secure parental permission have been unsuccessful.

(d) (No change.)

(e) The New Jersey public school district of last enrollment shall be responsible for maintaining a pupil's records upon graduation or permanent departure of the pupil from the school district and shall keep in perpetuity a permanent record of a pupil's name, date of birth, sex, address, telephone number, grades, attendance record, classes attended, grade level completed, year completed, name of parent(s) and citizenship status.

ENVIRONMENTAL PROTECTION

DIVISION OF WATER RESOURCES

(a)

Sewer Systems and Wastewater Treatment Plants

Adopted New Rules: N.J.A.C. 7:9-1

Proposed: December 7, 1987 at 19 N.J.R. 2227(b).

Adopted: April 8, 1988 by Richard T. Dewling, Commissioner, Department of Environmental Protection.

Filed: April 11, 1988 as R.1987 d.205, **without change**.

Authority: N.J.S.A. 13:1B-3, 13:1D-9K, 58:10A-6(b) and 58:11A-5c(2).

DEP Docket Number: 057-87-11.

Effective Date: May 2, 1988.

Expiration Date: January 21, 1991.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the expired rules adopted as new appears in the New Jersey Administrative Code at N.J.A.C. 7:9-1.

(b)

Bureau of Marine Water Classification and Analysis
Shellfish Growing Water Classification

Readoption with Amendments: N.J.A.C. 7:12

Proposed: March 7, 1988, at 20 N.J.R. 450(a).

Adopted: April 11, 1988 by Richard T. Dewling, Commissioner, Department of Environmental Protection.

Filed: April 11, 1988 as R.1988 d.206, **without change**.

Authority: N.J.S.A. 13:1D-9 and 58:24-1 et seq.

DEP Docket Number: 008-88-02.

Effective Date—New Rules: April 11, 1988.

Effective Date—Amendment: May 2, 1988.

Expiration Date: April 11, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 7:12.

Full text of the adopted amendment to the readoption follows.

7:12-1.2 Definitions

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

...
"Seasonal Special Restricted Areas" means certain Condemned waters meeting specified sanitary standards as set forth by the Interstate Shellfish Sanitation Conference (ISSC), formerly the National Shellfish Sanitation Program, during a portion of the year. The areas

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so designated will automatically, by operation of regulations according to the schedule in N.J.A.C. 7:12-5, be available for use under the special permit programs sanctioned by the Department.

7:12-2.1 Shellfish growing water classification—Prohibited

(a) The following shellfish growing waters are classified Prohibited:

1.-13. (No change.)

14. Stone Harbor area (Note: Portions are also designated as Special Restricted and Seasonal. See N.J.A.C. 7:12-3 and 4):

i. All of the Great Channel south of the Stone Harbor Boulevard Bridge.

ii.-xii. (No change.)

15.-19. (No change.)

20. Atlantic Ocean:

i. (No change.)

ii. All of the ocean waters inshore of a line beginning at the water tank located on Lake Avenue, Borough of Bay Head, with coordinates of latitude 40 degrees 04.1 minutes N., longitude 74 degrees 02.7 minutes W., and bearing approximately 146 degrees T for approximately 2.2 nautical miles until it intersects a line bearing approximately 056 degrees T from the water tank located on Normandy Way in the Normandy Beach section of Dover Township, with coordinates of latitude 39 degrees 59.9 minutes N., longitude 74 degrees 03.8 minutes West. This point of intersecting lines is approximately two nautical miles from the shoreline and has coordinates of latitude 40 degrees 01.6 minutes N., longitude 74 degrees 00.5 minutes West. The line then continues bearing approximately 236 degrees T (reciprocal 056 degrees T) from the point of intersection to the above noted water tank in Normandy Beach and terminating:

iii. All of the ocean waters inshore of a line beginning at the three story wood frame dwelling located on the beach between Tuna Way and Kittiwake Avenue in the Ocean Beach section of Dover Township, with coordinates of latitude 39 degrees 59.3 minutes N., longitude 74 degrees 3.8 minutes W., and bearing approximately 100 degrees T for approximately one nautical mile from the shoreline to point with coordinates of 39 degrees 59.1 minutes N., longitude 74 degrees 2.5 minutes W., then continuing in a southerly direction one nautical mile offshore until it intersects a line bearing approximately 132 degrees T from the water tank located on 127 Decatur Avenue, Borough of Seaside Park, with coordinates of latitude 39 degrees 56.1 minutes N., longitude 74 degrees 04.7 minutes W., then proceeding in a southeasterly direction along that line for approximately 0.6 nautical miles until it intersects a line bearing approximately 096 degrees T from the water tank located on the corner of Barnegat Avenue and 12th Avenue, Borough of Seaside Park, with coordinates of latitude 39 degrees 54.9 minutes N., longitude 74 degrees 05.0 minutes West. This point of intersecting lines is approximately 1.5 nautical miles from the shoreline and has coordinates of latitude 39 degrees 54.7 minutes N., longitude 74 degrees 02.7 minutes West. The line continues from this point along the shoreline in a southerly direction 1.5 nautical miles offshore until it intersects a line bearing approximately 096 degrees T from the cupola located on top of Island Beach State Park's Maintenance Center (the old Coast Guard Station number 110), with coordinates of latitude 39 degrees 53.7 minutes N., longitude 74 degrees 04.9 minutes West. This point of intersecting lines has coordinates of latitude 39 degrees 53.6 minutes N., longitude 74 degrees 02.9 minutes West. The line continues from this point bearing approximately 218 degrees T (reciprocal 038 degrees T) to the first ocean bath house and concession building from the entrance of Island Beach State Park (approximately 3.3 statute miles south of the park's entrance) with coordinates of latitude 39 degrees 51.2 minutes N., longitude 74 degrees 05.2 minutes W., and terminating:

iv. (No change in text.)

v. All of the ocean waters inshore of a line beginning at the light chartered as F1 G 4sec 29ft 6M "7" at the end of Absecon Inlet's southwest jetty and bearing approximately 017 degrees T towards the ocean end of Absecon Inlet's northeast jetty until it intersects a line bearing approximately 148 degrees T (reciprocal 328 degrees T) from the center span of the Vincent Haneman Bridge (Route 87). This point of intersecting lines has coordinates of latitude 39 degrees 22.0

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minutes N., longitude 74 degrees 24.4 minutes West, then proceeding in a southeasterly direction along that line for approximately 0.6 nautical miles to a point with coordinates of latitude 39 degrees 21.5 minutes N., longitude 74 degrees 23.9 minutes W. (generally marked by a buoy charted as R. "2" F1 R 2.5s), then bearing approximately 275 degrees T (reciprocal 095 degrees T) for approximately 0.5 nautical miles towards the outermost tip of Garden Pier, Atlantic City, until it is 0.25 miles directly offshore, then parallel along the shoreline in a southwesterly direction, 0.25 nautical miles offshore, for approximately 1.3 nautical miles until it intersects a line bearing approximately 153 degrees T from the center of Convention Hall, Atlantic City, then proceeding in a southeasterly direction along that line for approximately 1.75 nautical miles to a point with coordinates of latitude 39 degrees 19.4 minutes N., longitude 74 degrees 25.1 minutes W., then from this point which is approximately 2 nautical miles offshore, the line runs parallel to the shoreline in a southwesterly direction for approximately 2.1 nautical miles to a point with coordinates of latitude 39 degrees 18.4 minutes N., longitude 74 degrees 27.5 minutes W., then bearing approximately 333 degrees T (reciprocal 153 degrees T) for approximately 1.9 nautical miles to the outermost tip of Ventnor City Fishing Pier located at the Boardwalk and South Cambridge Avenue, City of Ventnor, then along that pier to the shore and terminating. This closure adjoins those Special Restricted waters defined in N.J.A.C. 7:12-3.2(a)23i:

vi.-viii. (No change in text.)

ix. All of the ocean waters inshore of a line beginning at the American Legion Building (the old Coast Guard Station) located at the corner of Second Avenue and 117th Street, Borough of Stone Harbor, with coordinates of latitude 39 degrees 02.4 minutes N., longitude of 74 degrees 46.2 minutes W., and bearing approximately 180 degrees T for approximately 3.4 nautical miles to a point with coordinates of latitude 38 degrees 59.0 minutes N., longitude 74 degrees 46.2 minutes W. (generally marked by a buoy charted as R "8" F1 R 4sec BELL at the entrance of Hereford Inlet), then bearing approximately 246 degrees T towards the 641 ft F1 R Lt LORAN TOWER located on the United States Coast Guard Electronic Engineering Center, Lower Township, with coordinates of latitude 38 degrees 57.0 minutes N., and longitude of 74 degrees 52.0 minutes W., for approximately 2.8 nautical miles until it intersects a line bearing approximately 130 degrees T from the standpipe located on the corner of Park Boulevard and Myrtle Road, Borough of Wildwood Crest, with coordinates of latitude 38 degrees 58.4 minutes N., longitude 74 degrees 50.4 minutes W. This point of intersecting lines is approximately 0.5 nautical miles from the shoreline and has coordinates of latitude 38 degrees 57.9 minutes N., longitude 74 degrees 49.5 minutes W. Then proceeding in a southeasterly direction along that line for approximately 1.5 nautical miles from the shoreline to a point with coordinates of 38 degrees 57.2 minutes N., longitude 74 degrees 48.5 minutes W., then proceeding parallel to the shoreline in a southwesterly direction 1.5 nautical miles offshore for approximately 2.4 nautical miles to a point with coordinates of latitude 38 degrees 55.4 minutes N., longitude 74 degrees 50.5 minutes W., then bearing approximately 310 degrees T (reciprocal 130 degrees T) for approximately 1.2 nautical miles to the light at the end of the eastern jetty of Cape May Inlet charted as F1 4 sec 30 ft 7M, then along that jetty to the shore and terminating. This closure adjoins those Prohibited waters defined in (a)16i above; and

x. (No change in text.)

7:12-3.2 Shellfish growing waters that are classified as Special Restricted

(a) The following shellfish growing waters are classified as Special Restricted:

1.-14. (No change.)

15. Cedar Run area. (Note: A portion is designated as Seasonal. See N.J.A.C. 7:12-4):

i. All those waters of Cedar Run and tributaries north and west from a straight line beginning at Flashing Red light number "2" (F1 R "2") marking the Cedar Run channel and bearing approximately 220 degrees T to the southern shore where this line terminates.

ii. All those waters of Channel Creek and tributaries north and west of a line beginning on the southernmost point of land on Horse

Point and bearing approximately 267 degrees T to a Department maintained marker located on the western shore.

16. Westecunk Creek Area:

i. All those waters of Dinner Point Creek north and west of a line connecting two Department maintained markers (approximate bearing from the northernmost to southernmost marker 057 degrees T) at its mouth where it empties into Little Egg Harbor Bay (The southernmost Department maintained marker coincides with that utilized in N.J.A.C. 7:12-3.2(a)16ii below.); and

ii. All those waters of Westecunk Creek and tributaries west of a line beginning at Flashing light 4 second 10 ft "1" (F1 4sec 10ft "1") and bearing approximately 006 degrees T to a Department maintained marker located on the northern bank of Westecunk Creek at its mouth.

17.-21. (No change.)

22. Brigantine area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i. All of Black Hole and St. George's Thorofare east of a line from the point on the eastern shore at the mouth of Conch Lagoon and bearing approximately 358 degrees T to the opposite shore.

23. Atlantic City-Absecon area (Note: A portion is also designated as Seasonal. See: N.J.A.C. 7:12-4):

i. All of Absecon Inlet and Absecon Channel contained within a line from the base of the Vincent Haneman Bridge (Rte. 87) (at Harrah's Casino) and continuing along that shoreline crossing the mouth of Clam Creek and continuing to the seaward end of the jetty on the western shore, at the mouth of Absecon Inlet, then channelward to a line from R "2" (F1R2.5s) and bearing approximately 328 degrees T to the midspan of the Vincent Haneman Bridge (Rte. 87), then running northwest along that line to the Rte. 87 bridge, then westward along the bridge to the point of origin at the base of the bridge.

ii.-viii. (No change.)

24.-29. (No change.)

30. Stone Harbor area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i. All of Gull Island Thorofare and Muddy Hole contained within a line from the mouth of Jugs Creek and continuing along the shoreline of Great Channel, across the mouth of Oldman Creek, continuing along the shoreline and across the mouth of Stone Harbor Creek and along the Stone Harbor shoreline to the Stone Harbor Boulevard Bridge, then along the bridge and along the western shoreline of Muddy Hole to the Department maintained marker at its mouth, then bearing approximately 022 degrees T to the point of origin at the mouth of Jugs Creek.

31.-32. (No change.)

33. Delaware Bay area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i.-vii. (No change.)

viii. Beadons Creek: All of Beadons Creek;

ix.-x. (No change in text.)

34. (No change.)

7:12-4.1 Seasonally Approved growing waters (Approved November 1 through April 30 yearly, Special Restricted May 1 through October 31, yearly)

(a) The following shellfish growing waters designated on the charts referred to in N.J.A.C. 7:12-1.1 shall be Special Restricted for the harvest of shellfish from May 1 through October 31 yearly and Approved for the harvest of shellfish from November 1 through April 30 yearly:

1.-3. (No change.)

4. Absecon Bay-Absecon Channel Reed Bay area: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

i. All of Middle Thorofare, Wills Thorofare, Absecon Channel, Absecon Inlet, Little Panama, Lower Water Thorofare and Absecon Bay contained within a line beginning at the point of land on the western shore at the mouth of Point Bar Thorofare, then along that shoreline and across the mouth of Newfound Thorofare, then along that shoreline and across the mouth of Jonathan Thorofare, then along that shoreline to the Department maintained marker located

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at the mouth of the first major man-made cut or lagoon (not including mosquito ditches) and bearing approximately 036 degrees T to another Department maintained marker on the opposite bank and continuing along that shoreline in a northeast direction to the Department maintained marker, then bearing approximately 137 degrees T to a Department maintained marker, then bearing approximately 165 degrees T across the mouth of Steelman Thorofare to a Department maintained marker, then along the northeast shore of Wills Thorofare and Absecon Channel, then across the mouth of Middle Thorofare and along the eastern shoreline of two unnamed islands, including Low Water Thorofare and an unnamed thorofare, and across the mouth of Little Panama and along the shoreline in a southerly direction to Absecon Channel, then in a seaward direction across the mouth of St. George's Thorofare and along that shoreline to the seaward end of the jetty, then channelward to a line from R "2" (F1R2.5s) and bearing approximately 328 degrees T to the mid-span of the Vincent Haneman Bridge, then along that line to the Rte. 87 bridge, then along the bridge in a westerly direction to the base of the bridge, then along the shoreline in a northerly direction across the mouth of Clam Thorofare and Beach Thorofare and along that shoreline to the point of origin at the point of land at Point Bar Thorofare.

ii. (No change.)

5.-9. (No change.)

10. Great Sound area:

i. Holmes Creek and Holmes Creek Cove: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All of Holmes Creek and Holmes Creek Cove contained within a straight line beginning at Halfmile Point and bearing approximately 335 degrees T to the opposite shore and along that shoreline in a westerly direction, excluding drainage ditches which remain condemned to the mouth of Holmes Creek, then continuing along the northern side of Holmes Creek to the first drainage ditch, then directly across Holmes Creek and continuing along that shoreline to the cove and along that shoreline to the point of origin at Halfmile Point and terminating; and

ii. All of Cresse Thorofare, Gull Island Thorofare, Jugs Creek and Goths Creek contained within a line starting at a Department maintained marker on Halfmile Point, continuing along the shoreline of Cresse Thorofare in a southerly direction, across the mouth of Little Oyster and Oyster Creeks, continuing along the shoreline and across the mouth of Scotch Bonnet and continuing along the shoreline including Goths Creek, to the Department maintained marker on the western shore at the mouth of Muddy Hole and then bearing approximately 022 degrees T to and including Jugs Creek, then along that shoreline in a northerly direction along Sturgeon Hole to a Department maintained marker, then bearing approximately 250 degrees T to a Department maintained marker on Gull Island and continuing to the point of origin at Halfmile Point.

11. Delaware Bay area:

i.-ii. (No change.)

iii. Maurice River Cove: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All those waters inside of a line beginning at the East Point Lighthouse and bearing approximately 311 degrees T (known as the Summer Line) to a marker on the western bank at the mouth of New England Creek, then along the shoreline in a westerly direction to the first tower, then bearing approximately 144 degrees T to Flashing Green 4 Second 5 (F1 G 4 sec "5"), then bearing approximately 048 degrees T to the East Point Lighthouse and terminating; and

(2) All those waters adjacent to the mouth of Oranoaken Creek and Dividing Creek, from a Department maintained marker on the shoreline approximately 1100 yards southwest of the mouth of Oranoaken Creek and bearing approximately 059 degrees T to another Department maintained marker on the shore 900 yards east of Dividing Creek.

iv.-vi. (No change.)

7:12-5.1 Seasonal Special Restricted growing waters (Special Restricted Area: May 1 through September 30, yearly, Condemned Area: October 1 through April 30 yearly)

(a) The Seasonal Special Restricted waters described below shall be Condemned for the harvest of shellfish from October 1 through April 30 yearly, and Special Restricted Areas for the harvest of shellfish only in conjunction with the approved resource recovery programs described in N.J.A.C. 7:12-9 and N.J.A.C. 7:17, during the period May 1 through September 30 yearly. These waters will not be utilized, that is, will not be available for the harvest of any shellfish, within any resource recovery program until the levels of contamination in shellfish tissue from certain heavy metals are found to be within those recommended by the U.S. Food and Drug Administration (FDA) as determined by this Department from analyses of ongoing studies. This area is designated on the charts referred to in N.J.A.C. 7:12-1.1 and is described as:

(1) (No change.)

7:12-9.1 General provisions

(a) (No change.)

(b) Said permits may be issued to persons above the age of 18 making application for purposes of transplanting, relaying, depletion, bait harvesting, depuration/controlled purification, research or other purposes approved by the Department.

(c) Each application shall be accompanied by a fee in the amount of \$25.00 (check or money order may payable to New Jersey Department of Environmental Protection). Forms may be obtained from the New Jersey Department of Environmental Protection, Division of Water Resources, Bureau of Marine Water Classification and Analysis, Stoney Hill Road, P.O. Box 405, Leeds Point, New Jersey 08220, and New Jersey Marine Police stations located throughout the State. Duplicate permits may be issued upon written request to the Bureau of Marine Water Classification and Analysis at the aforementioned address if accompanied by a \$10.00 check or money order payable to the New Jersey Department of Environmental Protection.

(d)-(j) (No change.)

7:12-9.15 Scientific Collection and Non-Human Consumption Program

The Department may continue to issue special permits for the collection of shellfish from waters classified other than Approved for the purpose of non-human consumption and scientific research. Conditions of the permit will be tailored as necessary to the specific program(s) requested. This permit is issued in conjunction with, and to the holder of, the collection permit issued by the Division of Fish, Game, and Wildlife pursuant to authority granted at N.J.S.A. 23:4-52.

HEALTH

(a)

COMMUNITY HEALTH SERVICES

Retail Food Establishments and Food and Beverage Vending Machines

Adopted New Rules: N.J.A.C. 8:24

Proposed: February 16, 1988 at 20 N.J.R. 365(a).

Adopted: April 11, 1988 by Milton Prystowski, M.D.,
Chairperson, Public Health Council.

Filed: April 11, 1988 as R.1988 d.204, **without change**.

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

Effective Date: May 2, 1988.

Expiration Date: May 2, 1993.

Summary of Public Comments and Agency Responses:

A public hearing was held on February 28, 1988 at the New Jersey State Department of Health, Health-Agriculture Building, Room 103,

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John Fitch Plaza, Trenton, N.J. Only one person attended, a representative of the New Jersey Health Officer's Association, but no comments were submitted.

No other comments were received.

Full text of the expired rules adopted as new can be found in the New Jersey Administrative Code at N.J.A.C. 8:24.

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

(a)

**Administration Manual, JerseyCare Manual
Presumptive Eligibility**

Adopted Amendment: N.J.A.C. 10:49-1.1

Adopted New Rules: N.J.A.C. 10:72-6

Proposed: February 16, 1988 at 20 N.J.R. 367(a).

Adopted: March 30, 1988 by Drew Altman, Commissioner, Department of Human Services.

Filed: March 30, 1988 as R.1988 d.192, **without change.**

Authority: N.J.S.A. 30:4D-3, 30:4D-6, 30:4D-7a, b and c, 30:4D-12 and Section 1920 of the Social Security Act.

Effective Date: May 2, 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)-(c) (No change.)

(d) Exceptions to eligibility: The following are exceptions to the eligibility process.

1. Newborn: Although both the mother and the newborn infant may be eligible recipients on the date of delivery, the newborn infant is not immediately assigned a Person Number. In order to expedite payment to the practitioner and the hospital for inpatient hospital services rendered to a newborn during the mother's confinement, allowance has been made to reimburse providers using the mother's Health Services Program (Medicaid) Case Number and Person Number. When the mother is discharged from the hospital, services to the newborn may no longer be claimed by the practitioner and/or hospital under the mother's Person Number. The mother must contact the county welfare agency/board of social services to obtain a Person Number for the newborn. It is the duty of the practitioner or the hospital to contact the county welfare agency/board of social services to obtain the newborn's Person Number for billing purposes.

2. HealthStart—Comprehensive Maternity Care Services: Approved HealthStart Maternity Care Providers (independent clinics and hospital outpatient departments) may determine presumptive eligibility for pregnant women who require services. (See N.J.A.C. 10:49-1.3 and 3.1).

(e) To apply for benefits: If a patient has not applied for benefits, is unable to pay for services rendered and appears to meet the requirements for eligibility for the New Jersey Medicaid Program, the provider should encourage the patient, or his/her representative, to apply for benefits through the county welfare agency/board of social services for programs such as Aid to Families with Dependent Children, Medicaid Only, Optional Categorically Needy (JerseyCare) for pregnant women and for children up to the age of two, or for Medically Needy; to the Social Security Administration for Supplemental Security Income benefits for the aged and disabled; or, in certain cases, to the New Jersey Division of Youth and Family Services. The agency will process the application and notify the patient of the resulting determination. If it is not known which agency is responsible for determining eligibility or which program might be

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applicable, the Medicaid District Office can be of assistance. (See Appendix A)

1. A patient receiving services prior to the notification of eligibility should be informed that he/she is considered responsible for all charges incurred until proof of eligibility is verified. Once eligibility is verified, the provider may not bill the patient for any portion of the costs of allowable services rendered on or after the effective date of eligibility.

2. Presumptive Eligibility—HealthStart Comprehensive Maternity Care providers: Independent clinics and hospital outpatient departments, if so designated, may determine "presumptive eligibility" for pregnant women who require services from such a provider. (See N.J.A.C. 10:49-1.3 and 3.1.)

(f) (No change.)

(g) (No change.)

CHAPTER 72
JERSEY CARE MANUAL

SUBCHAPTER 6. PRESUMPTIVE ELIGIBILITY

10:72-6.1 Scope

(a) Presumptive eligibility provides ambulatory prenatal care to pregnant women from a qualified provider for a period not to exceed 45 calendar days. Presumptive eligibility continues until the county welfare agency reaches its formal eligibility determination as follows:

1. The period of presumptive eligibility begins on the date a qualified provider determines that, based on information provided by the pregnant woman, the woman meets the requirements and standards of this chapter applicable to pregnant women.

2. The period of presumptive eligibility will terminate with the earlier of:

i. The date a determination of eligibility or ineligibility for Medicaid is made by the county welfare agency; or

ii. Forty-five days from the date the presumptive eligibility determination was made by the qualified provider if no determination of eligibility or ineligibility has yet been made by the county welfare agency.

(b) A qualified provider shall be:

1. A participating Medicaid provider;

2. Currently certified by the New Jersey Department of Health as a provider of HealthStart Comprehensive Maternity Care Services (see N.J.A.C. 10:49-3). A provider certified only for Medical Maternity Care Services, Health Support Services, or Pediatric Preventive Services shall not be a qualified provider for purposes of this subchapter;

3. A provider of the following services:

i. Outpatient hospital services; or

ii. Clinic services furnished by or under the direction of a physician, without regard to whether or not the clinic itself is administered by a physician; and

4. Trained and approved by the Division of Medical Assistance and Health Services for the purposes of making presumptive eligibility determinations.

i. The Division of Medical Assistance and Health Services will monitor the presumptive eligibility determinations made by qualified providers. In the event the review discloses a pattern of incorrect presumptive eligibility determinations or failure to adhere to procedural requirements, appropriate staff of the Division will meet with the qualified provider to discuss corrective action and to provide additional training if indicated. Continued incorrect presumptive eligibility determinations or failure to adhere to procedural requirements will result in the Division revoking approval for that provider to make presumptive eligibility determinations.

10:72-6.2 Responsibilities of a qualified provider

(a) From preliminary information provided by a woman whose pregnancy has been medically verified, the qualified provider shall determine if the pregnant woman meets the eligibility criteria of this chapter as it applies to pregnant women. The qualified provider must obtain sufficient information from the pregnant woman to complete the Certification of Presumptive Eligibility by having the pregnant

women complete, sign and date an application for Medicaid benefits as designated and provided by the Division of Medical Assistance and Health Services. For purposes of the presumptive eligibility determination, the qualified provider shall request from the pregnant woman only that information necessary to determine her presumptive eligibility or ineligibility. The qualified provider shall make the determination of eligibility based solely on information obtained in the interview and shall not require any verification or documentation of the pregnant woman's statements.

1. For any pregnant woman determined presumptively eligible, the qualified provider shall complete and sign the Certification of Presumptive Eligibility. The completed Certification of Presumptive Eligibility together with the pregnant woman's application for Medicaid shall be mailed or otherwise forwarded to the county welfare agency of the pregnant woman's county of residence within two working days of the presumptive eligibility determination. The qualified provider shall inform the pregnant woman that her presumptive eligibility provides only limited services for no more than 45 days and that she must contact the county welfare agency in order to set up an appointment to complete the application process for Medicaid benefits. The qualified provider shall give the presumptively eligible pregnant woman a copy of both the Certification of Presumptive Eligibility and her application for Medicaid benefits. The qualified provider shall advise the presumptively eligible pregnant woman, in writing, of the address and telephone number of the appropriate county welfare agency office.

2. For any woman for whom the qualified provider is unable to determine presumptive eligibility or who is ineligible under the criteria and standards of this chapter as it applies to pregnant women, the qualified provider shall refer the woman to the county welfare agency for evaluation of potential eligibility for Medically Needy or other Medicaid entitlement. The address and telephone number of the appropriate county welfare agency office shall be provided, in writing, to the pregnant woman.

10:72-6.3 Responsibility of the county welfare agency

(a) Upon the receipt of a Certification of Presumptive Eligibility together with the Medicaid application from a qualified provider, the county welfare agency shall:

1. Review the Certification of Presumptive Eligibility and the Medicaid application for completeness. Any certification that is not signed and dated by the qualified provider and does not include the estimated date of conception and delivery and the date of the presumptive eligibility determination shall be deemed to be incomplete. Any Medicaid application that does not contain the applicant's name, address, date of birth, race, signature and date shall be deemed to be incomplete. If either the certification or application is incomplete, the county welfare agency shall promptly return both documents to the qualified provider for completion along with a cover specification of the incomplete information. The county welfare agency shall retain a copy of any such material returned to the qualified provider;

2. If the Certification of Presumptive Eligibility and the Medicaid application are complete, create in the Medicaid Status File, an eligibility record for the presumptively eligible pregnant woman. The record shall include a termination date that equals the 45th calendar day from the date the qualified provider determined the woman to be presumptively eligible. The county welfare agency shall accept the completed and signed application just as any other bona fide application for Medicaid benefits;

3. Within five working days of the receipt of a completed Certification of Presumptive Eligibility, notify the qualified provider of the pregnant woman's Medicaid identification number;

4. Notwithstanding the application disposition standards in N.J.A.C. 10:72-2.1(d), arrive at a case disposition within 45 days of the date of the presumptive eligibility determination.

i. The policy at N.J.A.C. 10:72-2.1(d)2 concerning delayed application processing applies equally to the processing of the application of a presumptively eligible pregnant woman. In the event the 45-day processing standard is exceeded, the qualified provider must be notified within two working days of the 45th day that the woman

is no longer presumptively eligible and that processing of her Medicaid application has been delayed.

ii. In the event the processing of the application is delayed beyond the 45-day processing standard, the county welfare agency shall provide the applicant written notification prior to the expiration of the process period setting forth the specific reasons for the delay;

5. In the case of a presumptively eligible pregnant woman who is determined ineligible for Medicaid within the 45-day processing period, terminate eligibility on the Medicaid Status File immediately with a termination date of the day of the ineligibility determination. Within two working days of the determination of ineligibility, the county welfare agency shall notify the provider, in writing, of the pregnant woman's ineligibility for Medicaid;

6. In the case of a presumptively eligible pregnant woman who is determined eligible for Medicaid within the 45-day processing standard, assign a Medicaid number appropriate to the pregnant woman's eligibility status and, within two working days of the determination of eligibility for Medicaid, notify the qualified provider of the eligibility determination. In such instances, the termination date on the presumptive eligibility record should be updated to reflect the last day of presumptive eligibility; and

7. In circumstances when the determination of eligibility or ineligibility is not made within the 45-day processing standard, the county welfare agency is not required to notify the qualified provider of its final decision.

(b) The county welfare agency is required to conduct a face-to-face interview and verify all factors of eligibility before determining a presumptively eligible woman eligible for Medicaid benefits.

10:72-6.4 Applicant responsibilities

A presumptively eligible pregnant woman must contact the county welfare agency so that a face-to-face interview can be scheduled. As part of the eligibility determination process for her Medicaid application, the pregnant woman must be interviewed by county welfare agency staff, complete any forms required as a part of the application process, and assist the county welfare agency in securing evidence that verifies her statements regarding eligibility.

10:72-6.5 Notification and fair hearing rights

(a) For a presumptively eligible pregnant woman who is subsequently determined eligible for Medicaid benefits:

1. The county welfare agency is not required to provide either timely or adequate notice for the end of the presumptive eligibility. The pregnant woman has no right to a fair hearing based on the termination of her presumptive eligibility.

2. The county welfare agency shall provide the applicant notice of denial of her Medicaid application in accordance with N.J.A.C. 10:72-5.1. The pregnant woman has the right to apply for a fair hearing based on the denial of her Medicaid application.

(b) For a presumptively eligible pregnant woman whose eligibility for Medicaid has not yet been determined within 45 days from the date of the presumptive eligibility determination:

1. The county welfare agency is not required to provide either adequate or timely notice for the termination of her period of presumptive eligibility. The pregnant woman has no right to a fair hearing based on the termination of presumptive eligibility.

2. In accordance with N.J.A.C. 10:72-2.1(d)3, the county welfare agency shall provide the pregnant woman with written notification prior to the expiration of the 45-day period setting forth the specific reasons for the delay in the Medicaid application processing. The pregnant woman is entitled to a fair hearing based on the county welfare agency's failure to determine her Medicaid eligibility or ineligibility within the 45-day application processing period.

(c) A woman denied presumptive eligibility by a qualified provider is neither entitled to adequate notice of that determination nor entitled to a fair hearing on that action. The denial of presumptive eligibility shall not affect the woman's right to apply for Medicaid at the county welfare agency and to receive a formal determination of eligibility or ineligibility.

(a)

**Medicaid Only
New Eligibility Computation Amounts
Adoption of Concurrent Proposal: N.J.A.C.
10:71-5.4, 5.5, 5.6 and 5.7**

Proposed: January 19, 1988 at 20 N.J.R. 207(a).
Adopted: March 30, 1988, by Drew Altman, Commissioner,
Department of Human Services.
Filed: March 30, 1988 as R.1988 d.193, **with substantive changes**
not requiring additional public notice and comment (see
N.J.A.C. 1:30-4.5).
Authority: N.J.S.A. 30:4D-3i(7); 30:4D-7a, b and c; 42 CFR
435.210 and 435.1005.
Effective Date: May 2, 1988.
Expiration Date: January 6, 1991.

**Summary of Public Comments and Agency Responses:
No comments received.**

The Division is making some minor changes upon adoption to Table A, which is the deeming computation amounts. The Division is amending N.J.A.C. 10:71-5.5(g)2, which are the amounts used in the deeming of the income of an ineligible spouse to an eligible spouse. The "head of the household" column increases by \$1.00 (from \$177.00 in the proposal to \$178.00 on adoption). The "receiving support and maintenance" column has been increased by 67 cents (from \$118.00 in the proposal to \$118.67 on adoption). These figures were recomputed due to amendments to Federal regulations (20 CFR 416.1160).

There is also a change to N.J.A.C. 10:71-5.5(g)3a which is used in determining income eligibility in circumstances in which income deeming applies and the eligible individual and his or her spouse live with no other persons. The figure in the proposal was \$734.36; it is being increased by \$1.00 to \$735.36 on adoption. This change is necessary to computer recalculation.

These changes between proposal and adoption are non-substantive and will not place any additional burden on Medicaid applicants and/or recipients. The slight increase in the deeming amounts listed above might be beneficial to Medicaid applicants, recipients.

Except as noted above, the proposal is being adopted without change.

Full text of the adoption follows (additions to the proposal are indicated by boldface with asterisks ***thus***; deletions from the proposal are indicated by brackets with asterisks ***[thus]***):

10:71-5.4 Includable income

(a) Any income which is not specifically excluded under the provisions of N.J.A.C. 10:71-5.3 shall be includable in the determination of countable income. Such income shall include, but is not limited to, the following:

1.-11. (No change.)

12. Support and maintenance furnished in-kind (community cases): Support and maintenance encompasses the provision to an individual of his or her needs for food, clothing, and shelter at no cost or at a reduced value. Persons determined to be "living in household of another" in accordance with N.J.A.C. 10:71-5.6 shall not be considered to be receiving in-kind support and maintenance as the income eligibility levels have been reduced in recognition of such receipt. Persons not determined to be "living in household of another" who receive in-kind support and maintenance shall be considered to have unearned income in the amount of:

\$138.00 for an individual

\$197.33 for a couple

i. (No change.)

13. (No change.)

(b) (No change.)

10:71-5.5 Deeming of income

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

(g) A table for deeming computation amounts follows:

TABLE A

Deeming Computation Amounts		
1. Living allowance for each ineligible child		\$178.00
2. Remaining income amount	Head of Household \$*[177.00]**178.00*	Receiving Support and Maintenance \$*[118.00]**118.67*
3. Spouse to Spouse Deeming—Eligibility Levels		
a. Residential Health Care Facility	\$682.05	
b. Eligible individual living alone with ineligible spouse	\$*[734.36]**735.36*	
c. Living alone or with others	\$563.25	
d. Living in household of another	\$398.98	
4. Parental Allowance—Deeming to Child(ren)		
Remaining income is:	1 Parent	Parent & Spouse of Parent
a. Earned only	\$708.00	\$1,064.00
b. Unearned only	\$354.00	\$ 532.00
c. Both earned and unearned	\$354.00	\$ 532.00

10:71-5.6 Income eligibility standards

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

(c) Non-institutional living arrangements:

1.-4. (No change.)

TABLE B

Variations in Living Arrangements	Medicaid Eligibility Income Standards	
	Individual	Couple
I. Residential Health Care Facility	\$504.05	\$989.36
II. Living Alone or with Others	\$385.25	\$557.36
III. Living Alone with Ineligible Spouse	\$557.36	
IV. Living in household of another	\$280.31	\$447.76
V. Title XIX Approved Facility:	\$1,062.00†	
Includes persons in acute general hospitals, skilled nursing facilities, intermediate care facilities (level A, B, and ICFMR) and licensed special hospitals (Class A, B, C) and Title XIX psychiatric hospitals (for persons under age 21 and age 65 and over) or a combination of such facilities for a full calendar month.		

†Gross income (that is, income prior to any income exclusions) is applied to this Medicaid "Cap".

10:71-5.7 Deeming from sponsor to alien

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

(e) To determine the amount of income to be deemed to an alien, the CWA shall proceed as follows:

1. (No change.)

2. Subtract \$354.00 for the sponsor, \$531.00 for the sponsor if living with his or her spouse, \$708.00 for the sponsor if his or her spouse is a co-sponsor.

3. Subtract \$177.00 for any other dependent of the sponsor who is or could be claimed for Federal Income Tax purposes.

4. (No change.)

(f) (No change.)

(b)

DIVISION OF YOUTH AND FAMILY SERVICES

**Social Service Program for Individuals and Families
Personal Needs Allowance: Residential Health Care
Facilities and Boarding Homes**

Adopted Amendment: N.J.A.C. 10:123-3.2

Proposed: February 1, 1988 at 20 N.J.R. 225(b).
Adopted: April 8, 1988, by Drew Altman, Commissioner,
Department of Human Services.

Filed: April 18, 1988, as R.1988 d.201, **without change**.

Authority: N.J.S.A. 44:7-87.

Effective Date: May 2, 1988.

Expiration Date: July 20, 1990.

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Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

10:123-3.2 Amount

The owner or operator of each residential health care facility or boarding home shall reserve to each Supplemental Security Income recipient residing therein, and the owner or operator of each residential health care facility shall reserve to each General Public Assistance recipient residing therein, a personal needs allowance in the amount of at least \$55.00 per month. No owner or operator or agency thereof shall interfere with the recipient's retention, use, or control of the personal needs allowance.

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(a)

STATE BOARD OF MEDICAL EXAMINERS

Adopted New Rule: N.J.A.C. 13:35-1.5

Proposed: December 7, 1987 at 19 N.J.R. 2243(a).

Adopted: March 9, 1988 by Frank J. Malta, M.D., President, State Board of Medical Examiners.

Filed: April 11, 1988 as R.1988 d.203, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.5).

Authority: N.J.S.A. 45:9-2, 45:9-21(d).

Effective Date: May 2, 1988.

Expiration Date: November 19, 1989.

Summary of Public Comments and Agency Responses:

The New Jersey State Board of Medical Examiners afforded all interested parties an opportunity to comment on the proposed new rule, N.J.A.C. 13:35-1.5, relating to registration and permit requirements for graduate medical education program. The official comment period ended on January 6, 1988. Announcement of the opportunity to respond to the Board appeared in the New Jersey Register on December 7, 1987 at 19 N.J.R. 2243. Announcements were also forwarded to:

The New Jersey Hospital Association; the Directors of Medical Education at all New Jersey hospitals; the Trenton Times, the Star Ledger and the Camden Courier Post, newspapers of general circulation; medical societies, including the Medical Society of New Jersey and the New Jersey Association of Osteopathic Physicians and Surgeons; Medical schools, including the University of Medicine and Dentistry; St. George's University, Ross University School of Medicine, and other interested parties.

A full record of this opportunity to be heard can be inspected by contacting the Board of Medical Examiners, 28 West State Street, Trenton, New Jersey 08608.

Written comments were received from 12 hospitals and health care systems; five universities and educational institutions; the Advisory Medical Education Council; the New Jersey Hospital Association; the Medical Society of New Jersey; Parents League of American Students of Medicine Abroad; and one physician. The comments received generally fall into several categories set forth below with the Board's response to each. Additionally, at its February meeting, the Board of Medical Examiners (hereinafter "the Board") voted to adopt a revised version of the proposed rules. Thereafter, on February 17, 1988, at the request of the Medical Society, the Credentials Committee of the Board met with medical educators to address concerns regarding the logistics of the proposed rules. Those in attendance at that meeting were William Black, M.D., Hackensack Medical Center; John Zapp, M.D., Hunterdon Medical Center; Angelo Angeledes, M.D., U.M.D.N.J.; Robert Wood Johnson, Cooper Medical Center; Frederick Humphrey II, D.O., Dean, U.M.D.N.J.; Karen Putterman, M.D., U.M.D.N.J.; Mary Willard, M.D., West Jersey Health Systems; Frances Hulse, M.D., Muhlenberg Regional Medical Center; Martin Johnson, N.J. Medical Society; and Board members Michael Grossman, D.O., Chairman; T. Edward Hollander, Ph.D.; Edward Luka, M.D.; and Joseph McGahn, M.D. Numerous constructive comments were made which warranted review by

the Board. Since the rule adoption approved in February had not yet been formally submitted to the Office of Administrative Law, the Committee recommended that the Board rescind it. Additional charges, reflective of the comments made before the Credentials Committee, were discussed at the March meeting of the Board, and thereafter the rule as it appears in this notice was approved for adoption.

COMMENT: The most consistent objection to the proposed rule was that it would have a detrimental impact on the recruitment abilities of medical educators in this State. Many commentators felt that the pool of physicians who would accept residency positions in this State would evaporate if the applicants were to be deprived of the opportunity to earn supplemental income through moonlighting.

RESPONSE: The ultimate concern of the Board is of course, the protection of the public and it sees a value in this rule even if it does impact on the recruitment for programs and the ability of residents to earn supplemental income. With respect to the consistent argument that the administrative burdens which will be placed upon applicants by virtue of this rule will dissuade individuals from applying to programs in New Jersey, the Board reiterates its desire to streamline the mechanisms in this rule. It is contemplated that applicants for the first year of post-graduate training will be required to complete a certification on a form provided. With respect to individuals applying for permits, the Board will endeavor to make the process as simple as possible.

More fundamentally, the Board notes that many of those who commented on the rule misunderstood its reach. Pursuant to N.J.S.A. 45:9-8, applicants who have demonstrated a thorough and satisfactory course of instruction in medicine and surgery are deemed eligible for licensure after the completion of one year of postgraduate work. This rule, N.J.A.C. 13:35-1.5, does not disturb that statute. It does, however, provide a mechanism for the issuance of permits for individuals who are not eligible for licensure upon the completion of one year of postgraduate work. Pursuant to N.J.A.C. 13:35-3.1, foreign medical graduates (hereinafter FMGs) graduating after July 1, 1985 are required to complete three years of training before being deemed eligible for licensure. Accordingly, the rule being adopted herein does not disturb the status quo as many of its critics had feared.

Moreover, this rule also acknowledges that a resident who is registered or who is a permit holder may practice in the context of a program integrated into the curriculum. It does not preclude the hospitals from offering additional remuneration to those residents who choose to supplement their income in supervised experiences. Indeed at subsection (e), the Board has substituted language to make it clear that practice by a resident is not limited solely to the hospital, but rather in any component part of a graduate medical education program, even if it is pursued outside the confines of the hospital.

COMMENT: Several program directors expressed concern regarding the timetable embodied in the rule. They felt that there was a need for greater flexibility in dealing with emergent vacancies in the program. Additionally, commenters suggested that there would be difficulty in complying with the rule during its first year of operation. One writer suggested that a pre-authorization mechanism be established to address the emergent vacancy problem.

RESPONSE: To facilitate the implementation of the rule, the Board has determined that during the first year after its promulgation, directors will be required to submit only a master list. Applications for registration and for permits will be available so that those persons wishing to take advantage of the provisions may do so. With respect to the timetables to which the programs will need to adhere during the second year, the Board will strive to streamline the process through the creation of simple forms. The Board has also clarified that the directors need not undertake an exhaustive investigation to verify the assertions contained in the registration applications. The director will be expected to provide any information he may possess that contradicts the assertions, but he need not personally verify the certification.

Through this adopted version of the rule, the Board would allow program directors to issue a temporary permit in emergent circumstances without prior Board approval, provided timely notice of such a grant is given to the Board. This revision is directly responsive to the commenters' concern that they will be unable to fill emergent vacancies. Since such a temporary authorization would only enable the individual to work for a limited period of time (30 days as to registered residents, 60 days as to permit holders), the Board believes that there will be no negative impact associated with this revision. This particular authority, however,

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is not delegable to individual program directors but must be exercised by the Director of Medical Education or the individual designated as director under this rule.

With respect to the comment that a pre-authorization mechanism be established, the Board is of the opinion that such a measure would be too unwieldy and would not be likely to result in any substantial benefit.

COMMENT: Many writers urged a modification of the requirement that countersignature of resident orders be obtained within 24 hours. It was felt that such a requirement was unrealistic and impractical.

RESPONSE: At the outset, it should be noted that at present the orders of all unlicensed residents must be countersigned within 24 hours. In its proposal, the Board had intended to allow permit holder orders to be countersigned upon patient discharge. In response to the comments received, the Board has reassessed its initial proposal relating to countersignatures. Although the Board still sees a value in close supervision of first year residents, it has recognized that the enforcement of this provision has engendered some problems. The Board has attempted to balance the benefit to be derived from acquiring the countersignature with the burdens involved in implementation. As a result, the Board, via this rule, will now require that in-patient orders of unlicensed first year residents be countersigned by a plenary physician or permit holder before the patient leaves the hospital. Permit holders will be permitted to issue orders and prescriptions without countersignature. The Board also recognizes that with respect to out-patient prescriptions, countersignature of a plenary licensed physician will still be necessary since those prescriptions may be presented for filling at an outside pharmacy. The Board is of the opinion that these relaxed requirements place an emphasis on the supervision which will be provided by medical educators and not on technical compliance. It is the Board's hope that supervision will be provided through the appropriate review of the care of any patient prior to discharge.

COMMENT: Several writers expressed concern that the Board would not provide a hearing prior to the withdrawal of a registration or the termination or suspension of a permit.

RESPONSE: It was never the Board's intention to deny registered residents or permit holders of an opportunity to be heard. The Board has thus made amendments to subsections (j) and (t) to clarify the fact that upon notice of an intention to withdraw the registration or to terminate a permit, the individual will be entitled to a hearing to be conducted in accordance with the Administrative Procedure Act.

COMMENT: Other commentators noted that the Board was denying the right to a hearing to individuals who are applying to obtain authorization to practice.

RESPONSE: Again, it was never the Board's intention to deny such individuals the opportunity to be heard if good cause exists. Accordingly, the Board has amended subsections (i) and (s) to reflect that applicants will be provided an opportunity to appear before a committee for good cause shown.

COMMENT: A number of writers objected to the rule on the grounds that it would impose an administrative burden on residency training programs which would have a detrimental economic impact on their operation. Additionally, there was resistance to casting the directors of medical education in the role of fee collectors.

RESPONSE: The Board has attempted to fashion a remedy to fulfill its responsibility to the public. To minimize any adverse impact which this process may have, the Board will endeavor to streamline the process as much as possible. It envisions that simple and understandable forms will be created which will not require the expenditure of significant resources to collect and process. In an effort to minimize this impact, the Board, in the adopted rule, has extended the validity of the permit "for the duration of the graduate medical education program," thus obviating the need for renewal.

While the Board understands the reluctance on the part of directors of medical education to be fee collectors, it has structured this requirement so that the director may maintain control over the resident in his training program. The Board sees an advantage to the director in being able to have his entire program simultaneously handled by the Board.

COMMENT: Some of the program directors were concerned that they were being asked to certify as to the successful completion of the resident's program when, in fact, the resident had only been participating for eight months.

RESPONSE: The Board has clarified language at subsection (m) to make clear that the directors are to certify as to the individual's progress to date.

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COMMENT: Some writers expressed concern regarding the requirement that all leaves of absence be reported.

RESPONSE: The Board recognizes that leaves can be granted for a wide variety of reasons, including maternity. Accordingly, the Board added qualifying language to subsection (w) to limit the reportable leaves to those granted for reasons relating to competency.

COMMENT: A number of program directors noted that the rules in their proposed form might present an impediment to graduates from fully accredited American medical schools who have done clinical rotations as part of their curriculum at hospitals that do not have residency training programs in the field. Specifically, concern was raised with regard to students in the New Jersey medical schools who may rotate through hospitals with family practice residency training programs.

RESPONSE: The inclusion of the requirement that applicants shall have had clinical rotations in the core fields, is to assure the Board that individuals have had broad exposure to appropriate medical training at facilities with organized medical education programs.

In considering the comments, the Board recognizes that it has such assurance with respect to graduates of schools subject to accreditation by the LCME or AMOA. Accordingly, it has revised the provision to require such certification only where the clerkships have been completed away from the site of the medical school not approved by the LCME or AOA. It is in those limited instances that the Board perceives a special need to demonstrate quality exposure to a variety of medical fields.

COMMENT: A number of writers expressed their support for a bill presently pending in the legislature that creates temporary licensure for medical residents in approved programs of graduate medical education.

RESPONSE: The Board is confident that the registration and permit mechanism established by this rule will achieve much of the benefit that the sponsors of that legislation may be seeking to achieve. To the extent that legislation is seen as a means of eliminating the need for physician countersignature, the Board feels that the compromise reached on countersignature as set forth in this rule adequately responds to the institutional needs while assuring some protection to the public, especially with regard to those in their first year of training.

COMMENT: A public hearing was requested.

RESPONSE: The Board has been responsive to the many comments that were received. Indeed, the Board met with representatives of several hospitals and directors of residency training programs. It will continue to assist individuals in complying with the requirements of this rule and intends to conduct an orientation program to familiarize directors of medical education with the provisions of these regulations. The Board does not deem a public hearing to be necessary at this time and feels that the best interests of the public will be served by implementing the rule and having it in place and operative as soon as possible.

COMMENT: Some writers questioned the Board's statutory authority to promulgate this rule.

RESPONSE: The Board unquestionably possesses the authority to regulate the practice of medicine in this State. Although persons in residency training are not required to obtain a license pursuant to N.J.S.A. 45:9-21(d), the Board deems there to be a substantial need to know who is practicing under that exemption, as well as a need to appropriately regulate the scope of practice in which such persons are engaged. It considers this rule to be consistent with its enabling act and necessary to the discharge of its statutory obligations.

COMMENT: One writer expressly endorsed the rule and advocated its passage maintaining that the rule will provide residents the opportunity to manage patients while still under the scrutiny of private physicians and that it will provide better care for patients in a clinical situation.

RESPONSE: The Board acknowledges and agrees with this comment.

Summary of changes upon adoption:

1. As proposed, the definition of "applicant" in subsection (a) meant "an unlicensed graduate of a medical school." Since graduates holding licenses issued in other jurisdictions who seek to do residency training in New Jersey will still be required to obtain authorization to practice in that context in this State, the Board rephrased the definition to make it clear that the rule terms are applicable to any resident participating in a program who is not in possession of a license issued in this State.

2. At (c) i.e. the term "university" has been deleted and the provision now refers to "undergraduate level credits at a college or university" since that description may be more widely understood.

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3. The provision at (c)iv. has been limited so as not to require the extra proofs concerning clinical clerkships of graduates of medical schools which are subject to the accreditation process applied by the Liaison Committee of Medical Education and the American Osteopathic Association. The Board is satisfied that the criteria applied by those organizations will assure that graduates have had adequate clinical exposure. With respect to graduates of schools which are not subject to this accreditation process who have taken clinical training away from the campus of their foreign medical school, the Board sees a value in assuring that students have had exposure to all of the core medical fields. This change thus decreases the burden on a large number of applicants.

4. Subsection (c)5 had required applicants who are eligible to take the ECFMG or the FMGEMS examination to demonstrate that they have acquired a passing score within three attempts. After due consideration of the public comments, the board voted to delete the requirement that the passing score be achieved within three attempts, since such a standard is not presently applicable to persons seeking plenary licensure.

5. Subsection (d) has been revised to make it clear that with respect to registration applicants the Director need not undertake exhaustive investigation to verify the assertions contained in the applications. He must review the application and make certain that the applicant has indicated that he has attained the academic prerequisites.

6. At subsection (e), the Board has substituted language to make it clear that the first year residents may engage in the practice of medicine in a program conducted by the hospital. The original language might have been read to limit the resident to practice only at the hospital. So long as the resident is functioning in a component part of the program, practice is permitted outside the confines of the hospital.

7. At subsection (f), a spelling error has been corrected.

8. Subsections (g) and (q) have been revised to allow the program director to issue temporary permits in emergent circumstances, without prior Board approval, since it was felt that directors might need that flexibility to fill vacancies that may unexpectedly arise. Subsection (w) provides that this is a non-delegable function.

9. At subsections (h) and (t), the Board, in part, in response to public comments, has determined to allow residents more latitude in the issuance of orders. In the inpatient setting, orders issued by first year residents will not require countersignature of a plenary physician within 24 hours as is presently required. These orders will still require countersignature by the time the patient is discharged, but that countersignature can be supplied by either a plenary licensed physician or a permit holder. The burdens and restrictions which the original proposal had imposed upon permit holders have also been reduced. In the in-patient setting there is no longer a requirement that a permit holder's order be countersigned. In the outpatient setting, prescriptions will still need to be signed by a plenary licensed physician since such prescriptions will be presented to pharmacies outside the institution.

10. At subsections (i) and (s), the Board has inserted language making clear its intention to afford applicants an opportunity to appear before a committee of the Board to contest a proposed denial of a registration or a permit upon a showing of good cause.

11. At subsections (j) and (t), the Board has inserted language making it clear that registered residents and permit holders are to be provided with notice of a proposed withdrawal or suspension and given the opportunity to request a hearing which would be conducted in accordance with the Administrative Procedure Act.

12. At subsection (l), certain clarifications were made in the codification, deleting the original subsection (m), since it properly belonged to and has been recodified to subsection (l), which delineates the requirements to be met by the permit applicant. Proposed (m)l. now becomes subsection (m).

13. Also at subsection (l)5, in response to the common sense observation of many writers, the Board revised the language relating to the certification of successful completion of the first year of a graduate medical education program. Since at the time that the permit applications will have to be filed, residents will not yet have completed a year, the program directors will now be asked to certify as to the resident's successful performance to date.

14. At subsection (o), the Board substituted use of the word "shall" for the word "may" to make it clear that if all prerequisites have been met, the authorization to practice will be issued.

15. At subsection (v), the Board has determined to extend the term of validity of the permit to enable the holder to complete the graduate medical education program in which he is participating. Transfer application forms need to be filed if the resident changes programs.

16. Subsection (w), the Board expressly acknowledges that directors can delegate responsibilities to individual program directors, except the authority to issue temporary permits, as provided by subsection (g) and (q).

17. Subsection (w)4. has also been revised to clarify the type of leave of absence which would trigger the reporting requirement.

18. Subsection (y) sets forth a revised time-table for implementing the rule, requiring the production of a master list in the first year, with permits and registrations to be made available to those who elect to file such applications.

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

13:35-1.5 Registration and permit requirements for graduate medical education programs

(a) The following terms shall have the following meanings unless the context in this section indicates otherwise:

"Applicant" means ***[an unlicensed]* *a*** graduate of a medical school*****, **unlicensed in this State,*** seeking authorization to engage in the practice of medicine as a resident in a graduate medical education program. A registration applicant is seeking authorization to participate in the first year of a graduate medical education program. A permit applicant is seeking authorization to participate in his or her second year (or beyond) of a graduate medical education program.

"Director" means a physician holding a plenary license to practice medicine and surgery in New Jersey who is responsible for the conduct of one or more graduate medical education programs at a hospital licensed in this State and whose responsibilities shall include generally overseeing the selection, training and evaluation of residents.

"Graduate Medical Education Program" means an educational program, whether denominated as an internship, residency, or fellowship, which is accredited by the Accreditation Council on Graduate Medical Education (ACGME) or by the American Osteopathic Association (AOA) in which the graduates of medical schools participate for a limited period of time under the supervision of plenary licensed physicians.

"Master list" means a list prepared by the director setting forth the name of each person seeking to practice medicine in that graduate medical education program in New Jersey, designating the social security number, date of birth, medical schools attended and the type of program in which the person is participating.

"Permit" means a document issued by the New Jersey State Board of Medical Examiners authorizing the holder to engage in the practice of medicine in the second year of a graduate medical education program (or beyond) in this State, subject to the limitations set forth in this rule.

"Permit holder" means a person authorized to engage in the practice of medicine in the second year of a graduate medical ***education*** program (or beyond) in the state of New Jersey, subject to the limitations set forth in this rule.

"Registered resident" means an applicant granted authorization to engage in the practice of medicine in the state of New Jersey in the first year of a graduate medical education program, subject to the limitations set forth in this rule.

"Registration" means authorization to engage in the practice of medicine in this State in the first year of a graduate medical education program subject to the limitations set forth in this rule.

"Resident" means a participant in training in a graduate medical education program at a hospital in this State. For purposes of this rule, persons serving in internships and fellowships shall be deemed residents.

(b) No unlicensed person shall engage in the practice of medicine in the first year of a graduate medical education program unless and until he or she is registered with the Board. No unlicensed person shall engage in the practice of medicine in the second year of graduate medical education or beyond unless or until he or she has been issued a permit by the Board.

(c) A registration applicant shall certify that he or she:

1. Has attained the preliminary educational prerequisites for licensure, including:

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i. Completion of at least 60 *[university]* ***undergraduate*** level credits, ***at a college or university*** attained prior to medical school, including at least one course each in biology, chemistry and physics.

ii. Graduation from a medical school which, during each year of attendance, was either accredited by the Liaison Committee on Medical Education (LCME) or the AOA or listed in the World Directory of Medical Schools. If the applicant has attended more than one medical school, he or she shall certify that each school attended was accredited or listed in the World Directory during the same time he or she was matriculated.

iii. Attendance at medical school for at least 32 months prior to graduation.

iv. ***Where clinical clerkships have been completed away from the site of a medical school not approved by the LCME or the AOA,*** satisfactory completion of clinical clerkships of at least four weeks duration each in internal medicine, surgery, obstetrics and gynecology, pediatrics and psychiatry at hospitals which maintained at the time of the clerkship a graduate medical education program in that field.

2. Has never been the subject of an administrative disciplinary proceeding by any state professional licensing agency, has never been convicted of a criminal offense of any grade or admitted to a pre-trial diversionary program, has never been denied licensure eligibility to sit for an examination or eligibility to participate in a postgraduate training program in this or any other state, has never had privileges at a hospital terminated or curtailed for cause, has never been asked to resign from a graduate medical education program or hospital staff, has never had privileges to prescribe controlled dangerous substances curtailed or limited by any regulatory authority, has never had privileges to participate in any state or federal medical assistance program (Medicare, Medicaid) curtailed or limited by any regulatory authority.

3. Is not, at the time that the certification is executed, the subject of an administrative disciplinary proceeding by any State professional licensing agency, or other regulatory authority (that is, Drug Enforcement Agency, Medicare, Medicaid), or the subject of any criminal proceeding (under arrest, indictment or accusation).

4. Is not physically or mentally incapacitated to a degree which would impair his or her ability to practice medicine, and is not at the time of application habituated to alcohol or a user of any controlled dangerous substance, except upon good faith prescription of a physician.

5. Has achieved a passing score*[, within three attempts,]* on the ECFMG or FMGEMS examination, if he or she is a graduate of a foreign medical school.

(d) The Director shall obtain a registration form from each registration applicant and shall retain those forms, which may be subject to review by the Board. The Director shall certify that he or she has personally reviewed the registration form of each registration applicant who has accepted an offer of employment to ascertain that the *[person]* ***registration applicant has certified that he or she*** has attained the prerequisites set forth in (c) above and ***that the Director*** is unaware of any information which would contradict any of the representations contained in that registration application form. If the Director shall have reason to question the veracity or reliability of those representations, he or she shall direct the registration applicant to supply the supporting documentation. The Director shall prepare a master list including all registration applicants and ***shall*** submit it to the Board, along with his or her certification, no later than one month before the registration applicants are to begin participating in the graduate medical education program.

(e) The Board shall review the Director's certification, and shall issue to the Director a list of residents registered to engage in the practice of medicine in the first year of the graduate medical education program ***[at]* *conducted by*** that hospital. The Board shall provide to the Director a permit application for dissemination to each registered resident.

(f) A registration applicant unable to certify that he or she has attained the prerequisites set forth at (c) above shall state on the registration application form the reason that he or she is unable to so certify. The Director seeking to offer employment to a registration applicant unable to certify that he or she has attained all the pre-

quisites, may seek from the Board a waiver which would enable the applicant to participate in the first year of a graduate medical education program. The Board, in its discretion, may grant or withhold such waiver for good cause. However, in no event may the applicant begin ***[particing]* *participating*** until the waiver for good cause request has been granted and the individual's name included on the list of registered residents or temporary authorization has been granted pursuant to (g) below.

(g) In the event that a registration applicant has been unable to submit the required certification in a timely manner, ***[upon the Director's request, the Board]* *the Director*** may grant that applicant temporary authorization to participate in the first year of a graduate medical education program, which will allow him or her no more than 30 days to complete the application process*, **provided that notice of such a grant is provided to the Board within five working days***.

(h) A registered resident may engage in the practice of medicine, provided that such practice shall be confined to a hospital affiliated with the graduate medical education program and outpatient facilities integrated into the curriculum of the program, under the supervision of licensed plenary physicians. All prescriptions and orders issued by registered residents ***in the inpatient setting*** shall be countersigned by a licensed ***[plenary]*** physician ***[within 24 hours.]* *or a permit holder, at the minimum upon the patient's discharge, or sooner if the Director so requires. All prescriptions issued by registered residents in the outpatient setting which are to be filled in a pharmacy outside a licensed health care facility shall be signed by a licensed physician.***

(i) The Board may refuse to register a registration applicant if he or she has not certified that the prerequisites set forth in (c) above have been satisfied or if the Board is in possession of any information contradicting the representation made in the registration application form. The Board shall give the Director and the registration applicant notice of its refusal, allowing the submission of documentary evidence in rebuttal. ***Upon a showing of good cause* *[*T]***the applicant *[*shall not be entitled to an evidentiary hearing.]* * will be granted *an appearance before a committee of the Board.***

(j) In addition to any practice declared to be a basis for sanction, pursuant to P.L. 1978, c.73 (N.J.S.A. 45:1-14 et seq.) the ***[following]* practices *listed below,*** upon proof, shall also provide basis for the withdrawal of the authorization to engage in the practice of medicine as a registered resident. ***Upon receipt of the notice of proposed withdrawal, the registered resident may request a hearing, which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.***

1. Termination or withdrawal from the graduate medical education program.

2. Failure to advise the Board of a termination or withdrawal from a graduate medical ***education*** program;

3. Engaging in any act or practice beyond the scope of those authorized pursuant to ***[(g)]* *(h)*** above.

(k) Upon a duly verified application of the Attorney General, alleging a violation of any act or regulation administered by the Board, which palpably demonstrates that the resident's continued practice would constitute a clear and imminent danger to the public health, safety and welfare, upon notice, the Board may enter an order temporarily suspending the resident's authority to engage in the practice of medicine pending a plenary hearing on the charge.

(l) A permit applicant shall submit to the Board a permit application form certifying that he or she has attained the prerequisites set forth in (c) above, and in addition, shall forward to the appropriate individuals requests for the production of the ***[following]* documentation*[:]*** listed below. ***The documentation sought by the permit applicant shall be sent directly to the Director by the certifying individual. The permit applicant shall also submit to the Director a check or money order in the sum of \$50.00 made payable to the New Jersey State Board of Medical Examiners.***

1. Registrar's certification of attendance or college transcript from each college attended;

2. Registrar's certification of attendance or medical school transcript from each medical school attended;

3. Certification of ECFMG or FMGEMS scores, if applicable;

4. Certification of successful **[completion of]** **performance during** the first year of a graduate medical education program **to date***

[(m)] The documentation sought by the permit applicant shall be sent directly to the Director by the certifying individual. The permit applicant shall also submit to the Director a check or money order in the sum of \$50.00 made payable to the New Jersey State Board of Medical Examiners.]*

[1.][(m)]** The Director shall obtain from the permit applicant the application form and the \$50.00 fee and shall also receive and retain certified documentation, set forth in **[(k)]* [(l)]*** above. No later than four months before the date on which the applicant is scheduled to begin participating in the second year of a graduate medical education program (or beyond), the Director shall submit to the Board a complete application packet for each person to whom an offer of employment has been extended. This packet shall include:

[i.]1.*** Permit application, completed by the applicant.

[ii.]2.*** Registrar's certification for each college attended or college transcript for each college attended.

[iii.]3.*** Registrar's certification for each medical school attended, or medical school transcript for each medical school attended.

[iv.]4.*** Certification of ECFMG or FMGEMS scores, if applicable.

[(v.)5.*** Certification of successful **[completion of]** **performance during** the first year of graduate medical education **to date**.*

[(vi.)6.*** Permit fee of \$50.00 in the form of check or money order made payable to the New Jersey State Board of Medical Examiners.

(n) The Director shall certify that he or she has offered a position to the applicant and has personally reviewed the permit application form and all supporting documentation and is unaware of any information which would contradict any of the representations in that application form or in any of the supporting certifications. If the Director shall have reason to question the veracity or reliability of those representations, he or she shall direct the permit applicant to supply the supporting documentation.

(o) Upon receipt of the permit application packet, the Board shall review each permit packet and if it is satisfied that the permit applicant has the necessary prerequisites, it **[may]* shall** issue to the applicant a permit authorizing that person to engage in the practice of medicine in the second year (or beyond) of a graduate medical education program.

(p) A permit applicant unable to certify that he or she has attained the prerequisites set forth at (c) above shall state on the permit application form the reason that he or she is unable to so certify. In addition, if he or she is unable to produce the supporting documentation set forth at **[(l)]* [(m)]*** above, an explanation must be provided. A permit applicant who has been unable to certify that he or she has attained all the prerequisites, or unable to produce the required supporting documentation, may seek from the Board a waiver which would enable the person to be issued a permit. The Board, in its discretion, may grant or withhold such waiver for good cause shown. However, in no event may the permit applicant begin to participate in the second year (or beyond) of a graduate medical education program until the program waiver request has been granted and the permit issued **or a temporary permit issued**.*

(q) In the event that a permit applicant has been unable to submit the required certification or supporting documentation in a timely manner, **[upon the Director's request, the Board]* the Director** may grant the permit applicant a temporary permit, which will allow him or her **[no more than 30 days to complete the application process.]* to participate in the graduate medical education program for no more than 60 days, to allow for the completion of the application process provided that notice of such a grant is provided to the Board within five working days.***

(r) A permit holder may engage in the practice of medicine provided that such practice shall be confined to a hospital affiliated with the graduate medical education program and outpatient facilities integrated into the curriculum of the program, under the supervision of licensed plenary physicians. **Prescriptions and orders may be issued by permit holders in the inpatient setting without counter-**

signature.* All prescriptions **[and orders]*** issued by permit holders **in the outpatient setting which are to be filled in a pharmacy outside of a licensed health care facility*** shall be **[countersigned]* signed*** by a licensed **[plenary]* physician.*** **[(, at the minimum upon patient's discharge, or sooner if the Director so requires.)*]**

(s) The Board may refuse to issue a permit to a permit applicant if he or she has not certified that the prerequisites set forth in (c) above have been satisfied, if the supporting documentation set forth in (l) above has not been produced or if the Board is in possession of any information contradicting the representation**s*** made in the permit application form or supporting documentation. The Board shall give the Director and the applicant notice of its refusal, allowing the submission of documentary evidence in rebuttal. **Upon a showing of good cause the** **[(The)]* applicant** **[shall not be entitled to an evidentiary hearing]* will be granted an appearance before a committee of the Board**.*

(t) In addition to any practice declared to be a basis for sanction, pursuant to P.L. 1978, c.73 (N.J.S.A. 45:1-14 et seq.), the **[following]* practices listed below,*** upon proof, shall also provide basis for the termination or suspension of a permit**[(,)*].*** **Upon receipt of the notice of proposed termination or suspension the permit holder may request a hearing which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.***

1. Termination or withdrawal from a graduate medical education program.

2. Failure to advise the Board of a termination or withdrawal from a graduate medical **education*** program.

3. Engaging in any act or practice beyond the scope of those authorized pursuant to **[(p)]* [(r)]*** above.

(u) Upon a duly verified application of the Attorney General alleging a violation of any act or regulation administered by the Board which palpably demonstrates that the resident's continued practice would constitute a clear and imminent danger to the public health, safety and welfare, the Board may enter an order temporarily suspending the resident's authority to engage in the practice of medicine pending a plenary hearing on the charge.

(v) A permit shall be valid for **[a period of no more than one year, but may be renewed upon submission of a permit renewal application.]* the duration of the graduate medical education program in which the permit holder is participating. If the permit holder seeks to change programs, he or she must submit a transfer application form.*** All **[renewal]* transfer*** applications must be accompanied by a certification from the Director of the graduate medical education program in which the applicant has been or is currently participating, attesting to successful **[completion of]* performance in*** the program.

[1.][(w)]*** Each hospital offering a **[post-graduate training]* program*(s)*** shall designate one physician who would qualify as a Director to fulfill the responsibilities set forth in this rule. **The Director may delegate to individual program directors these responsibilities, so long as he retains ultimate responsibility for the conduct of the program, except that the Director may not delegate the authority to issue temporary authorizations.***

[(w)]* In addition to the responsibilities placed upon the Director by this rule, he or she shall:

1. Implement procedures to assure that all prescriptions and orders issued by **[registered]* residents** are countersigned **or signed*** **[by plenary licensed physicians within 24 hours]* in accordance with the requirements of this rule:*** **[(and that all prescriptions and orders issued by permit holders are countersigned by plenary licensed physicians no later than patient discharge.)*]**

2. Provide broad oversight of the activities of all program participants.

3. Report to the Board any conduct by a resident which **[might]*, if proven, would*** represent cause for the withdrawal of registration or the suspension of a permit.

4. Report to the Board if any resident is granted a leave of absence for any reason, **relating to a medical or psychiatric illness or to medical competency or conduct which would represent cause for the withdrawal of the authority to practice,*** providing an explanation.

(x) The authorization granted to an unlicensed person to participate in the first year of a graduate medical education program shall

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not be construed to imply that that person will be deemed eligible for the issuance of a permit or a license. The issuance of a permit similarly should not be construed to imply that the permit holder will be deemed eligible for licensure.

(y) This rule shall be effective upon publication as an adopted rule in the New Jersey Register. *[Directors will be provided with registration application forms prior to the effective date.]* With respect to the first year during which this rule is in effect, *[all unlicensed residents intending to participate in a graduate medical education program on or after July 1, 1988 shall be required to be registered. Permit applications will be made available within six months of the effective date of rule, and permits may be issued thereafter, if practicable. Permits will be required for participants in the second year (or beyond) of a residency training program which begins on or after July 1, 1989.]* ***Directors shall be required to submit a master list. Registration application forms and permit application forms will be made available after the publication of the rule. Unlicensed residents intending to participate in a graduate medical education program on or after July 1, 1988 may, if they so choose, seek registration or a permit, as may be applicable for the year beginning on July 1, 1988. Registration and permits will be required, as applicable, for participants in the second year (or beyond) of a residency training program which begins on or after July 1, 1989.***

COMMERCE, ENERGY AND ECONOMIC DEVELOPMENT

(a)

DIVISION OF ENERGY PLANNING AND CONSERVATION

**Individual Electric Metering in Residential Buildings
Adopted Repeal: N.J.A.C. 14A:3-7**

Proposed: December 7, 1987 at 19 N.J.R. 2247(a)
Adopted: March 10, 1988 by Borden R. Putnam, Commissioner,
Department of Commerce and Economic Development
Filed: March 30, 1988 as R.1988 d.188, **without change**.
Authority: N.J.S.A. 52:27F-11(q).
Effective Date: May 2, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

OFFICE OF ADMINISTRATIVE LAW NOTE: N.J.A.C. 14A:3-7 was repealed by the Department of Community Affairs pursuant to authority of N.J.S.A. 52:27D-124: Reorganization Plan No. 001-1986, which placed the metering miles in N.J.A.C. 5:23-3.18. This repeal was filed and became effective February 1, 1988 as R.1988 d.50 (see 19 N.J.R. 1862(b); 20 N.J.R. 268(a)). This repeal by the Department of Commerce, Energy and Economic Development is for this purpose of complete notification to the regulated public that this subchapter was repealed.

(b)

**Business Energy Improvement Program
Adopted: Amendments: N.J.A.C. 14A:6-2**

Proposed: February 1, 1988 at 20 N.J.R. 250(b).
Adopted: April 4, 1988 by Borden R. Putnam, Commissioner,
Department of Commerce, Energy and Economic
Development
Filed: April 6, 1988 as R.1988 d.197, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:1-4.3).
Authority: N.J.S.A. 52:27F-11g and m, and 52:18A-209 et seq. (P.L. 1987 c.231).
Effective Date: May 2, 1988.
Expiration Date: August 8, 1989.

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Summary of Public Comments and Agency Responses:

On March 2, 1988 a public hearing was held at the State Library in Trenton on the proposed amendments to the Business Energy Improvement Program before Assistant Commissioner Harvey M. Sachs. The hearing was divided into two parts by Mr. Sachs. He first called for public testimony on the body of the rules proposed for amendment in the February 1, 1988 New Jersey Register. Receiving none, he then proceeded to distribute and ask for comments on the Division's guidelines for demonstration program grants pursuant to amended N.J.A.C. 14A:6-2.7. Notice of the availability of the guidelines at the hearing was accomplished by a mailing to a list of academic institutions and not-for-profit institutions. Testimony was given by a number of individuals on the guidelines and the Division indicated that it was able to incorporate most of their concerns in a reissued set of guidelines. Those guidelines were reissued in final form on March 15, 1988.

COMMENT: The Economic Development Authority asked that the definition of eligible applicant be expanded to include those industrial parks that may not be included in designated Urban Enterprise Zones.

RESPONSE: The Department has provided for this class of applicant by including a broad class of potential recipients of subsidies and revolving loans. Businesses that are in industrial parks outside the Urban Enterprise Zones can qualify provided they meet the definition of small business contained in 13 CFR Part 121.2.

COMMENT: The Department of Agriculture expressed concern that N.J.A.C. 14A:6-2.5(c) allows the Division to charge reasonable fees to evaluate applications.

RESPONSE: The Division notes the concern and has changed the rule so that reasonable fees may be charged for demonstration program applications only. The Division regards this requirement as necessary to encourage applicants the maximum opportunity to use new commercially available technologies for the demonstration program. The Division would not reject an application simply because it did not have the resources to properly evaluate it.

COMMENT: Another question raised by the Department of Agriculture was whether an applicant can submit more than one application for the various elements of the program.

RESPONSE: The answer is yes, except that an applicant cannot use the various funding sources of the program to fund the same project.

COMMENT: The Department of Agriculture also notes that the fact sheet for family-owned farm applicants appears more restrictive than the eligible applicant definition used in the rules.

RESPONSE: The Division believes that the intent is clear to use the broader definition included in the rules. Follow up mailings to the agricultural community will clarify this point.

COMMENT: Rutgers University, Cook College, the New Jersey Agricultural Experiment Station noted that the demonstration program element has broad appeal to the agricultural research organizations such as the Experiment Station.

RESPONSE: The Division notes that observation and encourages not for profit and educational institutions such as the Experiment Station to apply for funding under this element.

The Division, on its own, examined the language of several sections of the proposed amendment and has clarified the meaning of these sections to avoid misunderstandings. In addition, reference to the "Energy Subcode", N.J.A.C. 14A:3-4 now cites the rules of the Department of Community Affairs at N.J.A.C. 5:23-3.18. By Executive Order, the "Energy Subcode" was transferred to the Department of Community Affairs.

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

SUBCHAPTER 2. BUSINESS ENERGY IMPROVEMENT PROGRAM

14A:6-2.1 Scope and purpose

This subchapter establishes the rules governing the Business Energy Improvement Program. The Program provides funds to eligible applicants for the purpose of fostering energy conservation. The intent of the fund is to encourage investment in, and to provide cost reduction for, renovations, equipment replacement, energy conservation construction, alternative energy production facilities, resource recovery projects and demonstration programs.

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14A:6-2.2 Definitions

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

"Alternative Energy Production Facility" includes, but is not limited to, a facility that produces energy by using:

1. Cogeneration;
2. Hydro power;
3. Wind power;
4. Solar technologies; or
5. Resource recovery methods.

"Applicant" means the owner or lessee of an eligible facility who applies for funds pursuant to this subchapter.

"Application" means a Business Energy Improvement Program document.

"Avoided costs" means the annual cost savings based on improved efficiencies using the difference between the normal annual purchased energy costs, and the cost of equivalent energy production by the facility for which an application is made.

"Closely held company" means a business organization in which ownership and control are vested in 10 or fewer individuals.

"Commissioner" means the Commissioner *[for the Assistant Commissioner]* of the Department of Commerce*, **Energy*** and Economic Development*[. Division of Energy Planning and Conservation]* or its successor.

"Demonstration Program" means an on-site installation of a state-of-the-art energy conservation measure, or integrated system of energy conservation measures, under the direction and control of a Division-approved organization which serves to illustrate, by example, the practical application of energy conservation measure(s). The intent and purpose of such demonstration projects is to induce widespread adoption of the energy conservation measure(s) as a normal operating practice.

"Division" means the New Jersey Department of Commerce*, **Energy*** and Economic Development, Division of Energy Planning and Conservation or its successor.

"Eligible applicant" means a person who qualifies for one or more types of funding defined herein, but may not receive funds from more than one program category for a given project.

"Eligible loan" means a loan made by a lender to the applicant for energy conservation renovations or an alternative energy production facility, which meets the requirements of N.J.A.C. 14A:6-2.6.

"Energy audit" means a study of a building or facility conducted by an engineer or an architect/engineering firm or other Division-approved party to determine operating and maintenance procedures and renovations which would result in reduced energy consumption. The energy audit shall provide the estimated costs of implementation and the expected dollar and energy savings for the recommended project and maintenance procedures. The energy audit shall include but not be limited to the energy conserving renovations listed in N.J.A.C. 14A:13-1.11.

"Energy conservation renovation" means any equipment, materials, alterations or improvements installed within an existing structure owned or leased by an eligible applicant that would reduce energy consumption or increase energy efficiency, and which have been approved by the Division pursuant to N.J.A.C. 14A:6-2.8, but shall not include new construction or energy conservation renovations installed prior to receipt of a completed Business Energy Improvement Program application by the Division.

"Energy conserving construction" means materials, practices or equipment that exceeds the energy efficiency of those required under the "Energy Subcode", N.J.A.C. *[14A:3-4]* ***5:23-3.18*** as amended.

"Energy service company" (ESCO) means a vendor engaged in the business of furnishing energy conserving renovations to users through a shared-savings or guaranteed-savings program, and includes all representatives, agents, assignees, and other persons or entities performing activities for, or acting on behalf of, the vendor.

"Family-owned farm" means a farm which is any place producing agricultural or horticultural or other food products worth \$2,500 or more annually and meets the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964" P.L. 1964, c.48 (N.J.S.A. 54:4-23.1 et seq.).

"Feasibility planning for future energy conservation techniques" means projects undertaken by eligible applicants to make their own facilities, or the facilities of other eligible applicants, energy efficient by utilizing the construction of alternative energy production facilities, demonstration programs, energy audits, energy conservation renovations, energy conserving construction or other conservation techniques as will be specified by the Division as these technologies reach commercial application.

"Incremental grant" means *[full]* payment ***up to \$100,000*** for the incremental cost of using materials, practices and equipment that exceed those materials, practices and equipment required under the "Energy Subcode", N.J.A.C. *[14A:3-4]* ***5:23-3.18***.

"Interest subsidy" means funds provided by the Division to reduce the effective interest rate on an eligible loan.

"Lessee" means a person or business operation to whom property or equipment is leased or loaned for a fee.

"Lender" means State-chartered banks, savings banks, savings and loan associations, national banks, Federally-chartered savings and loan associations, approved out-of-State banks, economic development agencies, and other Division approved corporations authorized to transact the business of financing.

"Matching grant" means the one-time provision of funds by the Division to an eligible applicant to assist in the implementation of an approved project.

"Multi-family buildings" means buildings used for residential occupancy and containing five or more dwelling units.

"Municipal facility" means a facility owned and operated by either an incorporated unit of local government or a designee of the incorporated unit under contract to the unit for a specific energy conservation purpose.

"Payback" means the calculated number of years required for the first year energy *[costs]* savings ***converted to dollars***, or avoided costs, to equal the capital cost of the renovation or alternative energy facility. It is calculated by the following formula:

Payback = Total estimated capital cost of renovation(s) or alternative energy facility divided by estimated net annual energy *[cost]* savings ***converted to dollars*** or avoided costs accruing to the applicant for the first year following installation of the energy conservation measure or alternative energy facility.

"Private nonprofit organization" means a secular or religious organization described in Section 501(c) of the Internal Revenue Code of 1954 which:

1. Is exempt from taxation under Subtitle A of the Code;
2. Has an accounting system and a voluntary Board of Directors; and
3. Practices nondiscrimination in providing assistance.

"Program" means the Business Energy Improvement Program established by this subchapter.

"Resource recovery facility" means a solid waste facility constructed and operated for the incineration of municipal solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility; or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production.

"Revolving loan fund" means a pool of money available at zero-interest or low interest to accommodate individually owned businesses, closely held companies, family farms, multi-family buildings, and municipalities which are unable to use either conventional lending sources or an energy service company (ESCO) for energy conservation projects whose principal repayments are structured around the energy savings generated.

"Subsidy" means funds furnished by the Division for energy conservation projects.

"Urban Enterprise Zone" or "Enterprise Zone" means an area that has been designated by the Commissioner of the Department of Community Affairs as an "area in need of rehabilitation" under the five-year tax abatement process (P.L. 1977, c. 12 (N.J.S.A. 54:4-3.95 et seq.)) or is qualified for that designation, and meets the criteria established by the Enterprise Zone Authority.

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14A:6-2.3 Program duration and limitation of funding

(a) The number and amount of subsidies and the duration of the Program shall depend on the availability of sufficient revenues to cover subsidies previously approved by the Division and to provide sufficient funds for further subsidies.

(b) The Commissioner may suspend the Program with respect to new applicants in the event that funds are exhausted or the anticipated demand for subsidies exceeds available funds.

(c) Upon notification of an award, the applicant shall have 120 days to obtain all State, Federal or local permit approvals or petition the Division for an extension with full explanation for the request.

14A:6-2.4 Requests for applications

The Division shall make available Business Energy Improvement Program applications on request, until the Program is suspended pursuant to N.J.A.C. 14A:6-2.3.

14A:6-2.5 Submission requirements

(a) Each Program application submitted to the Division for interest subsidies, revolving loan funds, or grants shall include the following information:

1. Name and address of the applicant.
2. A precise description of each energy conservation renovation, energy conserving construction, alternative energy production facility or demonstration program for which the application is made.

3. For all projects, except demonstration programs. The following information shall be submitted:

- i. A reasonable construction bid including itemization of the component costs. The construction bid shall be accompanied by the following:

- (1) A sworn statement by the bidder, or an officer or partner of the bidder, indicating that the bidder is not, at the time of the construction bid, included on the State Treasurer's List of Debarred, Suspended and Disqualified Bidders; and

- (2) A certification that, where applicable, the bidder is in compliance with the discrimination and affirmative action provisions of N.J.A.C. 10:2-1 et seq. and the rules and regulations promulgated pursuant thereto;

- ii. Engineering calculations and energy savings or avoided costs calculations for each project; and

- iii. The simple payback period for each energy conservation renovation or energy conserving construction.

4. Such additional information as may be required by the Division to provide a complete and accurate description of the project.

(b) All calculations with respect to information contained in the application and any supporting documents shall be based on the energy estimating methods of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc. ("ASHRAE"), including all revisions and updates adopted by ASHRAE. Copies of *[the document]* ***ASHRAE materials*** may be obtained from ASHRAE, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.

(c) The Division reserves the right to charge applicants ***for demonstration program grants*** reasonable fees for the evaluation of applications for complex projects which may involve new or emergent technologies.

14A:6-2.6 Eligible subsidies and revolving loans

(a) The requirements for interest subsidies are as follows:

1. Eligibility for interest subsidies will be limited to:
 - i. Businesses meeting the Small Business Administration definition of small business contained in 13 C.F.R. Part 121.2 (49 F.R. 5030-37);
 - ii. Qualified Urban Enterprise Zone businesses as defined in P.L. 1983 c.303;
 - iii. Multi-family buildings, condominiums, and cooperatives;
 - iv. Private non-profit institutions, but not including facilities which are used for worship or in which the sanctuary area directly benefits from the improvement;
 - v. Family-owned farms; and
 - vi. Municipal facilities.

2. For the purpose of calculating possible subsidy, the Division will participate in projects where the maximum principal amount, interest term and simple payback are as follows:

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- i. For energy conservation renovations and alternative energy production facilities:

- (1) The principal not to exceed the lesser of the actual project cost or \$500,000;

- (2) The term not to exceed the lesser of the lender loan term or the estimated time for payback of the project; and

- (3) A simple payback of 10 years or less.

- ii. For resource recovery facilities:

- (1) The principal not to exceed the lesser of the actual project cost or \$2,000,000;

- (2) The term not to exceed the lesser of the lender loan term or the estimated time for payback of the project; and

- (3) A simple payback of 20 years or less.

3. Applicants must supply a copy of their loan application or loan commitment from the lending institution with supporting documentation specifying principal, interest and penalties with respect to all projects.

4. Applicants shall execute an agreement with the Division to establish the conditions associated with the interest subsidy loan. The agreement shall include, but not be limited to:

- i. The loan term;

- ii. The rate of interest which can be fixed or floating;

- iii. That the loan is amortized according to a predetermined monthly schedule;

- iv. That the loan does not obligate or render the Division liable to pay, at any time, any amount of principal, interest, interest accruals or penalties, for any reason, including but not limited to:

- (1) The default or late payment of the eligible loan by the applicant;

- (2) Failure to pay, withholding of payment or seeking the return of the interest subsidy by the Division;

- v. That the loan was or will be reviewed and approved by the lender in accordance with standard procedures; and

- vi. That the Division does not guarantee the approval by lenders of loans or that the Division will not participate in any manner in any aspect of the lender's loan review process.

- (b) The requirement for revolving loan funds are as follows:

1. Eligibility will be limited to private non-profit institutions, family-owned farms, individually-owned or closely held companies, and municipal facilities.

2. Eligible applicants with an annual energy bill in excess of \$150,000 which have been denied energy conservation project funding by an energy service company (ESCO), and/or have been denied energy conservation project funding by a lending institution, must supply proof of that denial.

3. Revolving loan funds shall be at zero interest or low interest to eligible applicants where the maximum principal amount term, and simple payback, are as follows:

- i. For energy conservation renovations or alternative energy production facilities:

- (1) \$200,000 in principal;

- (2) The loan term not to exceed the lesser of 10 years, or twice the estimated payback in years; and

- (3) A simple payback of 10 years or less.

- ii. For Resource Recovery Facilities:

- (1) \$3,000,000 in principal;

- (2) The loan term not to exceed the lesser of 20 years, or twice the estimated payback in years; and

- (3) A simple payback of 20 years or less.

4. Repayment of revolving loans shall be based on a percentage of the annual energy cost savings or avoided energy costs with a balloon payment, if any, due at the end of the term.

5. Applicants shall execute an agreement with the Division to establish the terms and conditions associated with the loan.

14A:6-2.7 Eligible grants

(a) The requirements for grants are as follows:

1. Incremental grants shall be provided as follows:

- i. Eligibility for new construction projects and/or major renovations will be limited to qualified Urban Enterprise Zone business applicants.

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ii. The grant will pay the full incremental cost up to a maximum of \$100,000 between materials, practices or equipment used in the Project which exceed those materials, practices or equipment required under the "Energy Subcode", N.J.A.C. 14A:3.4 et seq.

iii. The maximum simple payback, for the purpose of establishing eligibility for the grant, will be 10 years, and will be calculated using: The incremental cost determined by (a)ii above, divided by the first year energy savings, converted to dollars, established as the difference in consumption between code-required equipment, materials and practices and those that exceed the code.

2. Matching grants shall be provided as follows:

i. Eligibility will be limited to family-owned farms.

ii. The Division's percentage of match will be based on the farm operation income in relation to the median farm operation income of the farm location and will not exceed 80 percent of the cost of the project;

iii. Energy conservation projects or alternative energy projects with a maximum simple payback of 10 years will be eligible; and

iv. The maximum grant amount will be \$100,000.

(b) The requirements for demonstration program funds are as follows:

1. Eligibility is limited to nonprofit organizations, educational institutions, colleges, or universities; and

2. The Division may, at its discretion, allot funds in the form of grants up to a maximum of \$200,000 per project for demonstration programs.

(c) All applicants shall execute an agreement with the Division to establish the terms and conditions associated with the grant. No charges for indirect costs will be allowable charges under the grant.

14A:6-2.8 Application and review procedures

(a) Applicants shall submit to the Division a completed Business Energy Improvement application. The application shall bear either a legible (non-metered) postmark or a date stamp from the Division's Office of Operations indicating that the application was submitted on or before any deadline established pursuant to N.J.A.C. 14A:6-2.3.

(b) The Division shall conduct a review of the applications commencing with the application bearing the earliest submission date. The Division may require the submission of additional information to complete the application or may require the resubmission of the entire application if incomplete. The Division shall review the applications to determine whether:

1. The application is made on behalf of an eligible applicant;

2. The application covers energy conservation renovations, energy conserving construction, alternative energy production facilities, or demonstration programs;

3. The application is complete as to form (required documentation is present and complete);

4. The application is complete as to the submission requirements of N.J.A.C. 14A:6-2.5;

5. The engineering calculations and other technical matters with respect to the energy conservation renovations, energy conserving construction, alternative energy production facilities, or demonstration programs are accurate and correct;

6. The energy conservation renovations or energy conserving construction are appropriate; and

7. For energy conserving construction, evidence that capital expenditures are sufficient to cover the construction cost estimate provided under N.J.A.C. 14A:6-2.5(a)3.

(c) Upon completion of the review of an application pursuant to (b) above, the Division shall notify the applicant in writing whether the application has been approved, approved with modification, or denied. Subsidies, revolving loan funds or grants shall be extended to applicants in the order that applications are approved.

1. In the event that an application is approved an agreement shall be executed with the Division to establish the terms and conditions associated with subsidies, revolving loan funds or grants.

2. In the event that an application is approved with modification, the Division shall:

i. Indicate preliminarily in writing, the terms under which a subsidy, revolving loan or grant will be extended to the applicant, and the amount of the subsidy, revolving loan or grant.

3. In the event that an application is denied, the applicant shall be ineligible to receive a subsidy for the particular energy conservation renovations, energy conserving construction, alternative energy production facilities or demonstration programs included in the application and shall not be permitted to submit another application for the same project under the same program.

14A:6-2.9 Conditions for payment and repayment of subsidies, revolving loans, and grants

(a) The following provisions govern the payment of subsidies:

1. The Division shall pay subsidies directly to an approved applicant or, where applicable, to a lending institution in the name of an approved applicant.

2. The Division shall pay the entire subsidy in a single discounted lump-sum payment when the project is installed and inspected. The discount rate shall be no lower than six percent. The total value of the subsidy will be the same as if the prepaid subsidy were invested at the negotiable discount rate compounded semi-annually over the term of the subsidy.

(b) The following provisions govern repayment of revolving loan funds:

1. The applicant shall be solely responsible and liable for repayment of the principal, and any interest, interest accruals, or penalties which may be assessed or result from the loan.

2. Revolving loan funds shall be secured by property liens where applicable until loan repayment is completed.

3. Where the project scope necessitates, the services of an interim lender may be engaged as an experienced construction lender to assume responsibility for monitoring the construction phase and timely completion of the project, to minimize non-performance risk, and monitor costs to preclude cost overruns. When an interim lender is not used, the Division will make advances to the applicant, based upon construction cost estimates, to initiate the project, make payments during the project, and a final payment upon acceptance of the completed project.

4. Repayment of principal by the applicant shall be made from the value of energy savings that accrue as a result of the energy conservation measure implemented with the borrowed money.

i. An annual accounting, on an agreed calendar or fiscal year basis, shall be made for reconciliation of energy savings or avoided costs realized and loan repayment due.

ii. Repayment of the loan shall commence six months after the project is operational, and on an annual basis thereafter, with repayment not to exceed a maximum of 10 years or 20 years for a resources recovery project.

(c) The following provisions govern the payment of grant funds:

1. For incremental grants, the Division will make a single lump sum payment when the project is installed and inspected.

2. For matching grants, the Division will make advances to the applicant, based upon construction cost estimates, to initiate the project, make payments during the project, and a final payment upon acceptance of the completed project. Grantees must demonstrate that their matching funds are being spent at the same rate as their spending of Division funds.

3. For demonstration program grants, the Division will reimburse grantees based on an approved line item budget for eligible expenses incurred. Requests for payment shall not be made more than once per calendar quarter.

14A:6-2.10 Monitoring

(a) The applicant shall provide, or cause to be provided, to the Division, at intervals not exceeding six months, and commencing not more than six months after the due date of the first repayment of the eligible loan, certification that repayment of the eligible loan is being made on a timely basis to the lender, in accordance with the terms of the interest subsidy agreement. The certification shall be in the form of an official statement confirmation from the lender. This confirmation is due in the Division every six months until the loan is fully repaid.

ADOPTIONS

COMMERCE AND ECONOMIC DEVELOPMENT

(a)

DIVISION OF ENERGY PLANNING AND CONSERVATION

Commercial and Apartment Conservation Service Program

Adopted Amendments: N.J.A.C. 14A:22-1.2, 2.1, 3.1, 3.2, 3.3, 3.8, 4.1, 5.1 and 8.1

Proposed: December 7, 1987 at 19 N.J.R. 2247(b).

Adopted: March 10, 1988 by Borden R. Putnam, Commissioner, Department of Commerce, Energy and Economic Development

Filed: March 30, 1988 as R.1988 d.187, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:1-4.3).

Authority: N.J.S.A. 52:27F-11(g) and (q).

Effective Date: May 2, 1988.

Expiration Date: June 4, 1989.

Summary of Public Comments and Agency Responses:

The Division received two comments on these rules which were not of a substantial nature so as to require republication of the rules.

COMMENT: South Jersey Gas Company noted that the increase in participation rates from two percent to five percent makes these rules consistent with the levels required in N.J.A.C. 14A:20-1. The company interprets both sets of rules as goals and states that no particular burden on the company will result from adoption of the Commercial and Apartment Conservation Service (CACS) rules.

RESPONSE: The company is correct in its assessment. The Division interprets the five percent level as a goal.

The New Jersey Utilities Association (NJUA) has raised two concerns:

COMMENT: First, the NJUA correctly notes that at the Federal level there is a reassessment of the value of both the Residential Conservation Service (RCS) and CACS programs. The NJUA advocates following the Federal example and eliminating CACS and substituting decontrol pricing strategies and other marketplace mechanisms for saving energy in the commercial sector.

RESPONSE: While there is a valid case to be made for marketplace mechanisms as part of an overall approach, the situation in New Jersey is distinguishable from the national picture. New Jersey's exceptional economic engine is fostering growth in the commercial sector. Both public and private sector energy professionals in New Jersey readily acknowledge that we know the least about energy conservation in the commercial sector compared to the industrial and residential sectors. Thus, while the New Jersey Energy Master Plan supports marketplace solutions it also relies upon tools such as the CACS program to meet energy conservation goals for New Jersey's economy. The Division views retention of the CACS program as a sound investment in energy conservation for the commercial sector.

COMMENT: Second, the NJUA recommends that N.J.A.C. 14A:22-2.1(c) be modified to be consistent with N.J.A.C. 14A:20-1.4(a)2. Both sections concern the achievement of a five percent penetration rate in the CACS program.

RESPONSE: The Division agrees that the language of both sections in the two sets of rules should be consistent. However, certain procedural requirements of the CACS program must be retained within N.J.A.C. 14A:22-2.1(c). Thus, the language of the two sections will be similar but not identical.

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

14A:22-1.2 Definitions

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

...
 "Apartment building" means a new or existing structure which is used for residential occupancy, and which on the date of the program audit request has had a certificate of occupancy for more than two years; which contains five or more apartments and any of the follow-

(b) The Division shall monitor all work related to energy conservation renovations, energy conserving construction or alternative energy production facilities that are the subject of a subsidy, revolving loan, or grant agreement by the Division.

(c) "Monitoring" shall include, but not be limited to, reviewing plans, specifications, other documents and information and conducting on-site inspections to assess the progress and completion of work.

(d) The applicant shall comply promptly with all requests by the Division to conduct monitoring activities that is, supply periodic fuel consumption figures to validate energy savings, as required.

(e) Authorization from the applicant to the Division for the direct receipt of utility bill information may be required for monitoring purposes. Where exercised, confidentiality will be maintained; utility data shall be treated as proprietary information.

14A:6-2.11 Rescission and withholding of funds

(a) The Division, in addition to any other rights or remedies available pursuant to law, may withhold or rescind payment of a subsidy, revolving loan, or grant or any portion thereof for good cause. Such withholding or rescission shall terminate the obligation of the Division to make further payments of funds to the applicant. The term "good cause" shall include, but not be limited to, the following:

1. Failure to comply with the requirements of this subchapter, or other applicable State laws or regulations.
2. Failure to comply with any condition or requirement of the subsidy agreement.
3. Submission of false or misleading information, or failing to submit relevant information to the Division.
4. Non-payment or failure to make timely repayment of an eligible loan, or declaration by the lender that the applicant is in default of an eligible loan.
5. Insolvency, bankruptcy or other condition affecting the financial integrity of the applicant.
6. Use of the subsidy for any purpose other than as specified in the agreement.
7. Inability or failure to install the energy conservation renovations, energy conserving construction, alternative energy production facility, or conduct the demonstration program, in a timely manner, absent force majeure or other exigent circumstances.
8. Failure to provide documentation with respect to the installation of energy conservation renovations, energy conserving construction, the building of an alternative energy production facility, or the conduct of the feasibility planning project.
9. Modification of the terms of the eligible loan without express written consent of the Division.

(b) Subsidies, revolving loans, or grants shall be withheld or rescinded according to the following procedures:

1. The Division shall give written notice to the applicant of its intent to withhold or rescind a subsidy in whole or in part.
2. Prior to the withholding or rescission of the subsidy the Division shall afford the applicant a period of 30 days, commencing on the date of written notice, to consult the Division in the matter, and cure the issues forcing rescission. The Division may, thereafter, withhold or rescind the subsidy in whole or in part. The withholding or rescission determination shall be in writing and shall be effective on the date such action is taken. The determination will be provided to the applicant.
3. The determination to withhold or rescind a subsidy, revolving loan, or grant shall be solely within the discretion of the Division and is not subject to further review by the Division.

(c) In the event that a subsidy, revolving loan, or grant is withheld or rescinded by the Division the applicant shall refund immediately the total amount of funds paid by the Division as of the date of rescission or withholding.

1. The Division shall return all rescinded monies to the Business Energy Improvement Program.

14A:6-2.12 Severability

If any section, subsection, provision, clause or portion of this subchapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of this subchapter shall not be affected thereby.

COMMERCE AND ECONOMIC DEVELOPMENT

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ing: a central heating or a central cooling system; or a central meter for the heating or cooling system.

...
 "Commercial building" means a new or existing structure which on the date of the program audit request has had a certificate of occupancy for more than two years:

1. Which is used primarily for carrying out a business (including a nonprofit business) or for carrying out the activities of a local government;
2. Which is not a Federal building;
3. Which has not had a Technical Assistance Energy Audit under the Institutional Conservation Program or a computer generated energy audit under the CLIENTS Program;
4. For which the average annual use of energy for the latest 12-month period was less than 4,500 MMBTU's; and
5. Is a small business to which final standards under 13 C.F.R. Part 121, "Small Business Size Standards" apply.

"Conditioned space reduction" means closing off unoccupied areas, and/or reducing the heating and cooling supply to those areas.

...
 "Department" means the New Jersey Department of Commerce * , Energy* and Economic Development, Division of Energy Planning and Conservation.

...
 "Program auditor" means any individual employed by a covered utility or building heating supplier or under contract with a covered utility or building heating supplier who meets all of the qualifications contained in N.J.A.C. 14A:22-6.2 and N.J.A.C. 14A:22-7.2 and has successfully completed a Department auditor test for this program.

14A:22-2.1 Scope

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

(c) *Each covered utility shall plan to achieve at least a five percent annual energy audit completion rate unless the Division approves otherwise.* Each covered utility shall distribute and re-distribute sufficient numbers of program announcements and perform related promotional activities *[planning to achieve a five percent annual energy audit completion rate of the eligible customers]* *in order to achieve the approved completion rate*. In the event that the response to the program announcement and promotional activities exceeds five percent, utilities shall engage additional qualified personnel to service the demand in a timely manner. The program announcement and related promotional activities shall identify the Division as the lead agency for the CACS program. The covered utilities shall not unfairly discriminate among eligible customers in providing program audits.

14A:22-3.1 Program services

(a) (No change)

(b) All covered utilities receiving requests for program audits from eligible customers shall record the requests and the arrangements made by the utility for the audit on an input form prescribed by the Department. All such records shall contain the following information, if available from the customer:

1. Name and address of the customer's place of business, or residence;
2. Date scheduled for providing the energy audit and dates services were completed;
3. Type of fuel(s) used to heat and cool;
4. Time customer is available;
5. Contact for utility and physical plant data;
6. Building type and principal use;
7. Media source from which they heard about the program;
8. Name of the customer's building heating supplier, if the building is heated with oil;
9. Names of the customer's utilities;

10. All covered utilities shall furnish to the Division of Energy a monthly list, in zip code sequence, of all customers who have received a CACS Audit which shall include the customer's name and business address and date of audit.

(c) The Department and the CES shall also receive requests for audits from eligible customers and shall record the same information required by (b) above.

14A:22-3.2 Arrangement of program audit

(a) (No change.)

(b) If an eligible customer who heats with oil, coal, kerosene or propane contacts the Department and requests a program audit, the Department shall refer that request to an appropriate covered utility. The Department shall determine at its discretion to apply American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc. (ASHRAE) default values to the combustion efficiency test portion of an audit in lieu of availability of a participating customer's building heating supplier in that specific area.

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

14A:22-3.3 Timing and preconditions

(a) (No change.)

(b) All participating building heating suppliers shall provide a heating unit analysis to determine applicable program measures and their estimated costs, savings and paybacks within 30 calendar days of receipt of a request or referral. If the demand for such services becomes too great, the participating building heating supplier must so notify the Department in writing, and contact each eligible customer requesting such services within 30 calendar days of the request or referral to set up an appointment and complete the analysis within 60 calendar days of the date of the request or referral.

(c) No covered utility or participating building heating supplier shall discriminate unfairly among eligible customers participating in the CACS Program.

14A:22-3.8 Results of the program audit

(a) (No change.)

(b) Program audit results shall include the following:

1. The following disclosure, conspicuously placed: "THE PROCEDURES USED TO MAKE THESE ESTIMATES ARE CONSISTENT WITH NEW JERSEY DEPARTMENT OF COMMERCE*, ENERGY* AND ECONOMIC DEVELOPMENT, DIVISION OF ENERGY PLANNING AND CONSERVATION CRITERIA FOR APARTMENT AND COMMERCIAL BUILDING ENERGY AUDITS. HOWEVER, THE ACTUAL INSTALLATION COSTS YOU INCUR AND THE ENERGY SAVINGS YOU REALIZE FROM INSTALLING THESE MEASURES MAY BE DIFFERENT FROM THE ESTIMATES CONTAINED IN THIS AUDIT REPORT. ALTHOUGH THE ESTIMATES ARE BASED UPON MEASUREMENTS OF YOUR BUILDING, THEY ARE BASED ON ASSUMPTIONS WHICH MAY NOT BE TOTALLY CORRECT FOR YOUR BUILDING. TOTAL SAVINGS FROM THE INSTALLATION OF MORE THAN ONE PROGRAM MEASURE WILL PROBABLY BE LESS THAN THE SUM OF SAVINGS OF EACH MEASURE INSTALLED INDIVIDUALLY."

2.-9. (No change.)

10. The following statement: "THIS ENERGY AUDIT REPORT IS ONLY THE FIRST STEP IN YOUR EFFORTS TO REDUCE ENERGY CONSUMPTION IN YOUR FACILITY. THE NEW JERSEY ENERGY SERVICE MARKET IS COMPOSED OF HUNDREDS OF PROFESSIONAL ARCHITECTURAL AND ENGINEERING FIRMS THAT MAY ASSIST YOU IN A MORE SPECIFIC ANALYSIS OF YOUR FACILITY AND PROVIDE THE NECESSARY DESIGN FOR THE INSTALLATION OF VARIOUS COST-EFFECTIVE ENERGY CONSERVATION MEASURES. TO OBTAIN THE NAMES OF PROFESSIONAL ARCHITECTURAL OR ENGINEERING FIRMS IN YOUR AREA CONTACT:

The Consulting Engineers Council
 66 Morris Avenue
 Springfield, New Jersey 07081;

The New Jersey Society of Professional Engineers
 226 West State Street
 Trenton, New Jersey 08608;

New Jersey Association of Energy Engineers
 P.O. Box 241
 Bloomfield, New Jersey 07003; or

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The New Jersey Society of Architects
1000 Route 9
Woodbridge, New Jersey 07095

14A:22-4.1 Services provided

(a) Upon request by an eligible customer, each covered utility shall promptly provide services to arrange financing for the purchase and installation of any program measure. These services shall include:

1. Written information explaining the standards for credit applications, loan applications, plus the availability of financial assistance, if any, through programs of the Department, or other Departments, through commercial lenders and methods of evaluating vendor proposals.

- i. (No change.)
- 2.-3. (No change.)

4. The CACS Audit Report to the customer pursuant to N.J.A.C. 14A:22-3.8 shall include an evaluation form addressed to the Department. The content and format shall be provided by the Department.

14A:22-5.1 Payments

(a) Eligible customers shall be charged for energy audits as established by Order of the Board of Public Utilities (May 11, 1984), according to the following fee schedule:

- 1.-3. (No change.)

4. No charge for non-profit, local government and housing authority buildings, and multi-family buildings in which 66 percent of its rented occupancy comprise households in which the individual income does not exceed 150 percent of the Federal Poverty Income Guidelines as defined in the Federal Register, Volume 52, Number 34, Friday, February 20, 1987 on Pages 5340-5341 and as it applies to its yearly subsequent updates.

i. A covered utility may, at its discretion, offer free audits at any time to any market. Once offered for free, the no-cost feature must be maintained for the advertised period.

5. The maximum allowable fee charged by a utility audit contractor to a utility shall be no more than \$600.00. Any covered utility may request a waiver of the cost cap for audits which are in excess of \$600.00 from the Department and the BPU.

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

14A:22-8.1 Reporting: Covered utilities

(a) Each covered utility shall submit on January 15, 1988 the following information in writing to the Department and annually thereafter for the preceding 12-month calendar period of January 1st through December 31st for the life of the program:

- 1.-8. (No change.)

(b) Each covered utility shall submit the following information in writing to the Department on the 10th of each month beginning June 1984 following information for the preceding month:

- 1.-3. (No change.)

4. The number of audits cancelled and the reason(s) for each CACS Audit cancellation;

- 5.-7. (No change.)

STATE

(a)

DIVISION OF COMMERCIAL RECORDING

Expedited Services

Adopted New Rules: N.J.A.C. 15:2

Adopted Amendments: N.J.A.C. 15:2-1

Proposed: March 7, 1988 at 20 N.J.R. 522(b).

Adopted: April 7, 1988 by Jane Burgio, Secretary of State.

Filed: April 11, 1988 as R.1988 d.202, **without change.**

Authority: P.L. 1982, c.150 and P.L. 1987, c.435, N.J.S.A. 52:16A-11.

Effective Date: May 2, 1988.

Expiration Date: May 2, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the expired rules adopted as new may be found in the New Jersey Administrative Code at N.J.A.C. 15:2.

Full text of the adopted amendments to the expired rules follows.

15:2-1.1 Services which will be provided on an expedited basis

(a) The Department of State shall provide expedited over the counter services for the following requests:

- 1.-2. (No change.)

3. A certified or uncertified copy of a document, except trade name filing, filed with the Department of State;

4. A certificate as to the existence or nonexistence of any document, except trade name filings, on record with the Division of Commercial Recording;

- 5.-12. (No change.)

13. An application to be a Notary Public;

14. An application to renew one's commission as a Notary Public;

15. Certification of an official signature on a document, when the official's signature is on file with the Department of State. This includes the issuances of apostilles.

- (b) (No change.)

15:2-1.2 Definitions

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

"Expedited service" means priority same day service effected in a fast and efficient manner.

"Over the counter services" means:

1. Documents delivered to the Commercial Recording Division, Expedited Services counter by hand or by express mail (Federal Express, etc.);

2. Subject to the approval of the Secretary of State, documents telefaxed or transmitted electronically to the Commercial Recording Division;

3. Information requests made at the Commercial Recording Division Expedited Service counter or any other location designated by the Secretary of State.

"Same Day" means as soon as possible but no later than 8^{1/2} business hours from the time the request is received. The business day runs from 8:30 A.M. to 5:00 P.M. on all weekdays other than State holidays.

15:2-1.3 Exceptions

(a) Expedited services shall be rendered as soon as possible but may extend beyond the same day if the computer system utilized by the commercial recording division is down, making response impossible.

(b) Any over the counter service may be rejected by the Secretary of State, unless the submission has a cover sheet issued by the Secretary of State. The Secretary of State may design the cover sheet and the Secretary may from time to time redesign the cover sheet.

15:2-1.4 Fees for expedited service

(a) Fees for over the counter corporation service shall be as follows:

- 1. Filing of document:

- i. Without certified copy: statutory fee plus \$5.00;

- ii. With copy to be certified: statutory filing fee, certification fee of \$25.00 plus \$5.00.

- 2. (No change.)

3. Certificate of standing:

- i. Short form standing certificate which includes registered agent and registered office \$25.00 plus \$5.00;

- ii. (No change.)

4. Status report(s) which includes name availability, the name and address of the registered agent, corporation or limited partnership name, whether corporation charter is still valid, and whether the corporation or limited partnership has filed a fictitious/alternate name. Fees for report(s) requested, at the same time are as follows:

- i. One report—\$5.00 plus \$5.00;

- ii. Two reports—\$10.00 plus \$5.00;

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- iii. Three reports—\$15.00 plus \$5.00;
 - iv. Four reports—\$20.00 plus \$10.00;
 - v. Five reports—\$25.00 plus \$10.00;
 - vi. Six reports—\$30.00 plus \$10.00;
 - vii. Seven reports—\$35.00 plus \$15.00;
 - viii. Eight reports—\$40.00 plus \$15.00;
 - ix. Nine reports—\$45.00 plus \$15.00;
 - x. Ten reports—\$50.00 plus \$20.00.
5. Certificate of name availability one to three names: \$25.00 plus \$5.00.
- 6-7. (No change.)
8. There shall be an additional charge of \$25.00 to certify any document.
- (b) Fees for over the counter U.C.C. service shall be as follows:
- 1. Filings of a U.C.C. 1 and a U.C.C. 1 with assignment, U.C.C. 3 or a separate assignment \$25.00 plus \$5.00;
 - 2. Search request \$25.00 plus \$5.00;
 - 3. Search request and photocopies \$25.00 plus \$5.00 plus \$1.00 per page photostated;
 - 4. Request for copy(ies) \$5.00 plus \$1.00 per page photocopied;
 - 5. Filing U.C.C. 1 and search request to reflect filing \$50.00 plus \$5.00.
- (c) Expedited telephone service shall be provided for:
- 1. (No change.)
 - 2. The fees for status report(s) requested at the same time are as follows:
 - i. One report—\$5.00 plus \$5.00;
 - ii. Two reports—\$10.00 plus \$5.00;
 - iii. Three reports—\$15.00 plus \$5.00;
 - iv. Four reports—\$20.00 plus \$10.00;
 - v. Five reports—\$25.00 plus \$10.00;
 - vi. Six reports—\$30.00 plus \$10.00;
 - vii. Seven reports—\$35.00 plus \$15.00;
 - viii. Eight reports—\$40.00 plus \$15.00;
 - ix. Nine reports—\$45.00 plus \$15.00;
 - x. Ten reports—\$50.00 plus \$20.00.
- 15:2-1.5 Method of payment of fees for expedited service
- (a) All fees for expedited service performed by the Department of State may be paid as a pre-paid deposit account or charged against a major credit card held by the service user.
- 1.-2. (No change.)

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

**Judicial Retirement System
Interfund Transfers**

Adopted Amendments: N.J.A.C. 17:10-6.1

Proposed: January 19, 1988, at 20 N.J.R. 179(b).
 Adopted: March 7, 1988, by Douglas R. Forrester, Secretary,
 Judicial Retirement System.
 Filed: March 25, 1988 as R.1988 d.182, **without change**.
 Authority: N.J.S.A. 43:6A-29(d).
 Effective Date: May 2, 1988.
 Expiration Date: June 6, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

17:10-6.1 Interfund transfers: other State systems

(a) Interfund transfers between State-administered pension funds are permitted by reciprocal transfer arrangements. Such transfers would not apply where the member has credit in the present system for service after the date of enrollment in the new system or where a person has ceased to be a member of the present system before

establishing sufficient service credit to be eligible for deferred retirement.

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

1.-3. (No change.)

4. The member shall enjoy the same service credits established in the present system subject to the provisions of the new system.

5. (No change.)

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

(f) A member who makes a timely transfer in accordance with N.J.S.A. 43:2-1 et seq. will contribute to the new system at a rate based on his or her age at the time of enrollment in the present system and no refund of pension contributions will be made except for those contributions made by veterans covering service prior to January 1, 1955, where applicable. The contribution rate for a member granted a deferred retirement in the present system who makes a timely transfer at the time of enrollment in the new system will be determined in accordance with the rules concerning enrollment after deferred retirement in the new system. A member who does not make a timely transfer will contribute to the new system at a rate based on his or her age at the time of enrollment in the new system.

(b)

NEW JERSEY STATE LOTTERY COMMISSION

Deposit of Lottery Money

Adopted Amendment: N.J.A.C. 17:20-6.3

Proposed: January 4, 1988 at 20 N.J.R. 48(a).
 Adopted: March 29, 1988 by New Jersey State Lottery
 Commission, Barbara A. Marrow, Secretary, and Executive
 Director, Division of State Lottery.
 Filed: April 6, 1988 as R.1988 d.198, **without change**.
 Authority: N.J.S.A. 5:9-7.
 Effective Date: May 2, 1988.
 Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows:

17:20-6.3 Deposit of Lottery money

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

(f) All agent lottery operations, reports and records shall be subject, upon demand, to inspection and audit by representatives of the Division of the State Lottery, but such reports and records shall remain confidential for all purposes except income tax reporting required by law.

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

OTHER AGENCIES

(c)

CASINO CONTROL COMMISSION

Applications

**Junket Representative and Junket Enterprise
License Fees**

**Adopted New Rule: N.J.A.C. 19:41-9.11A
Adopted Amendment: N.J.A.C. 19:41-9.9A**

Proposed: February 16, 1988, at 20 N.J.R. 381(a)
 Adopted: April 7, 1988, by New Jersey Casino Control
 Commission, Walter N. Read, Chairman
 Filed: April 8, 1988, R.1988 d.200, **without change**.
 Authority: N.J.S.A. 5:12-63(c), 5:12-69, 5:12-70(e), 5:12-141 and
 P.L. 1987, c.426.

ADOPTIONS

OTHER AGENCIES

Effective Date: May 2, 1988.
Expiration Date: May 17, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

19:41-9.9A Junket enterprise license fees

(a) In accordance with Section 102(c) of the Act, all junket enterprises shall meet the standards established for casino key employees in order to be licensed. Under Section 94(d) of the Act, such a license shall be issued for a three year period and shall be renewable for additional three year periods.

(b) The initial application and issuance fee for a three year junket enterprise license shall be \$3,000.

(c) The application and issuance fee for the renewal of a three year junket enterprise license shall be \$3,000.

19:41-9.11A Junket representative license fees

(a) In accordance with Section 102(b) of the Act, all junket representatives shall meet the standards established for casino key employees, except for residency, in order to be licensed. Under Section 94(d) of the Act, such a license shall be issued for a three year period and shall be renewable for additional three year periods.

(b) The fee for the issuance or renewal of a junket representative license shall be as follows:

1. A minimum application charge of \$500.00, which shall be credited to the total fee; and

2. Payment for the efforts of professional agents and employees of the Commission and Division at the rate of \$40.00 per hour spent on matters directly related to the applicant or licensee; and

3. Payment for all unusual or out of pocket expenses incurred by the Commission and Division on matters directly related to the applicant or licensee; provided, however, that the amount of the issuance or renewal fee shall not exceed \$3,000.

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Amendment to the Lower Raritan/Middlesex County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Lower Raritan/Middlesex County Water Quality Management (WQM) Plan has been submitted for approval. This amendment would allow for the expansion of the Forsgate Sewage Treatment Plant sewer service area to include the Whittingham Section II development located in Monroe Township, Middlesex County. A portion of the project site is presently within the Middlesex County Utilities Authority sewer service area. This area will be removed from the Middlesex County Utilities Authority's sewer service area and become part of the Forsgate Sewage Treatment Plant sewer service area.

This notice is being given to inform the public that a plan amendment has been developed for the Lower Raritan/Middlesex County WQM Plan. All information dealing with the aforesaid WQM Plan is located at the Middlesex County Planning Board, 40 Livingston Avenue, New Brunswick, New Jersey 08901, and 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 Horzempa, 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. Horzempa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(b)

Amendments to the Sussex County Water Quality Management Plan

Public Notice

Take notice that two amendments to the Sussex County Water Quality Management (WQM) Plan have been submitted for approval. The first amendment would adopt a Wastewater Management Plan for the Town of Newton. That document allows for the expansion of the Town of Newton Wastewater Treatment Plant and establishes a sewer service area for that facility. It also allows for an increase in the capacity of the Sparta Avenue Pump Station and the force main and gravity sewer receiving discharge from the Sparta Avenue Pump Station. The Town of Newton will be designated as the Wastewater Management Agency.

The second amendment would designate a municipality as a wastewater management agency for any domestic wastewater treatment facility for which it is the permittee or co-permittee.

This notice is being given to inform the public that two plan amendments have been developed for the Sussex County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendments is located at the Sussex County Water Resource Management Program, 57 High Street, Newton, New Jersey 07860, and the 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.

The Sussex County Board of Chosen Freeholders will hold a **public meeting** on the proposed Sussex County WQM Plan amendment. The public meeting will be held on Tuesday, May 24, 1988 at 8:30 P.M. in

the Freeholders Meeting Room of the Sussex County Administration Complex at Don Bosco College, Swartwood Road, Newton, New Jersey.

Interested persons may submit written comments on the amendments to Lyn Halliday at the Sussex County Water Resource Management Program address cited above; and George Horzempa, Bureau of Water Resources Management Planning, at the NJDEP address cited above. All comments must be submitted by June 8, 1988. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the Sussex County Board of Chosen Freeholders with respect to the amendment requests. In addition, if the amendments are adopted by Sussex County, the NJDEP must review the amendments prior to final adoption. The comments received in reply to this notice will also be considered by the NJDEP during its review. Sussex County and the NJDEP thereafter may approve and adopt these amendments without further notice.

HEALTH

NARCOTIC AND DRUG ABUSE CONTROL

(c)

Scheduling of Controlled Dangerous Substances to N.J.A.C. 8:65-10.1(b)3 3,4-methylenedioxy-N-ethylamphetamine; N-hydroxy-3,4-methylenedioxyamphetamine and 4-methylaminorex

Take notice that, effective March 21, 1988 the controlled dangerous substances 3,4-methylenedioxy-N-ethylamphetamine; N-hydroxy-3,4-methylenedioxyamphetamine; and 4-methylaminorex are placed into Schedule I. This action is taken pursuant to N.J.S.A. 24:1-3(c), which provides that once a controlled dangerous substance is scheduled under federal law and notice thereof is given to the Commissioner of Health, the Commissioner shall, after 30 days following publication in the Federal Register of a Final Order scheduling a substance, similarly schedule the substance.

An Order scheduling the substances 3,4-methylenedioxy-N-ethylamphetamine; N-hydroxy-3,4-methylenedioxyamphetamine; and 4-methylaminorex into Schedule I was published in the Federal Register on October 15, 1987 (see 52 FR 38225). Pursuant to N.J.S.A. 24:1-3(c), as described above, it is therefore ordered that 3,4-methylenedioxy-N-ethylamine; N-hydroxy-3,4-methylenedioxyamphetamine and 4-methylaminorex are Scheduled in Schedule I at N.J.A.C. 8:65-10.1. (Controlled Dangerous Substance Schedules are at N.J.A.C. 8:65-10.1 through 10.5.)

(d)

Scheduling of Controlled Dangerous Substances to N.J.A.C. 8:65-10.1(b)3 Beta-hydroxy-3-methylfentanyl

Take notice that, effective March 21, 1988 the controlled dangerous substance Beta-hydroxy-3-methylfentanyl is placed in Schedule I. This action is taken pursuant to N.J.S.A. 24:1-3(c) which provides that once a controlled dangerous substance is scheduled under federal law and notice thereof is given to the Commissioner of Health, the Commissioner shall, after 30 days following publication in the Federal Register of a Final Order scheduling the substance, similarly schedule the substance.

An Order scheduling the substance Beta-hydroxy-3-methylfentanyl was published in the Federal Register on January 8, 1988 (see 53 FR 500). Pursuant to N.J.S.A. 24:1-3(c), as described above, it is therefore ordered that Beta-hydroxy-3-methylfentanyl is hereby scheduled in Schedule I at N.J.A.C. 8:65-10.1. (Controlled Dangerous Substances Schedules are at N.J.A.C. 8:65-10.1 through 10.5.)

(a)

Scheduling of Controlled Dangerous Substances to N.J.A.C. 8:65-10.1(b)3 Methylenedioxyamphetamine

Take notice that, effective March 23, 1988 the controlled dangerous substance Methylenedioxyamphetamine is placed in Schedule I. This action is taken pursuant to N.J.S.A. 24:21-3(c) which provides that once a controlled dangerous substance is scheduled under federal law and notice thereof is given to the Commissioner of Health, the Commissioner shall, after 30 days following publication in the Federal Register of a Final Order scheduling the substance, similarly schedule the substance.

An Order scheduling the substance Methylenedioxyamphetamine was published in the Federal Register on February 22, 1988 (see 53 FR 5156) becoming effective March 23, 1988. Pursuant to N.J.S.A. 24:21-3(c), as described above, it is therefore ordered that Methylenedioxyamphetamine is hereby scheduled in Schedule I at N.J.A.C. 8:65-10.1. (Controlled Dangerous Substances Schedules are at N.J.A.C. 8:65-10.1 through 10.5.)

HUMAN SERVICES

(b)

**THE COMMISSIONER
Developmental Disabilities Council
Availability of Grants**

Take notice that, in compliance with N.J.S.A. 52:14-34.4, the Department of Human Services hereby announces the availability of the following grant program:

A. Name of program: The Office of Grants Management in the Division of Developmental Disabilities (Department of Human Services) is the grant administering agency for the New Jersey Developmental Disabilities Council. Council grants are utilized by the Division, pursuant to its responsibilities in implementing the "Developmental Disabilities Assistance and Bill of Rights Amendment of 1987—P.L. 100-146." Grant title: Research Design Project.

B. Purpose: A research design project to facilitate a multifaceted study to project operations and develop policies to improve and extend comprehensive services for persons with developmental disabilities in the New Jersey area for the next 10 years.

C. Amount of money in this program: Three grants will be awarded at \$5,000. The grant will be for six months.

D. Organizations which may apply for funding under this program: Agencies which have demonstrated expertise in design of research projects for the developmentally disabled and possessing computer capabilities. New Jersey—specific experience will be beneficial.

E. Procedure for eligible organizations to apply: Request for proposal packages may be requested from:

Gwen Ehlers, Director
Office of Grants Management
Division of Developmental Disabilities
222 South Warren Street
CN 700
Trenton, NJ 08625

F. Address for applications to be submitted: Same as above.

G. Deadline by which application proposals must be submitted: Proposals must be submitted by May 23, 1988.

H. Date by which applicants shall be notified of approval or disapproval: Applicants shall receive notice of approval or disapproval of an RFP Proposal by July 1, 1988.

TRANSPORTATION

(c)

**TRANSPORTATION OPERATIONS
Restricted Parking and Stopping
Route N.J. 47 in Gloucester County
Notice of Correction: N.J.A.C. 16:28A-1.33**

Take notice that an error appears in the January 4, 1988 New Jersey Register at 20 N.J.R. 105(a) concerning N.J.A.C. 16:28A-1.33, Route N.J. 47, "no stopping or standing" in Franklin Township, Gloucester County, N.J.A.C. 16:28A-1.33 as adopted should have appeared as follows:

16:28A-1.33 Route 47

(a) The certain parts of State highway Route 47 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-2. (No change.)

3. No stopping or standing in Franklin Township, Gloucester County:

i. (No change.)

ii. Along the southbound side:

(1) (No change in text.)

(2) Beginning at the southerly curb line of County Road 538 (Coles *[Hill]* *Mill* Road) and extending 270 feet south therefrom.

4.-10. (No change.)

(b) (No change.)

TREASURY-GENERAL

(d)

**DIVISION OF BUILDING AND CONSTRUCTION
Architect-Engineer Selection
Notice of Assignments—Month of March 1988**

Solicitations of design services for major projects are made by notices published in construction trade publications and newspapers and by direct notification of professional associations, societies and listed, prequalified New Jersey consulting firms. For information on DBC's prequalification and assignment procedures, call (609) 984-6979.

Last list dated March 1, 1988.

The following assignments have been made:

DBC No.	PROJECT	A, E	CCE
M703	Wastewater Treatment Plant Johnstone Developmental Center Bordentown, NJ	EMJ, Mc Farland- Johnson	\$200,000
I022	Asphalt Repairs & Improvements Stockton State College Pomona, NJ	Thomas Tyler Moore Associates	\$180,000
C359	Water Tower Repairs & Painting Leesburg State Prison Leesburg, NJ	James C. Anderson & Associates, Inc.	\$62,600
P558	New Maintenance Complex Forked River Marina Forked River, NJ	Ambruster, Grana Associates	\$275,000
M770	Roof Replacement Administration Complex Multi-Purpose Cottage Woodbridge Developmental Center Woodbridge, NJ	Kitchen Assoc., PA	\$175,000
M756	Various Renovations Cedar Grove Residential Center Cedar Grove, NJ	Brown & Hale, Architects	\$80,000
A311	Wall Mural Commerce State Office Building Trenton, NJ	Hughie Lee-Smith Artist Services	\$55,000
S219	Model Agency Modifications Division of Motor Vehicles Bakers Basin, Lodi, Newark, Rahway and Wayne	Vaughn Organization, PC	\$1,782,400
S228	New DMV Regional Service Center Division of Motor Vehicles Eatontown, NJ	Armstrong, Jordan, Pease	\$2,535,000
N105-01	Litigation Services Residential Cottages Greystone Park Residential Hospital Greystone Park, NJ	Joan Boone, Architect	\$4,200 Services
W029	Facility Consultant-FY 88 Dept. of Environmental Protection	John C. Gibson & Associates	\$25,000 Services
D048	Facility Consultant-FY 88 Dept. of Corrections	Louis A. North, PE	\$10,000 Services

TREASURY-GENERAL

R021	Facility Consultant-FY 88 Dept. of Human Services	Barnickel Engineering	\$10,000 Services
F050	Facility Consultant-FY 88 Kean College of NJ	Tighe-Firtion-Carrino & Associates, Inc.	\$10,000 Services
Z806	Facility Consultant-FY 88 Division of Building & Construction	Empire Testing & Balancing	\$50,000 Services
Z807	Facility Consultant-FY 88 Division of Building & Construction	Eugene Freda	\$50,000 Services
Z808	Facility Consultant-FY 88 Division of Building & Construction	Frank R. Holtaway & Son	\$50,000 Services
Z809	Facility Consultant-FY 88 Division of Building & Construction	ARMM Designs, Inc.	\$50,000 Services
Z810	Facility Consultant-FY 88 Division of Building & Construction	Paulus Sokolowski & Sartor	\$50,000 Services
I040	Asbestos Removal Vodra Hall Dormitory Building Jersey City State College Jersey City, NJ	Northeastern Analytical Corp.	\$21,624 Services

COMPETITIVE PROPOSALS

	Northeastern Analytical Corp.	\$21,624 Lump Sum
	Testwell Craig Testing Labs	\$26,750 Lump Sum
	Gaudet Associates, Inc.	\$33,000 Lump Sum
	Kaselaan & De Angelo Associates	No Proposal Received
I041	Asbestos Removal Shea Auditorium William Paterson State College Wayne, NJ	Northeastern Analytical Corp.

COMPETITIVE PROPOSALS

	Northeastern Analytical Corp.	\$16,186
	Testwell Craig Testing Lab.	\$22,000
	Gaudet Associates, Inc.	\$22,940
	Kaselaan & De Angelo Associates	No Proposal Received

OTHER AGENCIES

CASINO CONTROL COMMISSION

(a)

**Petition for Rulemaking
Access to Information Maintained by Casino
Licensees**

N.J.A.C. 19:40-2

Petitioner: Division of Gaming Enforcement.
Authority: N.J.S.A. 5:12-69(c), 5:12-79(a) and N.J.S.A. 52:14B-4.

Take notice that on March 7, 1988 petitioner, Division of Gaming Enforcement, filed a petition with the Casino Control Commission proposing the adoption of new rules, N.J.A.C. 19:40-2, to establish procedures governing access by the Division of Gaming Enforcement ("Division") to information maintained by casino licensees pursuant to N.J.S.A. 5:12-96(e).

MISCELLANEOUS NOTICES

The petitioner contends that, although the Casino Control Act expressly establishes both the Division's authority to obtain and the casino's obligation to furnish information, there have been technological advances in computerized records retention systems which were not in use when the Act was adopted. Therefore, the Division seeks rules applying the Act to the developing technology and explicitly setting forth the parameters of the Division's access to casino electronic data processing (EDP) systems. Accordingly, the petitioner's proposed new rules not only codify current practice pertaining to Division access to manual records maintained by casino licensees but also establish those guidelines governing direct "inquiry only" access by the Division to casino EDP systems containing casino records.

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 52:14B-4.

(b)

**Petition for Rulemaking
Casino Organization, Job Descriptions and
Personnel Assignments**

N.J.A.C. 19:45-1.11, 1.11A and 1.12

Petitioner: Boardwalk Regency Corporation.
Authority: N.J.S.A. 5:12-69(c), 70(j); N.J.S.A. 52:14B-4.

Take notice that on March 22, 1988, Boardwalk Regency Corporation filed a rulemaking petition with the Casino Control Commission requesting amendments to N.J.A.C. 19:45-1.11, 1.11A and 1.12.

The petitioner contends that the current direct reporting lines set forth in N.J.A.C. 19:45-1.11 for the casino manager, slot department manager, credit manager, director of security and casino controller are inflexible because these managers are required to report to specific corporate officers. Rather, the petitioner proposes that N.J.A.C. 19:45-1.11 be amended to permit these managers to report directly to any senior corporate officer of the casino licensee having no incompatible functions. Such an arrangement, the petitioner maintains, would inject a degree of flexibility into the reporting line requirements of N.J.A.C. 19:45-1.11 without contravening any policy underlying this rule.

The proposed amendment to N.J.A.C. 19:45-1.11A would eliminate the requirement that each job description included within the jobs compendium submitted by the casino licensee contain the direct and indirect supervisory reporting lines and the positions supervised for each job described. The petitioner asserts that this same information is contained in the licensee's table of organization. Because a casino licensee must submit a revised table of organization each time the reporting lines of, or positions supervised by, a particular position are changed, the petitioner suggests that conveying this same information in the job descriptions part of the jobs compendium is unnecessary.

Lastly, the petitioner seeks to amend N.J.A.C. 19:45-1.12 to the effect that a casino licensee, providing it has a sufficient number of casino shift managers so as to insure adequate supervision of table games in the absence of the casino manager, need not also employ an assistant casino manager. The petitioner believes that being required to employ an assistant casino manager under these conditions is unnecessary since a shift manager already has the authority to supervise the overall conduct of table games in the absence of the casino manager.

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 52:14B-4.

EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to N.J.A.C. 1:30-4.4, all expiration dates are now affixed at the chapter level. The following table is a complete listing of all current New Jersey Administrative Code expiration dates by **Title** and **Chapter**. If a chapter is not cited, then it does not have an expiration date. In some instances, however, exceptions occur to the chapter-level assignment. These variations do appear in the listing along with the appropriate chapter citation, and are noted either as an exemption from Executive Order No. 66(1978) or as a subchapter-level date differing from the chapter date.

Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code under the **Title** Table of Contents for each executive department or agency and on the **Subtitle** page for each group of chapters in a Title. Please disregard all expiration dates appearing elsewhere in a Title volume.

This listing is revised monthly and appears in the first issue of each month.

OFFICE OF ADMINISTRATIVE LAW—TITLE 1

N.J.A.C.	Expiration Date
1:1	5/4/92
1:5	10/20/91
1:6	5/4/92
1:6A	5/4/92
1:7	5/4/92
1:10	5/4/92
1:10A	5/4/92
1:10B	10/6/91
1:11	5/4/92
1:13	5/4/92
1:20	5/4/92
1:21	5/4/92
1:30	2/14/91
1:31	6/17/92

N.J.A.C.	Expiration Date
3:23	7/6/92
3:24	8/20/89
3:25	8/17/92
3:26	12/31/90
3:27	9/16/90
3:28	12/17/89
3:30	10/17/88
3:38	10/5/92
3:41	10/16/90
3:42	4/4/93

AGRICULTURE—TITLE 2

N.J.A.C.	Expiration Date
2:1	9/3/90
2:2	10/3/88
2:3	6/18/89
2:5	6/18/89
2:6	9/3/90
2:7	9/29/88
2:9	7/7/91
2:16	5/7/90
2:22	7/6/92
2:23	6/6/88
2:24	2/11/90
2:32	6/1/92
2:48	11/27/90
2:50	5/1/92
2:52	6/7/90
2:53	3/3/91
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)
2:68	8/1/88
2:69	10/3/88
2:70	5/7/90
2:71	9/1/88
2:72	9/1/88
2:73	7/18/88
2:74	9/1/88
2:76	8/29/89
2:90	6/24/90

PERSONNEL (CIVIL SERVICE)—TITLE 4/4A

N.J.A.C.	Expiration Date
4:1	1/28/90
4:2	1/28/90
4:3	6/4/89
4:4	12/5/91
4:6	5/5/91
4A:6	1/4/93
4A:10	11/2/92

COMMUNITY AFFAIRS—TITLE 5

N.J.A.C.	Expiration Date
5:3	9/1/88
5:4	10/5/92
5:10	12/1/88
5:11	3/1/89
5:12	1/1/90
5:13	12/24/92
5:14	12/1/90
5:17	6/1/89
5:18	2/1/90
5:18A	2/1/90
5:18B	2/1/90
5:19	2/1/93
5:22	12/1/90
5:23	3/1/93
5:24	9/1/90
5:25	3/1/91
5:26	3/1/91
5:27	6/1/90
5:28	12/20/90
5:29	6/18/91
5:30	6/1/88
5:31	12/1/89
5:37	11/18/90
5:38	11/7/88
5:51	9/1/88
5:70	7/9/92
5:71	3/1/90
5:80	5/20/90
5:91	6/16/91
5:92	6/16/91
5:100	5/7/89

BANKING—TITLE 3

N.J.A.C.	Expiration Date
3:1	1/6/91
3:2	4/15/90
3:6	3/3/91
3:7	9/16/90
3:11	3/19/89
3:13	11/17/91
3:17	6/18/91
3:18	1/19/93
3:19	3/17/91
3:21	2/2/92
3:22	5/21/89

DEPARTMENT OF DEFENSE—TITLE 5A

N.J.A.C.	Expiration Date
5A:2	5/20/90

EDUCATION—TITLE 6

N.J.A.C.	Expiration Date	N.J.A.C.	Expiration Date
6:2	3/1/89	7:36-1	8/5/90
6:3	8/18/88	7:36-2	Expired 1/9/86
6:8	1/5/92	7:36-3	Expired 1/9/86
6:11	12/12/90	7:36-4	8/5/90
6:12	4/2/91	7:36-5	Expired 1/9/86
6:20	8/9/90	7:36-6	Expired 1/9/86
6:21	8/9/90	7:36-7	8/5/90
6:22	9/3/90	7:37	Exempt
6:24	4/2/91	7:38	9/18/90
6:26	1/24/90	7:45	Expired 1/11/85
6:27	1/24/90		
6:28	6/1/89		
6:29	3/25/90		
6:30	8/31/88		
6:31	1/24/90		
6:39	10/18/89		
6:43	4/7/91		
6:46	10/5/92		
6:53	7/7/92		
6:64	5/1/88		
6:68	4/12/90		
6:69	6/4/91		
6:70	1/25/90		
6:79	11/25/92		

HEALTH—TITLE 8

N.J.A.C.	Expiration Date
8:7	9/16/90
8:8	5/21/89
8:9	2/18/91
8:13	9/8/92
8:19	6/28/90
8:20	3/4/90
8:21	11/18/90
8:21A	4/1/90
8:22	8/4/91
8:23	12/17/89
8:24	5/2/93
8:25	5/20/88
8:26	8/4/91
8:31	11/5/89
8:31A	3/18/90
8:31B	10/15/90
8:33	10/7/90
8:33A	4/15/90
8:33B	10/7/90
8:33C	8/20/89
8:33D	2/1/87
8:33E	6/23/92
8:33F	1/14/90
8:33G	7/20/89
8:33H	7/19/90
8:33I	9/15/91
8:33J	5/17/89
8:33K	4/16/89
8:34	11/18/88
8:39	6/20/88
8:40	4/15/90
8:41	2/17/92
8:42	8/17/92
8:42A	6/12/91
8:42B	8/1/88
8:43	1/21/91
8:43A	9/3/90
8:43B	1/21/91
8:43E	12/11/92
8:43F	3/18/90
8:43G	9/8/91
8:43I	3/21/93
8:44	11/7/88
8:45	5/20/90
8:48	8/20/89
8:51	9/16/90
8:52	12/15/91
8:53	8/4/91
8:57	6/18/90
8:59	10/1/89
8:60	5/3/90
8:61	10/6/91
8:65	12/2/90
8:70	9/17/88
8:71	4/2/89

ENVIRONMENTAL PROTECTION—TITLE 7

N.J.A.C.	Expiration Date
7:1	9/16/90
7:1A	6/5/92
7:1C	6/17/90
7:1D	12/1/88
7:1E	7/15/90
7:1F	4/20/92
7:1G	10/1/89
7:1H	7/24/90
7:1I	11/18/88
7:2	7/19/88
7:3	3/21/93
7:6	12/19/88
7:7	5/7/89
7:7E	7/24/90
7:7F	1/19/93
7:8	2/5/93
7:9	1/21/91
7:10	9/4/89
7:11	6/6/88
7:12	4/11/93
7:13	5/4/89
7:14	4/27/89
7:14A	6/4/89
7:14B	12/21/92
7:15	4/2/89
7:17	4/7/91
7:18	8/6/91
7:19	4/15/90
7:19A	2/19/90
7:19B	2/19/90
7:20	5/6/90
7:20A	12/19/88
7:22	1/5/92
7:23	6/18/89
7:24	5/19/91
7:25	2/18/91
(Except for 7:25-1 which expired 9/17/85)	
7:25A	5/6/90
7:26	11/4/90
7:27	Exempt
7:27B-3	Exempt
7:28	10/7/90
7:29	3/18/90
7:29B	2/1/93
7:30	12/4/92

HIGHER EDUCATION—TITLE 9

N.J.A.C.	Expiration Date
9:1	1/17/89
9:2	6/17/90
9:3	10/17/88

N.J.A.C.	Expiration Date	N.J.A.C.	Expiration Date
9:4	10/30/91	10:122	8/6/89
9:5	1/21/91	10:122A	Exempt
9:6	5/20/90	10:122B	9/10/89
9:6A	1/4/93	10:123	7/20/90
9:7	2/28/93	10:124	12/7/92
9:8	11/4/90	10:125	7/16/89
9:9	10/3/88	10:127	9/19/88
9:11	1/17/89	10:129	10/11/89
9:12	1/17/89	10:130	9/19/88
9:14	5/20/90	10:131	12/7/92
9:15	10/25/88	10:132	1/5/92
		10:141	2/21/89

HUMAN SERVICES—TITLE 10

N.J.A.C.	Expiration Date
10:1	5/6/88
10:2	1/5/92
10:3	9/19/88
10:4	1/3/88
10:5	12/19/88
10:6	2/21/89
10:12	1/5/92
10:36	8/18/91
10:37	11/4/90
10:38	5/28/91
10:40	3/15/89
10:42	8/18/91
10:43	9/1/88
10:44	10/3/88
10:44A	2/7/88
10:44B	4/15/90
10:45	9/19/88
10:47	11/4/90
10:48	1/21/91
10:49	8/12/90
10:50	3/3/91
10:51	10/28/90
10:52	2/19/90
10:53	4/29/90
10:54	3/3/91
10:55	3/11/90
10:56	8/26/91
10:57	3/3/91
10:58	3/3/91
10:59	3/3/91
10:60	8/27/90
10:61	3/3/91
10:62	3/3/91
10:63	11/29/89
10:64	3/3/91
10:65	11/5/89
10:66	12/15/88
10:67	3/3/91
10:68	7/7/91
10:69A	4/26/88
10:69B	11/21/88
10:70	6/16/91
10:71	1/6/91
10:72	8/27/92
10:80	8/23/89
10:81	10/15/89
10:82	10/29/89
10:85	1/30/90
10:87	3/1/89
10:89	9/11/90
10:90	10/14/92
10:94	1/6/91
10:95	8/23/89
10:97	4/16/89
10:99	2/19/90
10:100	2/6/89
10:109	3/17/91
10:112	2/17/89
10:120	9/26/88
10:121	3/13/89
10:121A	12/7/92

CORRECTIONS—TITLE 10A

N.J.A.C.	Expiration Date
10A:1	7/6/92
10A:3	10/6/91
10A:4	7/21/91
10A:5	10/6/91
10A:6	11/2/92
10A:8	11/16/92
10A:9	1/20/92
10A:10-6	8/17/92
10A:16	4/6/92
10A:17	12/15/91
10A:18	7/6/92
10A:31	2/4/90
10A:32	3/4/90
10A:33	7/16/89
10A:34	4/6/92
10A:70	Exempt
10A:71	4/15/90

INSURANCE—TITLE 11

N.J.A.C.	Expiration Date
11:1	2/3/91
11:1-20	7/7/88
11:1-22	7/7/88
11:2	12/2/90
11:3	1/6/91
11:4	12/2/90
11:5	11/7/88
11:7	10/19/92
11:10	7/15/90
11:12	10/27/91
11:13	11/12/92
11:14	7/2/89
11:15	12/3/89
11:16	2/3/91
11:17	4/18/93

LABOR—TITLE 12

N.J.A.C.	Expiration Date
12:15	8/19/90
12:16	4/1/90
12:17	1/6/91
12:18	3/7/93
12:20	11/5/89
12:35	8/5/90
12:45	5/2/88
12:46	5/2/88
12:47	5/2/88c
12:48	5/2/88
12:49	5/2/88
12:51	6/30/91
12:56	9/26/90
12:57	9/26/90
12:58	9/26/90
12:60	3/21/93
12:90	12/17/89
12:100	11/5/89
12:105	1/21/91

N.J.A.C.	Expiration Date
12:110	1/19/93
12:120	5/3/90
12:175	12/9/88
12:190	1/4/93
12:195	9/6/88
12:200	8/5/90
12:235	5/5/91

N.J.A.C.	Expiration Date
13:76	9/6/88
13:77	2/1/93

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

N.J.A.C.	Expiration Date
12A:9	3/7/93
12A:10-1	8/15/89
12A:11	9/21/92
12A:12	9/21/92
12A:100-1	9/8/91

PUBLIC UTILITIES—TITLE 14

N.J.A.C.	Expiration Date
14:1	12/16/90
14:3	5/6/90
14:5	12/16/90
14:6	3/3/91
14:9	4/15/90
14:11	1/27/92
14:10	9/8/91
14:17	5/7/89
14:18	7/29/90

ENERGY—TITLE 14A

N.J.A.C.	Expiration Date
14A:2	4/17/89
14A:3	10/7/90
14A:5	10/19/88
14A:6	8/6/89
14A:7	9/16/90
14A:8	9/20/89
14A:11	9/20/89
14A:12	2/7/88
14A:13	2/2/92
14A:14	2/6/89
14A:20	2/3/91
14A:21	11/21/90
14A:22	6/4/89

LAW AND PUBLIC SAFETY—TITLE 13

N.J.A.C.	Expiration Date
13:1	7/19/88
13:1C	Expired 12/1/83
13:2	8/5/90
13:3	8/1/88
13:4	1/21/91
13:10	5/27/89
13:13	6/17/90
13:18	4/1/90
13:19	8/23/89
13:20	12/18/90
13:21	12/16/90
13:22	1/7/90
13:23	6/4/89
13:24	11/5/89
13:25	3/18/90
13:26	10/17/88
13:27	4/1/90
13:27A	11/1/87
13:28	9/3/90
13:29	6/3/90
13:30	4/15/90
13:31	12/12/91
13:32	10/23/92
13:33	3/18/90
13:34	11/21/88
13:35	11/19/89
13:36	11/19/89
13:37	2/11/90
13:38	10/7/90
13:39	1/6/91
13:39A	7/7/91
13:40	9/3/90
13:41	9/3/90
13:42	11/3/88
13:43	9/8/88
13:44	8/20/89
13:44B	11/2/92
13:44C	6/2/91
13:45A	12/16/90
13:46	6/3/90
13:47	2/2/92
13:47A	10/5/92
13:47B	1/4/89
13:47C	8/20/89
13:48	1/21/91
13:49	12/19/88
13:51	4/27/92
13:54	10/5/91
13:58	9/7/89
13:59	9/16/90
13:60	1/20/92
13:70	2/25/90
13:71	2/25/90
13:75	8/20/89

STATE—TITLE 15

N.J.A.C.	Expiration Date
15:2	5/2/93
15:3	7/7/91
15:5	2/17/92
15:10	2/18/91

TRANSPORTATION—TITLE 16

N.J.A.C.	Expiration Date
16:1	8/5/90
16:2	10/3/88
16:6	9/3/90
16:13	5/7/89
16:16	11/7/88
16:17	11/7/88
16:20A	12/17/89
16:20B	12/17/89
16:21	9/3/90
16:21A	8/20/89
16:22	2/3/91
16:25-12	Expired 2/5/84
16:25-13	Expired 2/5/84
16:26	8/6/89
16:27	9/8/91
16:28	11/7/88
16:28A	11/7/88
16:29	11/7/88
16:30	11/7/88
16:31	11/7/88
16:31A	10/20/88
16:32	4/15/90
16:33	9/3/90
16:41	7/28/92
16:41A	2/19/90
16:41B	3/4/90
16:43	9/3/90
16:44	10/3/88
16:49	3/18/90
16:51	4/6/92

N.J.A.C.	Expiration Date	N.J.A.C.	Expiration Date
16:53	3/19/89	18:12A	8/12/88
16:53A	4/15/90	18:14	8/12/88
16:53C	9/19/88	18:15	8/12/88
16:53D	5/7/89	18:16	8/12/88
16:54	4/7/91	18:17	8/12/88
16:55	11/7/88	18:18	4/2/89
16:56	6/4/89	18:19	4/6/89
16:60	11/7/88	18:22	4/2/89
16:61	11/7/88	18:23	4/2/89
16:62	4/15/90	18:23A	8/5/90
16:72	3/31/91	18:24	8/12/88
16:73	1/30/92	18:25	1/6/91
16:75	6/6/88	18:26	8/12/88
16:76	12/19/88	18:30	4/2/89
16:77	1/21/90	18:35	8/12/88
16:78	10/7/90	18:36	2/4/90
16:79	10/20/91	18:37	8/5/90
		18:38	2/16/93
		18:39	9/8/92

TREASURY-GENERAL—TITLE 17

OTHER AGENCIES—TITLE 19

N.J.A.C.	Expiration Date
17:1	6/6/88
17:2	12/17/89
17:3	6/6/88
17:4	7/1/90
17:5	12/2/90
17:6	2/19/89
17:7	6/6/88
17:8	6/27/90
17:9	6/6/88
17:10	6/6/88
17:12	8/15/89
17:16	12/2/90
17:19	3/18/90
17:20	11/7/88
17:25	6/18/89
17:27	11/7/88
17:28	9/13/90
17:29	10/18/90
17:30	5/4/92
17:32	3/21/93

N.J.A.C.	Expiration Date
19:3	6/19/88
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	11/7/88
19:4A	5/2/88
19:8	6/1/88
19:9	7/13/88
19:12	8/7/91
19:16	8/7/91
19:17	7/15/88
19:25	1/9/91
19:30	10/7/90
19:40	9/26/89
19:41	5/17/88
19:42	5/17/88
19:43	4/27/89
19:44	10/13/88
19:45	4/7/88
19:46	5/4/88
19:47	5/4/88
19:48	10/13/88
19:49	3/29/88
19:50	5/23/88
19:51	8/14/91
19:52	9/25/91
19:53	5/4/88
19:54	4/15/88
19:61	7/7/91
19:65	7/7/91
19:75	1/17/89

TREASURY-TAXATION—TITLE 18

N.J.A.C.	Expiration Date
18:3	4/23/89
18:5	4/16/89
18:6	4/2/89
18:7	4/2/89
18:8	4/2/89
18:9	8/12/88
18:12	8/12/88

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 March 7, 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 FEBRUARY 16, 1988

NEXT UPDATE: SUPPLEMENT MARCH 21, 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. 673 and 794	May 4, 1987	19 N.J.R. 2087 and 2224	November 16, 1987
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
19 N.J.R. 1353 and 1474	August 3, 1987	20 N.J.R. 321 and 434	February 16, 1988
19 N.J.R. 1475 and 1588	August 17, 1987	20 N.J.R. 435 and 570	March 7, 1988
19 N.J.R. 1589 and 1676	September 8, 1987	20 N.J.R. 571 and 692	March 21, 1988
19 N.J.R. 1677 and 1758	September 21, 1987	20 N.J.R. 693 and 842	April 4, 1988
19 N.J.R. 1759 and 1858	October 5, 1987	20 N.J.R. 843 and 950	April 18, 1988
19 N.J.R. 1859 and 1926	October 19, 1987	20 N.J.R. 951 and 1018	May 2, 1988
19 N.J.R. 1927 and 2086	November 2, 1987		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-14.1	Media coverage of public hearings	20 N.J.R. 127(a)	R.1988 d.115	20 N.J.R. 642(a)
1:30-1.2, 2.8	Use of appendices	19 N.J.R. 675(a)		
1:30-3.1	Regulatory flexibility analysis and proposed rulemaking	20 N.J.R. 573(a)		

Most recent update to Title 1: TRANSMITTAL 1988-1 (supplement February 16, 1988)

AGRICULTURE—TITLE 2				
2:5-2	Equine infectious anemia control	20 N.J.R. 695(a)		
2:23	Gypsy moth control: voluntary suppression program	20 N.J.R. 845(a)		
2:32-2.1, 2.3, 2.5, 2.8, 2.10, 2.12, 2.13, 2.14, 2.19, 2.20, 2.22, 2.25, 2.27, 2.33	Sire Stakes Program	20 N.J.R. 323(a)	R.1988 d.189	20 N.J.R. 975(a)
2:69-1.11	Commercial values of primary plant nutrients	20 N.J.R. 696(a)		
2:71-2.4, 2.5, 2.6	Jersey Fresh Logo program	19 N.J.R. 2327(b)	R.1988 d.97	20 N.J.R. 525(a)
2:76-6.2, 6.5, 6.6, 6.9, 6.15, 6.16	Farmland development easements: residual dwelling sites	20 N.J.R. 324(a)		

Most recent update to Title 2: TRANSMITTAL 1987-8 (supplement November 16, 1987)

BANKING—TITLE 3				
3:1-1.1	Maximum interest rate on first mortgages on residences with one to six units	19 N.J.R. 2089(a)		
3:1-2.17	Repeal (see 3:32-1)	20 N.J.R. 697(a)		
3:1-14	Revolving credit equity loans	19 N.J.R. 1594(a)		
3:2-1.1, 1.2, 1.3, 1.4	Advertising by financial institutions	19 N.J.R. 1355(a)		
3:6-9	Capital stock savings bank: change in control	19 N.J.R. 1762(a)		
3:10-8, 9	Banks and savings banks: mortgage loan practices	19 N.J.R. 1356(a)		
3:11-12	Commercial loans by savings banks	19 N.J.R. 1679(b)		
3:13-2.2, 4.3, 4.4	Bank holding companies: financial filings	20 N.J.R. 127(b)	R.1988 d.149	20 N.J.R. 777(a)
3:27-6, 7	Savings and loan associations: mortgage loan practices	19 N.J.R. 1358(a)		
3:32-1.1, 1.2, 1.4, 1.6, 1.7, 1.10, 1.11	Conversion of savings and loan associations from mutual to capital stock	20 N.J.R. 697(a)		
3:38-4, 5, 7	Mortgage bankers and brokers: loan practices	19 N.J.R. 1360(a)		
3:42	Pinelands Development Credit Bank: procedural rules	20 N.J.R. 128(a)	R.1988 d.157	20 N.J.R. 777(b)

Most recent update to Title 3: TRANSMITTAL 1988-1 (supplement January 19, 1988)

CIVIL SERVICE—TITLE 4				
4:1-6, 7, 10.1, 27	Repeal (see 4A:3)	20 N.J.R. 846(a)		
4:1-8, 9, 10.2-10.5, 11, 12, 13, 14, 15, 16.13	Repeal (see 4A:4)	20 N.J.R. 327(a)		
4:1-16.1-16.6, 24.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		
4:2-6.3, 11, 13, 14.1, 15.1	Repeal (see 4A:4)	20 N.J.R. 327(a)		
4:2-6.4-6.10, 7, 27	Repeal (see 4A:3)	20 N.J.R. 846(a)		
4:2-16.1, 16.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		
4:3-2	Repeal (see 4A:3)	20 N.J.R. 846(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
4:3-6.4, 11.1, 13.2, 14	Repeal (see 4A:4)	20 N.J.R. 327(a)		
4:3-16.1, 16.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		

Most recent update to Title 4: TRANSMITTAL 1988-1 (supplement January 19, 1988)

PERSONNEL—TITLE 4A

4A:1-1.3	Definitions	20 N.J.R. 326(a)		
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)		
4A:6-1.3, 1.10	Sick leave; leave without pay	20 N.J.R. 133(a)		
4A:6-1.3, 1.10	Sick leave, leave without pay: extension of comment period	20 N.J.R. 341(a)		
4A:8	Layoffs	19 N.J.R. 1363(a)		

Most recent update to Title 4A: TRANSMITTAL 1988-1 (supplement January 19, 1988)

COMMUNITY AFFAIRS—TITLE 5

5:12-1.1, 2.1, 2.4	Homelessness Prevention Program: eligibility for temporary assistance	19 N.J.R. 1777(a)		
5:14-1.1-1.4, 2.1-2.3, 3.1-3.23, 4.1-4.6	Neighborhood Preservation Balanced Housing Programs	19 N.J.R. 589(a)	Expired	
5:15	Emergency shelters for the homeless	20 N.J.R. 341(b)		
5:19-6.3, 8	Continuing care retirement communities: application fees; nonbinding reservation agreements	20 N.J.R. 347(a)	R.1988 d.190	20 N.J.R. 976(a)
5:23	Uniform Construction Code	20 N.J.R. 223(a)	R.1988 d.168	20 N.J.R. 893(a)
5:23-2.23	UCC: use and occupancy of buildings undergoing alteration	20 N.J.R. 223(b)	R.1988 d.167	20 N.J.R. 893(b)
5:23-2.38, 3.11, 7.2, 7.3, 7.100-7.116	Barrier free subcode: recreation standards	19 N.J.R. 1270(a)		
5:23-3.2	Uniform Construction Code: commercial farm buildings	19 N.J.R. 1778(a)	R.1988 d.144	20 N.J.R. 783(a)
5:23-3.2	Commercial farm building subcode: public hearings	19 N.J.R. 1862(a)		
5:23-3.6	Uniform Construction Code: manufacturer's recommendations	20 N.J.R. 699(a)		
5:23-3.11A	Incorporation of education enhancements at N.J.A.C. 6:22-2.3	_____	_____	20 N.J.R. 824(d)
5:23-3.14, 3.20	Uniform Construction Code: 1988 building and mechanical subcodes	20 N.J.R. 575(a)		
5:23-3.18	Energy Subcode	20 N.J.R. 699(b)		
5:23-9.1, 9.2	UCC interpretations: Plumbing Subcode and manufactured housing	20 N.J.R. 224(a)	R.1988 d.195	20 N.J.R. 977(a)
5:24-2.3	Senior citizens and disabled protected tenancy: taxable income	20 N.J.R. 349(a)	R.1988 d.191	20 N.J.R. 978(a)
5:24-2.7	Senior citizen and disabled protected tenancy: appeal procedure	20 N.J.R. 437(a)		
5:80-26	Housing resale and rental affordability control	19 N.J.R. 802(a)	R.1988 d.166	20 N.J.R. 893(c)
5:80-26.1, 26.2, 26.3, 26.11, 26.16, 26.21	Housing affordability controls	20 N.J.R. 862(a)		
5:91-13.4	Council on Affordable Housing: motion procedure	20 N.J.R. 864(a)		
5:92-1.3, 17	Council on Affordable Housing: rehabilitation of indigenous need	20 N.J.R. 864(b)		
5:92-6.1	Council on Affordable Housing: rehabilitation credits	19 N.J.R. 1863(a)	R.1988 d.165	20 N.J.R. 897(a)
5:92-8.4	Council on Affordable Housing: developer agreements	20 N.J.R. 865(a)		
5:92-12.11	Council on Affordable Housing: rental surcharge	19 N.J.R. 1597(a)		
5:100-2.5	Failure to report suspected abuse or exploitation of institutionalized elderly	19 N.J.R. 1686(a)	R.1988 d.101	20 N.J.R. 526(a)
5:100-2.5	Failure to report suspected abuse or exploitation of institutionalized elderly: extension of comment period	19 N.J.R. 2090(a)		

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Most recent update to Title 5A: TRANSMITTAL 1 (supplement May 20, 1985)

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6:3-1.23	Principal certification	20 N.J.R. 437(b)		
6:3-2	Transfer of pupil records	20 N.J.R. 133(b)	R.1988 d.199	20 N.J.R. 978(b)
6:11-3.3	Certification fees	20 N.J.R. 865(b)		
6:11-3.25, 4.2, 5.7, 10	Principal certification	20 N.J.R. 437(b)		
6:20-3.1	Reproposed: Determining tuition rates for sending and receiving districts	19 N.J.R. 2329(a)	R.1988 d.147	20 N.J.R. 787(a)
6:22-1.1, 1.3-1.7, 2.1-2.5, 3.1, 4.1	School facility planning services	20 N.J.R. 3(a)	R.1988 d.155	20 N.J.R. 788(a)
6:27-1.14	Repeal (see 6:30)	20 N.J.R. 700(a)		
6:28-11	Special education pilot project	20 N.J.R. 14(a)	R.1988 d.148	20 N.J.R. 796(a)
6:30	Adult education programs	20 N.J.R. 700(a)		
6:44-2, 3, 4	Repeal (see 6:30)	20 N.J.R. 700(a)		

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7:1C-1.2, 1.5	90-day construction permits: fee structure for treatment works approvals	20 N.J.R. 135(a)		
7:11	Sanitary Landfill Facility Contingency Fund	20 N.J.R. 443(a)		
7:2	State Park Service	20 N.J.R. 714(a)		
7:3-2	Management of privately-owned woodlands: approved foresters list	20 N.J.R. 137(a)	R.1988 d.139	20 N.J.R. 642(b)
7:6-3.10	Water-skiing on Lake Hopatcong	20 N.J.R. 138(a)	R.1988 d.185	20 N.J.R. 898(a)
7:7-2.1	Coastal Permit Program: CAFRA exemptions	19 N.J.R. 807(a)	R.1988 d.136	20 N.J.R. 643(a)
7:7-2.2	Coastal wetlands maps for Gloucester County	19 N.J.R. 2090(b)		
7:7-2.2	Coastal wetlands boundaries in Salem County	20 N.J.R. 349(b)		
7:7A	Freshwater Wetlands Protection Act rules	19 N.J.R. 2330(a)		
7:7A-8.1	Freshwater Wetlands Protection Act rules: correction	20 N.J.R. 22(a)		
7:7A-15, 16	Freshwater Wetlands Protection Act rules: fees, penalties and hearings	20 N.J.R. 576(a)		
7:7E-3.41, 3.46, 7.14, 8.11	Hudson River waterfront development	20 N.J.R. 139(a)		
7:7E-3.41, 3.46, 7.41, 8.11	Hudson River waterfront development: extension of comment period	20 N.J.R. 552(a)		
7:8	Storm water management	19 N.J.R. 2227(a)	R.1988 d.99	20 N.J.R. 526(b)
7:9-1	Sewer systems and wastewater treatment plants	19 N.J.R. 2227(b)	R.1988 d.205	20 N.J.R. 980(a)
7:10-10.2, 11.2, 15	Safe Drinking Water Program fees	20 N.J.R. 142(a)		
7:10-16	Maximum Containment Levels (MCLs) for hazardous contaminants in drinking water	19 N.J.R. 2228(a)		
7:10-16.13, 16.14, 16.15	Hazardous contaminants in drinking water: pre-proposal concerning short-term action levels, sampling response levels, and unregulated and total volatile organics	19 N.J.R. 2231(a)		
7:11	New Jersey Water Supply Authority: policies and procedures	20 N.J.R. 448(a)		
7:11-1	Use of Water Supply Authority property	19 N.J.R. 1274(a)	R.1988 d.100	20 N.J.R. 528(a)
7:11-2.2, 2.3, 2.9, 2.13	New Jersey Water Supply Authority rates and charges	20 N.J.R. 144(a)		
7:12	Shellfish growing waters	20 N.J.R. 450(a)	R.1988 d.206	20 N.J.R. 980(b)
7:13-7.1	Redelineation of Hackensack River in Oradell	19 N.J.R. 1935(a)	R.1988 d.138	20 N.J.R. 644(a)
7:13-7.1(b)	Redelineation of Jumping Brook in Neptune	19 N.J.R. 2233(a)	R.1988 d.181	20 N.J.R. 898(b)
7:13-7.1(d)	Redelineation of Big Bear Brook, Mercer County	19 N.J.R. 1933(a)	R.1988 d.135	20 N.J.R. 644(b)
7:13-7.1(d)	Redelineation of Carter's Brook, Middlesex County	19 N.J.R. 1933(b)	R.1988 d.137	20 N.J.R. 645(b)
7:13-7.1(d)	Redelineation of Lawrence, Ireland, Mae, Harry's and Oakeys brooks in Mercer and Middlesex counties	19 N.J.R. 1934(a)	R.1988 d.134	20 N.J.R. 645(a)
7:14-8	Penalties and hearings concerning violations of Water Pollution Control Act	20 N.J.R. 455(a)		
7:14A-5.12	Hazardous waste management: closure and post-closure financial assurance	19 N.J.R. 2349(a)		
7:14A-6.4	Groundwater monitoring parameters for hazardous waste facilities	19 N.J.R. 1863(b)		
7:19-6.14	Penalties and hearings concerning violations of Water Pollution Control Act	20 N.J.R. 455(a)		
7:22-3.4, 3.6-3.11, 3.13, 3.32, 4.4, 4.6-4.11, 4.13, 4.32, 5.11	Wastewater Treatment Financing Program	19 N.J.R. 1600(a)		
7:22-9	Wastewater treatment: contract awards to small, female, and minority-owned businesses	19 N.J.R. 1604(a)		
7:25-1	Shellfishing license program	19 N.J.R. 2358(a)		
7:25-2.20	Higbee Beach Wildlife Management Area	20 N.J.R. 460(a)		
7:25-18.5	Drifting and anchored gill net seasons: netting mesh in staked gill net fishery	19 N.J.R. 1609(a)		
7:25-18.5	Gill net seasons: staked gill net fishery: extension of comment period	20 N.J.R. 715(a)		
7:25-18.5	Marine fisheries: bait net license and conditions	20 N.J.R. 866(a)		
7:26-1.4, 7.4, 9.1, 12.1	Hazardous waste research and testing facilities: pre-proposal	20 N.J.R. 460(b)		
7:26-1.4, 8.2, 8.3, 8.5, 8.12, 8.14, 9.4, App. A, 12.1, 12.5, 12.12	Hazardous waste management	19 N.J.R. 1936(a)		
7:26-1.4, 9.8-9.11, 9.13, App. A, 12.3	Hazardous waste management: closure and post-closure financial assurance	19 N.J.R. 2349(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Hunterdon, Morris, Ocean and Warren counties	19 N.J.R. 1142(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Cumberland and Gloucester counties	19 N.J.R. 1481(a)		
7:26-7.3, 7.4, 7.5, 7.6	Hazardous waste management	20 N.J.R. 867(a)		
7:26-8.14	Ethylene bisdithiocarbamic acid (EBDC) production	19 N.J.R. 1938(a)	R.188 d.140	20 N.J.R. 645(c)

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7:26-12.9	Hazardous waste management: research, development and demonstration permits	20 N.J.R. 462(a)		
7:26-12.12	Hazardous waste facilities and public participation in permit process	20 N.J.R. 715(b)		
7:26-14.1, 14A	Resource Recovery and Solid Waste Disposal Facility Loans	19 N.J.R. 828(a)		
7:26B-1.13	Certification and signatories: correction			20 N.J.R. 816(a)
7:30	Pesticide Control Code	20 N.J.R. 579(a)		
7:31-1, 2, 3, 4	Toxic Catastrophe Prevention Act program	19 N.J.R. 1687(a)		
7:31-1, 2, 3, 4	Toxic Catastrophe Prevention Act program: extension of comment period	19 N.J.R. 2092(b)		
7:31-2.12, 2.15, 5	Toxic Catastrophe Prevention Act program: confidentiality and trade secrets	20 N.J.R. 350(a)		
7:31-2.12, 2.15, 5	Confidentiality and trade secrets: correction and extension of comment period	20 N.J.R. 554(a)		
7:36	Green Acres Program	19 N.J.R. 2358(b)		
7:36	Green Acres Program: extension of comment period	20 N.J.R. 552(b)		
7:36	Green Acres Program: extension of comment period	20 N.J.R. 869(a)		
7:45	Delaware and Raritan Canal: State Park review zone	20 N.J.R. 23(a)		
7:45	Delaware and Raritan Canal review zone: extension of comment period	20 N.J.R. 552(c)		
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8:7-1.2	Public Health Licensing and Examination Board	20 N.J.R. 364(a)		
8:24	Chapter XII, State Sanitary Code: retail food establishments	20 N.J.R. 365(a)	R.1988 d.204	20 N.J.R. 982(a)
8:25	Youth Camp Safety Act standards	20 N.J.R. 463(a)		
8:26-1.2, 1.3, 2.10, 3.15, 3.17, 4.3, 4.4, 5.1, 5.2, 5.3, 5.7, 5.10, 5.11, 6.4, 7.9, 8.9, 8.10	Public recreational bathing	20 N.J.R. 464(a)		
8:31B-3.22, 3.31, 3.51	Hospital reimbursement: graduate medical residents	20 N.J.R. 594(a)		
8:31B-3.38	Apportionment of full financial elements	19 N.J.R. 1279(a)		
8:31B-4.37, 4.39	Uncompensated Care Trust Fund: charity care eligibility	20 N.J.R. 595(a)		
8:31B-4.38	Hospital reimbursement: uncompensated care coverage for outpatient dialysis	19 N.J.R. 2092(c)		
8:31B-4.62	Hospital reimbursement: outpatient HealthStart maternal and pediatric care	19 N.J.R. 2365(a)		
8:33B-1.3	Demonstration of extracorporeal shock wave lithotripsy services	20 N.J.R. 869(b)		
8:33E-1.1, 1.2	Cardiac diagnostic facilities: complex electrophysiology studies	20 N.J.R. 467(a)		
8:33E-2.2, 2.3, 2.4	Cardiac surgery centers: complex electrophysiology studies	20 N.J.R. 468(a)		
8:42B	Drug treatment facilities: standards for licensure	20 N.J.R. 598(a)		
8:39	Long-term care licensing standards	20 N.J.R. 469(a)		
8:43E-1	Repeal (see 8:43I-1)	19 N.J.R. 2365(b)	R.1988 d.114	20 N.J.R. 645(d)
8:43E-2.4, 2.5, 2.19, 2.20	Adult open acute psychiatric beds: need review	20 N.J.R. 617(a)		
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)		
8:43G-1	Repeal (see 8:43I-1)	19 N.J.R. 2365(b)	R.1988 d.114	20 N.J.R. 645(d)
8:43I-1	Hospital Policy Manual	19 N.J.R. 2365(b)	R.1988 d.114	20 N.J.R. 645(d)
8:60-5 (12:120-5)	Asbestos worker and supervisor permits	20 N.J.R. 728(a)		
8:65-1.3, 6.6, 8.13	Handling of sodium pentobarbital in animal humane facilities	20 N.J.R. 366(a)		
8:70-1.4	Drug Utilization Review Council: notice of action on a drug product	20 N.J.R. 870(a)		
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(e)
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)

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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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9:5-1.1	Independent student status	19 N.J.R. 2372(a)	R.1988 d.176	20 N.J.R. 901(a)
9:7	Student Assistance Board: scholarship and tuition aid programs	20 N.J.R. 33(a)	R.1988 d.128	20 N.J.R. 656(a)
9:7-2.3	Student assistance and foreign nationals	19 N.J.R. 2101(a)	R.1988 d.129	20 N.J.R. 661(a)
9:7-2.6	Independent student status	19 N.J.R. 2101(b)	R.1988 d.130	20 N.J.R. 661(b)
9:7-3.2	1988-89 Tuition Aid Grant Award Table	20 N.J.R. 147(a)	R.1988 d.127	20 N.J.R. 661(c)
9:7-4	Garden State Scholarship Program	20 N.J.R. 720(a)		
9:7-9.9, 9.11, 9.12	Congressional Teacher Scholarship Program	19 N.J.R. 2102(a)	R.1988 d.131	20 N.J.R. 663(a)
9:9-1.12, 1.13, 1.16	Repayment of student loans: nonconverted accounts	19 N.J.R. 1619(a)	R.1988 d.116	20 N.J.R. 663(b)
9:9-11	Guaranteed Student Loan Program: compliance evaluation of participating institutions	20 N.J.R. 872(a)		
9:11-1.1, 1.7, 1.8, 1.22, 1.23	EOF grant awards for approved part-time enrollment	19 N.J.R. 2373(a)	R.1988 d.151	20 N.J.R. 805(a)
9:11-1.3, 1.4	Educational Opportunity Fund: eligible non-citizens: independent student status	19 N.J.R. 2234(c)	R.1988 d.150	20 N.J.R. 806(a)
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	19 N.J.R. 1976(a)		
10:4	Communication with communities regarding development of group homes: extension of comment period	20 N.J.R. 149(a)		
10:8	Personal needs allowance for indigent persons in State and county institutions	19 N.J.R. 617(a)	Expired	
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	Emergency (expires 4-2-88)	R.1988 d.96	20 N.J.R. 548(a)
10:49-1.4	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:49-6.9	Medicaid providers and administrative charges and service fees	20 N.J.R. 518(a)		
10:50-1.1-1.5, 2.3-2.8, 3.1, 3.2	Livery service for ambulatory Medicaid patients	19 N.J.R. 2103(a)		
10:51-1, App. B, C, D, E	Pharmaceutical Services Manual: covered products	20 N.J.R. 875(a)		
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)
10:64-1.4, 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)		
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)		
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	Emergency (expires 4-2-88)	R.1988 d.96	20 N.J.R. 548(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)

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10:85-3.2, 3.3	GAM: travel costs for job seeking or training	20 N.J.R. 879(a)		
10:85-3.5	GAM: monthly case reviews	19 N.J.R. 2111(a)	R.1988 d.117	20 N.J.R. 663(c)
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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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:3-4.1	Off-duty carrying of firearms: peace officer titles	20 N.J.R. 42(a)	R.1988 d.107	20 N.J.R. 532(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:9-4.5	Reduction of inmate custody status	19 N.J.R. 2235(a)	R.1988 d.106	20 N.J.R. 533(a)
10A:9-4.6	Open charges and reduced custody status	20 N.J.R. 880(a)		
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 1988-2 (supplement February 16, 1988)

INSURANCE—TITLE 11

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)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
LABOR—TITLE 12				
12:17-2.6	Noncompliance with quality control reviews of unemployment insurance claims	20 N.J.R. 884(a)		
12:18-2.13	Temporary Disability: approval of private plan coverage	19 N.J.R. 2238(b)	R.1988 d.98	20 N.J.R. 533(b)
12:45-49	Vocational rehabilitation	20 N.J.R. 621(a)		
12:60	Prevailing wages for public works	19 N.J.R. 345(b)	R.1988 d.113	20 N.J.R. 664(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 1988-2 (supplement February 16, 1988)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A				
12A:9-1	Services to small businesses and women and minority businesses	19 N.J.R. 2377(b)	R.1988 d.95	20 N.J.R. 534(a)
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)		
12A:50-1	Cogeneration: reporting by non-utility generators	19 N.J.R. 2383(a)		

Most recent update to Title 12A: TRANSMITTAL 1987-2 (supplement September 21, 1987)

LAW AND PUBLIC SAFETY—TITLE 13				
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)		
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	Architects and certified landscape architects: licensing examination fees	19 N.J.R. 2123(b)	R.1988 d.91	20 N.J.R. 537(a)
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)		
13:28	Board of Cosmetology and Hairstyling	20 N.J.R. 370(b)		
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)		
13:34-3.6	Marriage counseling: temporary permit holders	20 N.J.R. 501(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)		
13:35-8	Hearing aid dispensers	19 N.J.R. 1949(a)	R.1988 d.112	20 N.J.R. 538(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)
13:36-2.1	Qualification as mortuary science intern	19 N.J.R. 2245(a)	R.1988 d.111	20 N.J.R. 542(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)
13:47C-2.5	Weights and measures: ready-to-eat foods	19 N.J.R. 2124(a)	R.1988 d.92	20 N.J.R. 543(a)
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)		
13:70-29.53	Thoroughbred racing: trifecta wagering	19 N.J.R. 2385(a)	R.1988 d.132	20 N.J.R. 670(a)
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)
13:71-27.50	Harness racing: trifecta wagering	19 N.J.R. 2385(b)	R.1988 d.133	20 N.J.R. 670(b)
13:75-1.6	Violent crimes compensation: eligibility of claims	19 N.J.R. 1967(b)	R.1988 d.108	20 N.J.R. 543(b)
13:75-1.7	Violent crimes compensation: prosecution of offender	20 N.J.R. 736(b)		
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 1988-2 (supplement February 16, 1988)

PUBLIC UTILITIES—TITLE 14				
14:3-7.5	Interest on customer deposits	20 N.J.R. 737(a)		
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)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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				
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				
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)		
16:28-1.25	Speed rates on Route 23 in Wayne	20 N.J.R. 45(a)	R.1988 d.125	20 N.J.R. 670(c)
16:28-1.26, 1.41	Speed limit zones along U.S. 9 and Route 185	20 N.J.R. 632(a)		
16:28-1.79	Speed limits on Route 94 in Sussex County	20 N.J.R. 177(b)	R.1988 d.123	20 N.J.R. 671(a)
16:28-1.112	Speed limit zones along Route 156 in Hamilton	20 N.J.R. 632(b)		
16:28A	Restricted parking and stopping	20 N.J.R. 887(a)		
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)		
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-1.9, 1.33, 1.51, 1.93	Restricted parking along Routes 17 in Lyndhurst, 47 in Millville, 168 in Bellmawr, and U.S. 322 in Glassboro	20 N.J.R. 45(b)	R.1988 d.105	20 N.J.R. 543(c)
16:28A-1.22	Restricted parking along Route 31 in Washington Borough	20 N.J.R. 46(a)	R.1988 d.104	20 N.J.R. 544(a)
16:28A-1.25, 1.36, 1.38	Restricted parking along Routes 35 and 71 in Monmouth County, and Route 57 in Warren County	20 N.J.R. 178(a)	R.1988 d.126	20 N.J.R. 671(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)		
16:28A-1.34	Bus stops along Route 49 in Salem and Fairfield	20 N.J.R. 888(a)		
16:28A-1.46	No parking bus stop along U.S. 130 in Edgewater Park	20 N.J.R. 634(a)		
16:28A-1.57	Restricted parking along U.S. 206 in Somerset County	20 N.J.R. 179(a)	R.1988 d.124	20 N.J.R. 672(a)
16:28A-1.61	No parking bus stop along U.S. 9W in Alpine	20 N.J.R. 634(b)		
16:28A-1.70	No parking bus stop along Route 439 in Elizabeth	20 N.J.R. 635(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)		
16:31	No left turns	20 N.J.R. 887(a)		
16:31-1.11	No left turn along Route 21 in Newark	20 N.J.R. 46(b)	R.1988 d.103	20 N.J.R. 544(b)
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)
16:75	NJ TRANSIT: bus allocation guidelines	20 N.J.R. 635(b)		
Most recent update to Title 16: TRANSMITTAL 1988-2 (supplement February 16, 1988)				
TREASURY-GENERAL—TITLE 17				
17:1	Division of Pensions: general administration	20 N.J.R. 636(a)		
17:1-4.37	Applications for disability retirement	20 N.J.R. 510(a)		
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)
17:3-7.1	Teachers' Pension and Annuity Fund: transfer of service credit	20 N.J.R. 47(a)	R.1988 d.122	20 N.J.R. 672(b)
17:4-7.1	Police and Firemen's Retirement System: transfer of service credit	19 N.J.R. 2255(a)	R.1988 d.102	20 N.J.R. 544(c)
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)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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)		
17:20-4	Licensure as ticket sales agent of State Lottery	19 N.J.R. 1969(a)	R.1988 d.94	20 N.J.R. 545(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)
17:20-7	Payment of State Lottery prizes	19 N.J.R. 1889(b)	R.1988 d.93	20 N.J.R. 546(a)
17:32	State Planning Rules	19 N.J.R. 1971(a)	R.1988 d.121	20 N.J.R. 673(a)

Most recent update to Title 17: TRANSMITTAL 1988-1 (supplement February 16, 1988)

TREASURY-TAXATION—TITLE 18

18:2-2	Post tax amnesty	19 N.J.R. 2255(b)		
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)		
18:12-7.12	Homestead rebate: extension of filing deadline	19 N.J.R. 2498(a)	R.1988 d.109	20 N.J.R. 547(a)
18:12A-1.6, 1.20	Filing cross-petition of appeal with county tax board	19 N.J.R. 2264(a)	R.1988 d.110	20 N.J.R. 547(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 1988-1 (supplement February 16, 1988)

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)		
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)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
19:45-1.34, 1.36, 1.37, 1.44	Use of slot tokens not redeemable for cash	20 N.J.R. 516(a)		
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)		
19:46-1.25, 1.26	Slot machine bill changer system	20 N.J.R. 765(a)		20 N.J.R. 769(a)
19:46-1.25, 1.26	Slot machine bill changer system: 90-day implementation			
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	19 N.J.R. 1638(b)		
19:53-1.5	Pre-proposal: Affirmative action employment goals for handicapped or disabled persons	19 N.J.R. 1182(a)		
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)